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Federal Register

Monday
March 3, 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

Administrative Practice and Procedure
National Transportation Safety Board

Aircraft
Transportation Department

Anchorage Grounds
Coast Guard

Animal Drugs
Food and Drug Administration

Aviation Safety
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Electric Utilities
Federal Energy Regulatory Commission

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Farmers Home Administration

Marine Safety
Coast Guard

Marketing Agreements
Agricultural Marketing Service

Medical Devices
Food and Drug Administration

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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.

Medicare
Health Care Financing Administration

Military Personnel
Army Department

Milk Marketing Orders
Agricultural Marketing Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

Oil and Gas Reserves
Land Management Bureau

Reporting and Recordkeeping Requirements
Federal Home Loan Bank Board

Satellites
National Aeronautics and Space Administration

Surface Mining
Surface Mining Reclamation and Enforcement Office

Wildlife
Land Management Bureau

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

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

WHO: The Office of the Federal Register.

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

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

ST. LOUIS, MO

WHEN: March 11; 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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The President

Executive Order 12553 of February 25, 1986

Revocation of Various Executive Orders

By the authority vested in me as President by the Constitution and laws of the United States of America, and to eliminate Executive Orders that are no longer necessary, it is hereby ordered that the following Executive Orders, and any amendments thereto, are revoked:

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723	Providing for examination for appointment to the U.S. Military and Naval Academies
3577	Establishing the manner of dating proclamations, commissions and similar executive documents
5491	Providing for appointments to and inclusion of the District of Columbia municipal service in the Civil Service
5918	Providing for examination for appointment to the U.S. Military and Naval Academies
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10874	Creating an emergency board to investigate a railroad labor dispute
10875	Creating an emergency board to investigate railroad labor disputes
10877	Creating an emergency board to investigate a railroad labor dispute
10878	Creating an emergency board to investigate a railroad labor dispute
10888	Creating an emergency board to investigate a railroad labor dispute
10904	Creating an emergency board to investigate a railroad labor dispute
10906	Providing for inspection of tax returns made in respect to certain taxes imposed by the Internal Revenue Code of 1954

No.	Subject
10919	Creating an emergency board to investigate an airline labor dispute
10923	Creating an emergency board to investigate airline labor disputes
10926	Extending an emergency board created to investigate an airline labor dispute
10933	Extending an emergency board to investigate airline labor disputes
10944	Creating an emergency board to investigate a railroad labor dispute
10949	Creating a board of inquiry to report on a labor dispute affecting the maritime industry
10951	Amending Executive Order No. 10949 creating a board of inquiry to report on a labor dispute affecting the maritime industry
10953	Creating an emergency board to investigate a railroad labor dispute
10954	Amending an authorization to inspect certain tax returns
10962	Providing for inspection of tax returns by the Advisory Commission on Intergovernmental Relations
10963	Creating an emergency board to investigate railroad labor disputes
10965	Creating an emergency board to investigate an airline labor dispute
10969	Creating an emergency board to investigate a railroad labor dispute
10971	Creating an emergency board to investigate an airline labor dispute
10975	Creating an emergency board to investigate an airline labor dispute
10976	Relating to working hours for employees of the National Aeronautics and Space Administration
10984	Amending Selective Service regulations
11006	Creating an emergency board to investigate an airline labor dispute
11008	Creating an emergency board to investigate railroad labor disputes
11011	Creating an emergency board to investigate an airline labor dispute
11013	Creating a board of inquiry to report on a labor dispute affecting the maritime industry
11015	Creating an emergency board to investigate railroad labor disputes
11025	Creating a board of inquiry to report on a labor dispute affecting the aircraft industry
11026	Amending Executive Order No. 11025 creating a board of inquiry to report on a labor dispute affecting the aircraft industry
11027	Creating an emergency board to investigate a railroad labor dispute
11029	Amending an order creating a board of inquiry to report on a labor dispute affecting the aircraft industry
11033	Creating an emergency board to investigate airline labor disputes
11040	Creating an emergency board to investigate a railroad labor dispute
11042	Creating an emergency board to investigate a railroad labor dispute
11043	Creating an emergency board to investigate an airline labor dispute
11049	Providing for the carrying out of the Public Works Acceleration Act
11050	Creating an emergency board to investigate railroad labor disputes
11054	Creating a board of inquiry to report on labor disputes affecting the maritime industry
11078	Creating a board of inquiry to report on a labor dispute affecting the ballistics missile, space vehicle, and military aircraft industry
11086	Amending the administration of the Trading with the Enemy Act
11098	Amending Selective Service regulations
11101	Creating an emergency board to investigate railroad labor disputes
11102	Providing for inspection of tax returns by possessions of the United States
11105	Transferring to the Housing and Home Finance Administrator certain functions of the Atomic Energy Commission under the Atomic Energy Community Act of 1955
11108	Delegating authority to the Secretary of Agriculture under the International Wheat Agreement Act of 1949
11115	Creating an emergency board to investigate railroad labor disputes
11116	Prescribing and delegating authority to prescribe rates of charges for certain hospitalization and dispensary services
11119	Amending Selective Service regulations
11121	Creating an emergency board to investigate an airline labor dispute
11127	Creating an emergency board to investigate a railroad labor dispute
11131	Creating an emergency board to investigate airline labor disputes
11135	Creating an emergency board to investigate railroad labor disputes
11138	Modifying provisions for the transfer of personnel to certain public international organizations
11147	Creating an emergency board to investigate railroad labor disputes
11168	Creating an emergency board to investigate railroad labor disputes
11169	Creating an emergency board to investigate railroad labor disputes
11170	Creating an emergency board to investigate railroad labor disputes
11171	Relating to the Canal Zone Merit System
11180	Creating an emergency board to investigate railroad labor disputes
11181	Creating a board of inquiry to report on labor disputes affecting the maritime industry
11188	Amending Selective Service regulations
11196	Providing for performance by the Housing and Home Finance Administrator of functions vested in or subject to the approval of the President
11206	Providing for inspection of interest equalization tax returns
11213	Providing for inspection of certain interest equalization tax information returns by the Board of Governors of the Federal Reserve System and the Federal Reserve Banks
11237	Prescribing regulations for coordinating planning and acquiring land under the Outdoor Recreation Program of the Department of the Interior and the Open Space Program of the Housing and Home Finance Agency
11241	Amending Selective Service regulations
11243	Creating an emergency board to investigate a railroad labor dispute
11252	Transferring the functions of the Director of the Food-for-Peace Program to the Secretary of State
11255	Designating Vietnam and waters adjacent thereto as an overseas combat area for purposes of Armed Forces mailing privileges

No.	Subject
11266	Amending Selective Service regulations
11276	Creating an emergency board to investigate an airline labor dispute
11284	Suspending provisions of sections 5701(a)(1) and 6371 of title 10, U.S.C., relating to continuation on the active list of rear admirals in the line of the Navy not restricted in the performace of duty
11286	Designating the Department of Commerce as the Department through which the United States shall participate in the Inter-American Cultural and Trade Center in Dade County, Florida
11291	Creating an emergency board to investigate an airline labor dispute
11303	Modifying provisions for transfer of personnel to certain public international organizations
11307	Coordinating Federal programs affecting agriculture and rural development
11308	Creating an emergency board to investigate an airline labor dispute
11314	Creating a board of inquiry to report on labor disputes affecting the military jet engine, military aircraft, military armament and military electronics industries
11320	Delegating authority to prescribe rules and regulations relating to foreign gifts and decorations
11321	Creating a board of inquiry to report on a labor dispute affecting the military aircraft engine industry
11324	Creating an emergency board to investigate a railroad labor dispute
11325	Prescribing Selective Service regulations
11327	Assigning authority to order certain persons in the Ready Reserve to active duty
11329	Creating a board of inquiry to report on a labor dispute affecting the shipbuilding and repair industries
11343	Creating an emergency board to investigate a railroad labor dispute
11344	Creating a board of inquiry to report on a labor dispute affecting the military aircraft and military aircraft engine industries
11350	Amending Selective Service regulations
11356	Creating an emergency board to investigate a railroad labor dispute
11360	Amending Selective Service regulations
11386	Prescribing arrangements for coordination of the activities of regional commissions and activities of the Federal Government relating to regional economic development
11387	Governing certain capital transfers abroad
11391	Amending Selective Service regulations
11422	Establishing the Cooperative Area Manpower Planning System affecting the aircraft industry
11431	Creating a board of inquiry to report on labor disputes affecting the maritime industry
11433	Creating an emergency board to investigate a railroad labor dispute
11434	Relating to the administration of the Foreign Service personnel systems of the United States, and for other purposes
11436	Suspending provisions of section 6372 of title 10, U.S.C., relating to retirement or retention on the active list of certain rear admirals in the Navy
11442	Creating an emergency board to investigate a railroad labor dispute
11443	Creating an emergency board to investigate railroad labor disputes
11444	Creating an emergency board to investigate railroad labor disputes
11445	Creating an emergency board to investigate railroad labor disputes
11449	Relating to participation in the International Coffee Organization
11452	Establishing the Council for Urban Affairs
11486	Creating an emergency board to investigate railroad labor disputes
11493	Establishing the Council for Rural Affairs
11497	Amending Selective Service regulations
11527	Amending Selective Service regulations
11537	Amending Selective Service regulations
11543	Creating an emergency board to investigate railroad labor disputes
11553	Amending Selective Service regulations
11555	Amending Selective Service regulations
11558	Creating an emergency board to investigate railroad labor disputes
11559	Creating an emergency board to investigate railroad labor disputes
11563	Amending Selective Service regulations
11569	Amending Selective Service regulations
11574	Providing for administration of the Refuse Act Permit Program
11585	Creating an emergency board to investigate railroad labor disputes
11586	Amending Selective Service regulations
11606	Amending Selective Service regulations
11621	Creating a board of inquiry to report on labor disputes affecting the maritime industry
11622	Amending an order creating a board of inquiry to report on labor disputes affecting the maritime industry
11650	Providing for inspection of tax returns by certain persons and State and Federal establishments
11663	Creating an emergency board to investigate railroad labor disputes
11664	Creating an emergency board to investigate a railroad labor dispute
11679	Creating an emergency board to investigate a railroad labor dispute
11694	Creating an emergency board to investigate a railroad labor dispute
11706	Providing for inspection of tax returns by U.S. Attorneys and Justice Department attorneys for grand jury proceedings and litigation
11745	Creating an emergency board to investigate a railroad labor dispute
11761	Facilitating the coordination of Federal education programs
11771	Extending diplomatic privileges and immunities to the Liaison Office of the People's Republic of China in Washington, D.C.

No.	Subject
11783	Creating an emergency board to investigate a railroad labor dispute
11787	Relating to the adverse actions appeals system
11788	Providing for termination of economic stabilization activities
11797	Delegating to the Secretary of Agriculture submission of an annual report to Congress on location of new Federal facilities in rural areas
11805	Providing for inspection of tax returns by the President and certain employees of the White House Office
11834	Activating the Energy Research and Development Administration and the Nuclear Regulatory Commission
11836	Increasing the effectiveness of the Transportation Cargo Security Program
11852	Creating an emergency board to investigate a railroad labor dispute
11867	Delegating to the Administrator of General Services authority to issue joint funding regulations
11871	Transferring the SCORE and ACE programs from ACTION to the Small Business Administration
11876	Creating an emergency board to investigate a railroad labor dispute
11896	Establishing the United States Sinai Support Mission
11969	Providing for the administration of the Emergency Natural Gas Act of 1977
12009	Providing for the effectuation of the Department of Energy Organization Act of 1977
12040	Relating to the transfer of certain environmental evaluation functions
12097	Establishing standards and guidelines for the merit selection of United States district judges
12129	Establishing a Critical Energy Facility Program
12140	Delegating authorities relating to motor gasoline end-user allocation
12150	Relating to the United States Sinai Support Mission
12153	Decontrolling heavy oil
12162	Continuing the delegation of authorities relating to motor gasoline end-user allocation
12184	Relating to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research
12186	Changing the definition of heavy oil
12187	Providing for the base production control level for marginal properties
12189	Relating to the definition of heavy oil
12193	Providing for nuclear cooperation with EURATOM
12209	Relating to the base production level for marginal properties
12212	Providing for the effectuation of the Department of Education Organization Act
12227	Relating to the United States Sinai Support Mission
12244	Providing exemption for Fort Allen from compliance with the Federal Water Pollution Control Act
12254	Establishing the National Advisory Community Investment Board
12256	Providing for census statistics on legal immigrants
12257	Providing for noncompetitive conversion of CETA participants to career or career-conditional civil service status
12263	Delegating strategic and critical materials transaction authority to the United States Trade Representative
12269	Establishing the President's Committee on Small Business Policy
12270	Establishing the President's Council on Spinal Cord Injury
12297	Executing the International Coffee Agreement of 1976
12299	Terminating the President's Advisory Board on Ambassadorial Appointments
12327	Exempting Fort Allen from pollution control statutes
12351	Providing for nuclear cooperation with EURATOM
12357	Phasing out the United States Sinai Support Mission
12358	Establishing the Presidential Commission on Drunk Driving
12370	Creating an emergency board to investigate a railroad labor dispute
12373	Creating an emergency board to investigate a railroad labor dispute
12376	Increasing membership on the Presidential Commission on Drunk Driving
12384	Creating an emergency board to investigate a railroad labor dispute
12385	Creating an emergency board to investigate a railroad labor dispute
12386	Creating an emergency board to investigate a railroad labor dispute
12390	Delegating a reporting function to the Secretary of State concerning U.S. credit to Poland
12392	Delegating authority to the Secretary of the Treasury to make payments to certain international financial institutions
12393	Creating an emergency board to investigate a railroad labor dispute
12397	Continuing the National Commission on Social Security Reform
12398	Increasing membership and extending the President's Private Sector Survey on Cost Control in the Federal Government
12402	Continuing the National Commission on Social Security Reform
12405	Creating an emergency board to investigate a railroad labor dispute
12408	Delegating responsibility for preparing reports on international organizations
12409	Extending the period for nuclear cooperation with EURATOM
12414	Creating an emergency board to investigate a railroad labor dispute
12415	Continuing the Presidential Commission on Drunk Driving
12427	Establishing the President's Advisory Council on Private Sector Initiatives
12429	Continuing the President's Private Sector Survey on Cost Control in the Federal Government
12434	Transferring responsibility for setting rates for the Alaska Railroad

No.	Subject
12440	Increasing the membership of the President's Commission on Industrial Competitiveness
12442	Continuing the President's Commission on Indian Reservation Economies
12447	Continuing the President's Private Sector Survey on Cost Control in the Federal Government
12449	Continuing the National Bipartisan Commission on Central America
12455	Continuing the President's Private Sector Survey on Cost Control in the Federal Government
12457	Continuing the President's Commission on Industrial Competitiveness and increasing its membership
12463	Extending the period for nuclear cooperation with EURATOM
12476	Relating to the Presidential Commission on the Conduct of United States-Japan Relations
12480	Creating an emergency board to investigate a railroad labor dispute
12481	Creating an emergency board to investigate a railroad labor dispute
12482	Continuing the President's Advisory Committee on Women's Business Ownership
12486	Creating an emergency board to investigate a railroad labor dispute
12491	Creating an emergency board to investigate a railroad labor dispute
12492	Creating an emergency board to investigate a railroad labor dispute
12495	Creating an emergency board to investigate a railroad labor dispute

Ronald Reagan

THE WHITE HOUSE,
February 25, 1986.

[FR Doc. 86-4455
Filed 2-26-86; 11:19 am]
Billing code 3195-01-M

Editorial note: For the text of a White House announcement, released February 25, on Executive Order 12553, see the *Weekly Compilation of Presidential Documents* (vol. 22, no. 9).

Rules and Regulations

Federal Register
Vol. 51, No. 41
Monday, March 3, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 628]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 628 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period February 28 through March 6, 1986. Such action is needed to provide for the orderly marketing of fresh navel oranges for the period specified due to the marketing situation confronting the orange industry.

DATE: Regulation 628 (§ 907.928) is effective for the period February 28 through March 6, 1986.

FOR FURTHER INFORMATION CONTACT: George J. Kelhart, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–475–3919.

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

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

This action is consistent with the marketing policy for 1985–86 adopted by the Navel Orange Administrative Committee. The committee met publicly on February 25, 1986, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for fresh navel oranges is improving. The regulation is needed to continue providing stability in the market and promote orderly marketing.

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

List of Subjects in 7 CFR Part 907

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

PART 907—[AMENDED]

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

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

2. Section 907.928 Navel Orange Regulation 628 is hereby added to read:

§ 907.928 Navel Orange Regulation 628.

The quantities of navel oranges grown in California and Arizona which may be handled during the period February 28, 1986 through March 6, 1986, are established as follows:

(a) District 1: 1,550,00 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: February 26, 1986.

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

[FR Doc. 86–4577 Filed 2–28–86; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Order Suspending a Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of a rule.

SUMMARY: This action continues a prior suspension of the requirement that plants operated by a cooperative association need to be located either in the marketing area or in a county adjacent to the marketing area to be eligible for regulation under the Southwest Plains milk order. The continuing action was requested by a cooperative association at a public hearing held in Tulsa, Oklahoma, on November 6, 1985. The cooperative operates supply plants which have supplied supplemental milk to distributing plants that became regulated under the Southwest Plains order when the adjacent St. Louis-Ozarks order was terminated on April 1, 1985. The location requirement for a cooperative's pool plants has been suspended since April 1985. Several proposals, including one that would expand the marketing area and alleviate the cooperative's pooling problem associated with the location of its plants, were considered at the November 6 hearing. On the basis of all available information, a further suspension of the location requirement for plants operated by a cooperative is warranted. The provisions would be suspended until the hearing proceeding has been completed. Such interim action is needed to provide a continuation of the orderly disposition of the reserve milk supplies now associated with the market while the proceeding advances toward completion.

EFFECTIVE DATE: March 3, 1986.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Hearing: Issued September 20, 1985; published September 26, 1985 (50 FR 39017).

The Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

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

It is hereby found and determined that the current suspension, which expires at the end of February, should be extended beginning for the month of March 1986, and continuing until the hearing proceeding on proposed amendments to the order has been completed and that the following provisions of the current order to not tend to effectuate the declared policy of the Act:

In § 1106.7(c) the words "located in the marketing area or in a county adjacent to the marketing area".

Statement of Consideration

This action is based on the record of a public hearing held on November 6, 1985, at Tulsa, Oklahoma, to consider several proposed amendments to the Southwest Plains order.

The order now provides for the pooling of cooperative association plants that are located in the marketing area or a county adjacent to the marketing area if 50 percent or more of the cooperative's producer milk is delivered to and physically received at distributing plants during the month. This action continues a prior suspension of the location requirement as a basis of pooling eligibility for plants operated by a cooperative association. The requirement has been suspended since April 1985 and this action extends the suspension until the hearing proceeding regarding this matter is concluded.

A continuation of the suspension was requested by Mid-America Dairymen, Inc. (Mid-Am), at the November 6 hearing. Mid-Am operates supply plants and represents producers who supply the fluid milk needs of distributing plants that became regulated under the Southwest Plains order when the adjacent St. Louis-Ozarks order was terminated on April 1, 1985. Supplemental milk historically has been furnished to these distributing plants for Mid-Am's supply plants, which are located in southwest Missouri. However, since the supply plants are not located in the marketing area or in a county adjacent to the maketing area, they may not be qualified under the pooling provisions for plants operated by a cooperative association.

At the hearing, Mid-Am supported a proposal to include certain territory in southwest Missouri where its supply plants are located in the Southwest Plains marketing area. A witness for proponent cooperative testified that such a change is needed to reflect current marketing conditions. He also testified that the present suspension action should be extended again if the November 6 hearing proceeding has not been completed by the end of February 1986 when the current suspension expires. This action would permit Mid-Am to avoid uneconomic movements of milk solely to qualify it for pool participation while the proposals to resolve the cooperative's pooling problems are evaluated on the basis of the hearing evidence.

At the November 6 hearing there was only limited opposition to Mid-Am's proposal to add 30 counties in southwest Missouri and northwest Arkansas to the Southwest Plains marketing area. Although one handler presented opposition testimony, his objection was confined to the inclusion of a portion of one county in southwest Missouri.

Testimony and statistics presented at the hearing indicate that the scope of regulation under the Southwest Plains order was extended considerably by the April 1 termination of the St. Louis-Ozarks order. For example, several distributing plants and supply plants regulated under the former order and located in southwest Missouri and northwest Arkansas became regulated under the Southwest Plains order. The regulation of these plants under the Southwest Plains order had a dramatic impact on the Market's supply-demand relationship. For example, from March to April 1985, Class I use of producer milk increased by 58 percent while producer supplies more than doubled. As a result, the Class I utilization of producer milk declined from 57 percent in March to 44 percent in April. Record data also show that during the months of April through September 1985, the Class I use of producer milk ranged from 6.9 to 10.8 percentage points below the market's Class I utilization for the same month of 1984. For the entire period of April through September 1985, the Class I utilization was 8.6 percentage points below such use during the same six-month period in 1984.

An extension of the current suspension is warranted on the basis of the foregoing information. With an extension, Mid-Am will be able to continue pooling its supply plants in southwest Missouri on the basis of the cooperative's overall performance in supplying the market's distributing plants. This will enable the cooperative to handle efficiently its reserve milk supplies now associated with this market and assure that the milk it markets for dairy farmers who supply the fluid needs of the market will continue to be pooled with the outcome of the hearing proceeding advances toward completion.

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

(a) This suspension is necessary to reflect current marketing conditions and to assure a continuation of the orderly marketing of milk in the marketing area in that without an extension of the suspension, costly and inefficient movements of milk would need to be made solely to qualify the milk for pool participation;

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

(c) The marketing problems that provide the basis for this action were fully explored at a public hearing held on November 6, 1985, where all interested parties had an opportunity to testify concerning the proposals.

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

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following language in § 1106.7(c) of the Southwest Plains order is hereby further suspended beginning for the month of March 1986 and continuing until the rulemaking proceeding relating to this matter has been completed:

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR Part 1106 continues to read as follows:

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

§ 1106.7 [Amended].

2. In 7 CFR Part 1106 in § 1106.7(c) introductory text, the words "located in the marketing area or in a county adjacent to the marketing area" are suspended beginning for the month of March 1986 and beyond.

Effective date: March 3, 1986.

Signed at Washington, DC on: February 24, 1986.

Alan T. Tracy,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86-4465 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 1046

Amendment to Physical Fitness Training Program for Protective Force Personnel

AGENCY: Defense Programs, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending 10 CFR Part 1046 to require each contractor security inspector to participate in a physical fitness program on a continuing basis. DOE has determined that continuing training is necessary for security inspectors to carry out their security duties in a safe and effective manner.

EFFECTIVE DATE: April 2, 1986.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dowd, Department of Energy, Defense Programs, DP-343, Germantown, Washington, DC 20545, (301) 353-3203

Jo Ann Williams, Department of Energy, GC-31, Room 6B-256, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 252-6975.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Comments
III. Procedural Requirements

I. Background

On November 23, 1984, the Department of Energy promulgated regulations (49 FR 46097-46105) designed to ensure that DOE contractor security inspectors have the requisite medical and physical fitness to protect nuclear weapons, special nuclear material, and sensitive facilities effectively. As promulgated, the regulations require each incumbent security inspector to participate in a physical fitness training program only until he or she meets the applicable physical fitness standards for initial qualification.

On November 12, 1985, DOE published proposed regulations (50 FR 46672-46673) that would require participation in a physical fitness program on a continuing basis. DOE has determined that continuing participation is necessary for security inspectors to maintain the desired level of physical fitness. Each DOE contractor employing security inspectors shall be responsible for development and implementation of such a program subject to the approval of the cognizant DOE Field Organization.

II. Discussion of Comments

DOE held public hearings in Albuquerque, New Mexico and Washington, DC and solicited written comments on these rules. DOE received no written comments. Two representatives of one labor union local testified at the Albuquerque hearing. They expressed general support for participation by security inspectors in a maintenance physical fitness program so long as the program does not require frequent long-distance (3 miles) running. In their view, the DOE physical fitness standard could be met by individuals who engaged either in running moderate distances or other aerobic exercises, such as swimming or bicycling.

DOE appreciates the concerns expressed by these union representatives regarding the nature of the maintenance program. However, these regulations do not set forth specifics regarding the content of the maintenance program. Each DOE contractor employing security inspectors shall be responsible for development and implementation of such a program subject to the approval of the cognizant DOE Field Organization.

While running need not be the sole exercise in a maintenance program, it must be a significant component of any physical fitness program whose objective is to maintain fitness sufficient to pass an annual running test. However, DOE will allow as much flexibility as it can in each contractor's approach to maintaining the general aerobic fitness of its security inspectors. DOE will ensure that employing contractors are made aware of the concerns expressed at the hearing and consider those concerns when considering specific maintenance plans for approval.

III. Procedural Requirements

A. Review Under Executive Order 12291

This Final Rule was reviewed under Executive Order 12291 (46 FR 13193, Feb. 19, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order. It will not 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, State, Federal, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to Section 3(c)(3) of Executive Order 12291, this Final Rule was submitted to the Director of OMB for a 10-day review. The Director has concluded his review under that Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (5 U.S.C. 601 *et seq.*) requires, in part, that an agency prepare a regulatory flexibility analysis for any final rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register**. This Final Rule deals with a training program for DOE protective personnel. The economic impact on small businesses is negligible. Accordingly, pursuant to section 606(b) of the Regulatory Flexibility Act, DOE certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Review

DOE has determined that this Final Rule is not a major Federal action with significant environmental impact, and therefore does not require preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

D. Paperwork Reduction Act

There regulations do not impose a collection of information requirement; therefore, it is not necessary to submit them to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 10 CFR Part 1046

Security measures, Medical and physical fitness/qualifications standards, Government contracts.

For reasons set out in the preamble, Subpart B of 10 CFR Part 1046 of the Code of Federal Regulations is amended as set forth below.

Issued at Washington, D.C. this 21 day of February, 1986.

Sylvester R. Foley,

Assistant Secretary for Defense Programs.

1. The authority citation for Part 1046 continues to read as follows:

Authority: Atomic Energy Act, 68 Stat. 919 (42 U.S.C. 2011 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)

2. In § 1046.12, a new paragraph (d) is added as follows:

§ 1046.12 Physical Fitness Training Program.

* * * * *

(d) After his or her initial qualification, each incumbent security inspector shall participate in a DOE-approved physical fitness training program on a continuing basis. This training is for the purpose of ensuring that security inspectors maintain the requisite physical fitness for effective job performance and to enable the individual security inspector to pass the applicable annual physical fitness requalification test without suffering any undue physical injury.

Appendix A—[Amended]

3. Section F.(7) and (8) of Appendix A to Subpart B are replaced by the following:

(7) *Training Program.* Beginning January 23, 1985, incumbent security inspectors shall participate in a physical fitness training program.

4. Section F.(9) of Appendix A to Subpart B would be redesignated Section F.(8).

[FR Doc. 4424 Filed 2-28-86; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563d

[86-161]

Securities Filing of Insured Institutions

Dated: February 19, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; technical amendment.

SUMMARY: Section 563d.1 of the Federal Home Loan Bank Board's (the "Bank Board" or "Board") regulations currently requires that all filings being submitted to the Board under the Securities Exchange Act of 1934 be forwarded, with the appropriate number of copies, to the Corporate and Securities Division (the "Division") of the Office of General Counsel. Once these filings are received in the Division, distribution of the copies is made by the staff, including forwarding one copy for transmission to the Federal Home Loan Bank the ("District Bank") in whose district the institution is located. By its action today, the Board is hereby adding a new § 563d.2 to its regulations which would require reporting institutions to file one of the copies already required by the rules directly with the appropriate Federal Home Loan Bank. This will increase the efficiency of the review process by avoiding unnecessary delays in the distribution of the copies.

EFFECTIVE DATE: March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Diane F. Petruso, Paralegal Specialist, Corporate and Securities Division, Office of General Counsel, (202) 377-7059, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 563d.1 of the Board's regulations directs institutions filing reports with the Bank Board under the Securities Exchange Act of 1934, to mail the reports, with the appropriate number of copies, to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW. Washington, D.C. 20552. When the Division receives these filings, distribution is made to staff members and various offices within the Board.

In order to eliminate any possible delay in the distribution, review, and processing of these documents, and to improve the coordination of securities disclosure review with information available through the Board's supervisory and examination process, the Board is adopting a technical amendment and adding a new § 563d.2 to its regulations. The new § 563d.2 requires that each reporting institution mail one of the required number of copies of each filing directly to the District Bank for their area. The only exceptions to this requirement will be in the case of preliminary versions of any filing, and Forms 3 and 4, in which case all copies shall continue to be forwarded to the Corporate and Securities Division. All remaining required copies of each filing will be sent, as the rules currently provide, to the Corporate and Securities Division, of the Office of General Counsel. This change does not require the reporting institutions to file any more copies than they do now; the only change is that, in most cases, one copy will be sent directly to the Federal Home Loan Bank in their District. It should also be noted that this change applies only to the reporting institution itself. Individuals and other entities who may file, for example, a Form 13D, Statement of Beneficial Ownership, directly with the Board; will continue to file all required copies with the Division.

Pursuant to 12 CFR 508.11 and 508.14, and the Board finds that, because of the minor, technical nature of this amendment, notice and public comment are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR Part 563d

Authority delegations (Government agencies), Reporting and recordkeeping requirements, Savings and loan associations, Securities.

Accordingly, the Board hereby amends Part 563d, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563d—SECURITIES OF INSURED INSTITUTIONS

Subpart A—Regulations

1. The authority citation for Part 563d continues to read as follows:

Authority: Secs. 3(b), 12, 13, 14, and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895 and 901, as amended (15 U.S.C. 78c(b), 78 *l*, m, n and w; 78d-1); and Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp. p. 1071.

§ 563d.1 [Amended]

2. Amend § 563d.1 by inserting the phrase ", except as noted in § 563d.2, below.", after the zip code "20552."

* * * * *

3. Add a new 563d.2, to read as follows:

§ 563d.2 Mailing requirements for securities filings.

Those institutions required to file reports with the Corporate and Securities Division of the Office of General Counsel, as set forth in § 563d.1, above, shall file one of the required number of copies with the Federal Home Loan Bank for the District in which the institution has its main office. Such copies shall be marked to the attention of the Supervisory Agent. In the case of preliminary versions of any filing, and in the case of Forms 3 and 4, however, all copies shall be sent to the Corporate and Securities Division, as set forth in § 563d.1. The originally-signed copy and all remaining copies of each filing shall be sent to the Corporate and Securities Division, at the address noted in § 563d.1. Additionally, copies to the

District Banks shall be mailed on the same day as the original and remaining copies are forwarded to the Corporate and Securities Division.

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86-4430 Filed 2-28-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-117-AD; Amdt. 39-5245]

Airworthiness Directives; Gates Learjet Models 23, 24, 24A, 24B, 24B-A, 24C, 24D, 24D-A, 24E, 24F, 24F-A, 25D, 25F, 28, 29, 35, 35A, 36, and 36A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises an existing airworthiness directive (AD) applicable to certain Gates Learjet airplanes, which currently requires repetitive inspections of Stall Warning Accelerometers. This amendment extends the inspection interval from 165 hours to 220 hours time-in-service. This permits operators to perform this inspection in conjunction with other airplane maintenance schedules. In addition, this amendment limits the applicability of the AD to those airplanes in which certain equipment has not been incorporated.

EFFECTIVE DATE: April 10, 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 R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by amending AD 82-01-05R1 to increase the repetitive inspection interval for Stall Warning Accelerometers from 165 hours to 220 hours time-in-service, was published in the **Federal Register** on November 18, 1985 (50 FR 47409). In addition, the proposed amendment would revise paragraph C. of AD 82-01-05R1 to reflect the correct address of the Wichita Aircraft Certification Office.

The comment period ended January 6, 1986, and interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the three comments received.

Two commenters concurred with the proposal.

The third commenter, the manufacturer, stated that paragraph A. should indicate that Model 36 series airplanes incorporating Gates Learjet Airplane Accessory Kit 83-2 would also be exempt from the requirements of the AD. After consideration of additional data, the FAA concurs and has changed paragraph A. accordingly. The FAA has determined that this change is in the public interest and will not compromise safety of flight; it will have no adverse economic impact on any operator.

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

It is estimated that 1,017 airplanes of U.S. registry will be affected by this AD. The FAA has determined that the requirements of this AD may actually reduce operators' costs since the required inspections may now 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 Airworthiness Directive (AD) 82-01-05R1, Amendment 39-4746, as follows:

A. Change the applicability statement to reflect the following models and serial numbers:

Model	Serial No.
23	23-003 through 23-099.
24, 24A	24A-011, 24A-012, 24-015, 24-019, 24-031, 24-043, 24-050, 24-051, 24-055, 24-060, 24-065, 24-087, 24-096, and 24-100 through 24-180.
24B, 24B-A	24-181 through 24-217, 24-219 through 24-229.
24C, 24D, 24D-A	24-218, 24-230 through 24-328.
24E, 24F, 24F-A	24-329 through 24-357.
25D, 25F	25-206 through 25-336, 25-338 and on.
28	28-001 and on.
29	29-001 and on.
35, 35A	35-001 through 35-505.
36, 36A	36-001 through 36-053.

B. Change paragraph A to read as follows:

A. To assure proper operation of the Stall Warning Accelerometer Unit, unless previously inspected in the last 200 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 Bulletins (SB) 23/24/25-301B, SB 28/29-27-3B, or SB 35/36-27-12B, as appropriate. Models 35 and 36 series airplanes incorporating Gates Learjet Airplane Accessory Kit 83-2 are exempt from the requirements of this AD.

C. Change paragraph C to read as follows:

C. 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 directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277.

These documents 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.

This amendment becomes effective April 10, 1986.

Issued in Seattle, Washington, on February 24, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-4438 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-120-AD; Amdt. 39-5244]

Airworthiness Directives: Boeing Model 757-200 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires replacement of the existing elevator control forward override assembly cam on certain Boeing Model 757 airplanes. This action is prompted by a report of an incident during functional testing which resulted in jamming of both elevator control columns against the stops. This condition, if not corrected, could result in loss of elevator control.

EFFECTIVE DATE: April 10, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. 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 that would require replacement of the existing elevator control forward override assembly came on certain Boeing Model 757 airplanes was published in the **Federal Register** on November 13, 1985 (50 FR 46776). The comment period for the proposal closed on January 3, 1986.

Interested parties 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 had no objections to the contents of the proposed rule.

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

It is estimated that 31 airplanes will be affected by this AD, that it will take approximately 4 manhours per airplane to accomplish the required modification, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $4,960.

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 Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria or the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757-200 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

Boeing: Applies to all Model 757-200 series airplanes listed in Boeing Service Bulletin 757-27-0057, Revision 1, dated October 17, 1985, certificated in any category.

To eliminate the possibility of the elevator forward override mechanism becoming jammed, accomplish the following, unless already accomplished:

A. Within the next 60 days after the effective date of this AD, remove and replace the elevator control forward override assembly cam with a revised cam in accordance with Boeing Service Bulletin 757-27-0057, Revision 1, dated October 17, 1985, or later FAA-approved revision.

B. 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 the modifications required by this AD.

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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. 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 10, 1986.

Issued in Seattle, Washington, on February 24, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-4439 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-20]

Alteration of VOR Federal Airway V-45, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airway V-45 between the Youngstown, OH,Very High Frequency Omni-Directional Radio Range and Tactical Air Navigational Aid (VORTAC) and the Varys, OH, intersection. This action is taken to simplify a commonly used routing to avoid pilot confusion and excessive clearance readbacks that congest radio communication frequencies.

EFFECTIVE DATE: 0901 U.t.c., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Gene Falsetti, 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, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION

History

On December 4, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter V-45 between Youngstown, OH, VORTAC and Varys, OH, intersection (50 FR 49704).

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 71.123 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 alters V–45 between Youngstown, OH, VORTAC and Varys, OH, intersection. This segment is frequently used in the tower en route system between Youngstown and Waterville, OH, VORTACs. The routing presently issued is Youngstown V–6, V–297 and V–45. This often causes pilot confusion and excessive readbacks and increases controller verbage. This action eliminates those problems. It also reduces excessive routing entered in the tower control strips which are already limited on displayable route segments.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

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

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

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

2. Section 71.123 is amended as follows:

V–45 [Amended]

By removing the words "From INT Waterville, OH, 085° and Cleveland, OH, 335° radials;" and substituting the words "From Youngstown, OH, INT Youngstown 272° and Akron, OH, 298° radials; INT Akron 298° and Waterville, OH, 085° radials;"

Issued in Washington, D.C., on February 24, 1986.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–4441 Filed 2–28–86; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 375

[OST Docket No. 42547; Amdt No. 375–1]

Navigation of Foreign Civil Aircraft Within the United States

AGENCY: Department of Transportation.

ACTION: Final rule.

SUMMARY: This regulation revises DOT's rule concerning the navigation in the United States of foreign civil aircraft that are not engaged in foreign air transportation. Outdated provisions are deleted and the rule is conformed to FAA regulations. The rule also expands the definition of a foreign civil aircraft to include U.S.-registered aircraft owned, controlled or operated by persons who are not citizens or permanent residents of the United States. Application procedures for foreign aircraft permits have been revised to expedite processing.

EFFECTIVE DATE: April 2, 1986.

FOR FURTHER INFORMATION CONTACT: Peter B. Schwarzkopf, Office of Assistant General Counsel for International Law, C–20, (202) 472–5621; or Terri Smith, Licensing Division, Office of Aviation Operations, P–45, (202 755–3800; U.S. Department of Transportation, 400 Seventh Street SW., Room 6412, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking adopted October 4, 1984, (SPDR 91, Docket 42547 (49 FR 42948, 10/25/84)), the Civil Aeronautics Board proposed revision of Part 375 of its Regulations (14 CFR Part 375) governing the navigation of foreign civil aircraft within the United States. The proposed amendments, which are finalized here, primarily update and make technical corrections to the rule. However, the definition of "foreign civil aircraft" is also expanded to ensure the application of the standard of reciprocity under section 1108(b) of the Act. Because of the numerous revisions, and the restructuring of the order of various of its provisions, the Part is reissued in its revised form.

With the statutory termination of the Civil Aeronautics Board on January 1, 1985, under the Airline Deregulation Act of 1978, and the Civil Aeronautics Board Sunset Act of 1984, the Department of Transportation is now responsible for the disposition of these rules.

A summary of the changes to them preexisting Part 375 (other than minor editorial revisions), and their purpose, follows:

Section 375.1—Definitions. The definition of foreign civil aircraft is revised to encompass U.S.-registered aircraft owned, controlled or operated by persons who are not citizens or permanent residents of the United States. With the amendment of section 501(b)(1)(A)(ii) of the Federal Aviation Act (Act) (Pub. L. 95–163, 91 Stat. 1283) to permit U.S. registration of aircraft by U.S. corporations owned and controlled by foreign nationals, the amendment is necessary to achieve the Congressional purpose reflected in section 1108(b) of the Act that foreign aircraft, operated for commercial purposes within the United States, be permitted to do so only if reciprocity exists with the country of which the owners or operators are nationals.

Section 375.3—Existing permits. The reference to permits issued under the expired provisions of Part 190 of the Civil Air Regulations is no longer pertinent and has been deleted.

Section 375.10—Certain foreign civil aircraft registered in ICAO member states. The section is amended to delete the requirement that notices of airworthiness standards be filed through diplomatic channels. Direct filing with the Department of Transportation, rather than through the Department of State, will simplify procedures, and conforms these procedures to those now in effect for foreign air carrier permits.

Section 375.11—Other foreign civil aircraft. Revisions to this section clarify that an operator of a foreign civil aircraft that is not registered in an ICAO member state must comply with applicable FAA rules, in addition to the requirements of Part 375.

Section 375.19—Nature of privilege conferred. The section has been moved from § 375.42(b) to Subpart C (Rules Generally Applicable) to clarify that all operations under Part 375 are operated pursuant to section 1108(b) of the Act and under the terms of the Chicago Convention.

Section 375.20—Airworthiness and registration certificates. These airworthiness provisions are revised to conform to changes made by the FAA to § 91.28 of its rules (14 CFR 91.28); specifically, the grant of a "special flight authorization (in lieu of the prior air safety flight authorization) for certain limited navigation of foreign aircraft not possessing a valid certificate of

airworthiness from its country of registry, and the deletion of specification of circumstances in which such authorizations might be granted. Special flight authorizations may be carried in place of an airworthiness certificate, but all other requirements of Part 375 must be complied with. DOT foreign aircraft permits and special authorizations, when required, will be issued only after issuance of the FAA special flight authorization.

Section 375.31—Demonstration flights of foreign aircraft. Clarification is made that demonstration flights at public air shows are authorized without specific prior approval, so long as the operations comply with the other provisions of Part 375.

Section 375.35—Free Transportation. The categories of persons to whom free transportation may be provided by foreign air carriers over non-traffic segments is expanded to include travel agents, security personnel guarding foreign government officials, and guests of a foreign air carrier on aircraft delivery flights. In light of the routine approval of these categories in the past, case-by-case approval of these operations does not appear to be required.

Section 375.36—Lease of foreign civil aircraft without crew. This section specifically provides for the dry lease (lease without crew) of a foreign aircraft to a U.S. direct air carrier or U.S. citizen commercial operator under applicable FAA rules §§ 121.153 and 135.25), without a specific pre-flight authorization, but subject to FAA requirements. The former ambiguity as to such authorization is, therefore, removed, and the section is expanded to cover commercial operations under the revised definition of foreign civil aircraft.

Sections

375.40—Permits for commercial air operations.

375.41—Agricultural and industrial operations within the United States.

375.42—Transport Operations—occasional planeload charters.

375.43—Application for foreign aircraft permit.

375.44—Issuance of permit.

The rule reorganizes and revises the application procedures for a foreign aircraft permit and the standards for issuance of a permit (prior §§ 375.40–375.42) to be similar to the procedures under Part 212 (statements of authorization to operate charter flights). It includes procedures for filing answers to applications and provides for service of applications if warranted. Such procedures will be utilized for example for Canadian operator applications for aerial agricultural, industrial or survey operations, in which the Canadian first refusal ("primary rights") policy has largely extinguished reciprocity, and has frequently warranted denial of Canadian operators' applications. The new procedures facilitate the processing of these contested applications, and implement the Act's reciprocity requirement in section 1108(b). Provision for grant of foreign aircraft permits for continuing cargo operations has been deleted, since there have been no recent requests of this nature, and the authority, if requested, is more appropriately granted by foreign air carrier permit, under section 402 of the Act, or by exemption under section 416(b) from the provisions of section 402.

Section 375.50—Transit flights; scheduled international air service operations. The advance period for filing of notices of proposed operation of scheduled service pursuant to the International Air Service Transit Agreement in transit across the United States has been increased to 30 days (from 15) in order to permit the Department to administer more effectively the requirements of this section. The increase should not inconvenience, or otherwise burden, any filing carrier.

Fifteen comments were filed in response to the CAB rulemaking notice. The only controversial portion of the rule was the revision of the definition of "foreign civil aircraft" to encompass U.S. registered aircraft owned, controlled or operated by persons who are not citizens or permanent residents of the United States. Nine comments were filed in support of this revision.[1] Four persons filed comments in opposition.[2]

The principal opposition was reflected in the comments and reply comments of Interra Technologies, Inc., a Texas incorporated corporation owned 50% by Canadian nationals, which is engaged in aerial survey operations within and adjacent to U.S. airspace by radar equipped small aircraft. It has registered its aircraft in the United States pursuant to the 1977 amendments to section 501(b)(1)(A)(ii) of the Act which permits U.S. incorporated corporations to register aircraft based and primarily used in the United States, and not registered under the laws of any foreign country, despite the fact that their foreign ownership precludes the corporation from qualifying as a "citizen of the United States" under section 101(16) of the Act.

Interra (and attorneys Lester and Stewart with respect to some arguments) allege that DOT has no jurisdiction to revise the Part 375 definition of foreign civil aircraft, since the plain meaning of the language of section 1108(b) of the Act, and its legislative history, demonstrate that Congress intended to permit CAB issuance of permits under that section only with respect to aircraft registered in a foreign country.

We cannot agree. Section 1108(b) is applicable to "foreign aircraft, which are not part of the armed forces of a foreign nation". It is not in terms limited to "foreign-registered aircraft". On the contrary, the two criteria under which DOT is permitted to grant foreign aircraft permits to navigate in the United States— "if such foreign nation grants a similar privilege with respect to aircraft of the United States" and if "it shall find such action to be in the interest of the public"—necessarily require application to aircraft owned or operated by foreign nationals, as well as foreign-registered aircraft, if the Congressional purpose is to be achieved.

We recognize that the current definition in Part 375 of the regulations (but not in section 1108(b) of the Act) has for many years been limited to aircraft of foreign registry. Moreover, it is reasonable to assume that the primary focus of section 1108(b) was on aircraft for foreign registry. But this is because, prior to the 1977 amendments, foreign owned aircraft were ineligible for registration in the United States. While foreign nationals could have operated U.S.-registered leased aircraft, we are unaware of any previous instance in which the seciton 1108(b) reciprocity provisions had been abused on the basis of foreign operation of U.S.-registered leased aircraft.

In 1977, section 501 of the Act was amended to permit U.S.-incorporated corporations, which do not qualify as citizens of the United States because of their foreign ownership, to obtain U.S. registration for aircraft based and primarily used in the United States. (Section 501(b)(1)(A)(ii), Pub. L. 95–163,

[1] Aero Service Division, Western Geophysical Company of America (including reply comments); Petroleum Helicopters, Inc.; Carson Helicopters, Inc.; and Carson Geoscience Company; E.G. & G. Geometrics; American Society of Photogrammetry; Keystone Aerial Surveys, Inc.; Donald W. Smith of the law firm of Kirkpatrick & Lockhart; Senator Johnson and Congressman Tauzin; and Congressman Regula.

[2] Interra Technologies, Inc. (including reply comments); Evironmental Research Institute of Michigan; Robert C. Lester, P.C., Attorney; and John Stewart of the law firm of Zuckert, Scoutt, Rasenberger and Johnson. British Aerospace and Westland, Inc. filed comments dealing with other issues. The comments of Donald W. Smith of the law firm of Kirkpatrick & Lockhart also dealt with other issues.

91 Stat. 1283.) It is clear from the legislative history of the amendments that the focus was on private corporate aircraft, and not commercial operations performed by foreign nationals within the United States. Thus the purposes of the amendment were to remove unnecessary restrictions on sales of aircraft to resident aliens (expanded to include foreign owned U.S.-incorporated corporations), and to avoid a serious impediment to safety resulting from the necessity of these foreign nationals having to register their U.S. based aircraft abroad, with the difficulties of complying with foreign safety inspection procedures. (See, 123 Cong. Rec. 36636–37, 43 (H.R. 6010); 123 Cong. Rec. 14255 (H.R. 735); Senate Report No. 95–96, 95th Cong., 1st Sess, to accompany H.R. 735, April 20, 1977.) Nothing in the legislative history of the amendment indicates any intention by Congress to restrict the applicability of the reciprocity requirement in section 1108(b) of the Act.

The failure to apply Part 375 to foreign owned, controlled, or operated U.S.-registered aircraft would, particularly since the 1977 amendments, create a loophole under which the reciprocity provisions of section 1108(b) could easily be evaded. The existence of such a loophole has now become a demonstrable problem. One company not a U.S. citizen, Interra, has acknowledged that it is now freely conducting U.S. commercial operations despite the first refusal or "primary rights" policy which precludes such operations by U.S. carriers in Canada. Moreover, the comments of Carson Helicopters, E.G. & G. Geometrics, Petroleum Helicopters, American Society of Photogrammetry, and Keystone Aerial Surveys, demonstrate further that the Interra situation is not an isolated incident. Accordingly, DOT finds that amendment of the definition of "foreign civil aircraft", as proposed, is consistent with the Act, and is clearly required in the public interest.

The amendment will give DOT the opportunity to ensure that the section 1108(b) reciprocity standard is applied in accordance with the Congressional intent. Of course, if special circumstances exist under which reciprocity concerns should be moderated in light of other public interest considerations, these circumstances will be evaluated on a case-by-case basis.

The comments of John Stewart refer to possible confusion of the public by classification of certain U.S.-registered aircraft as "foreign civil aircraft". Interra similarly makes reference to this alleged anomaly. We are not persuaded they any undue confusion or anomaly would exist. The definition would have its sole impact on Part 375 commercial operations in the United States by foreign owned, controlled or operated aircraft, and would not be applicable for any other purpose

The Federal Aviation Act has always made reference to the nationality of ownership and control in the context of the grant of rights for commercial operations to, from, or within the United States. Thus, the definition of "citizen" in section 101(16) of the Act requires that a U.S. corporation be 75% owned and controlled by U.S. citizens in order to operate as a U.S. air carrier. Only U.S. air carriers are entitled to engage in domestic (cabotage) common carriage operations. Foreign nationals are precluded from engaging in such domestic operations whether or not they use U.S.-registered aircraft.

As a technical matter, the definition would also result in the application of Part 375 to foreign-owned, U.S.-registered aircraft not engaged in commercial operations. However, § 375.30 grants a blanket regulatory authorization for navigation of foreign civil aircraft in the United States which are not engaged in commercial operations. Therefore, the technical application of the regulation to non-commercial operations would have no practical effect. Accordingly, there is little probability of any undue confusion as a result of such application.

British Aerospace, Inc. has requested an interpretation of the definition of "commercial air operations" in § 375.1 so as to exclude from "operations for remuneration or hire", demonstration flights where reimbursement of expenses does not exceed the categories of reimbursable expenses permitted under FAA Part 91 (14 CFR 91.181 (b)(3) and (d)(1)). These FAA regulations appear to provide a reasonable delineation between a simple reimbursement for expenses, and operations for remuneration or hire, in the context of demonstration flights in connection with the sale of aircraft. Therefore, without prejudice to any other interpretation of "remuneration or hire" with respect to the definition of commercial air operations under § 375.1, the Department will not consider a demonstration flight (for the purpose of sale) involving reimbursement of expenses not exceeding those specified in current 14 CFR 91.181(d) of the FAA regulations, as a "commercial air operation" within the meaning of Part 375 of the DOT regulations.

Donald W. Smith of the law firm of Kirkpatrick and Lockhart, supported by comments of British Aerospace, Inc. and Robert C. Lester, points out that the exclusion from the requirement of issuance of a foreign aircraft permit of foreign civil aircraft leased to a U.S. air carrier for authorized air transportation operations should equally apply to a lease to a U.S. citizen or permanent resident for commercial operations. The point is well taken. This would not, of course, include leases to U.S.-incorporated corporations which do not qualify as U.S. citizens under section 101(16) of the Act. Accordingly, section 375.36 reflects this change.

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This action has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule. It will not result in an annual effect on the economy of $100 million or more. This regulation is not significant under the Department's Regulatory Policies and Procedures. We find that the economic impact of this regulation is so minimal a full regulatory evaluation is not required.

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96–354, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act. The rule will only apply to operators of foreign civil aircraft. The revisions will primarily affect 10 to 15 Canadian industrial operators. Only one such operator has filed an objection in this proceeding.

The collection of information requirements in this rule are subject to the Paperwork Reduction Act, Pub. L. 96–511, 44 U.S.C. Chapter 35. These requirements were submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review. The OMB approval number for the application procedure and related form contained in the rule is 2106–0002.

List of Subjects in 14 CFR Part 375

Aircraft, Airmen, Foreign relations, Reporting and recordkeeping requirements.

Final Rule

Accordingly, pursuant to the authority delegated under 49 CFR 1.56, 14 CFR Part 375, Navigation of Foreign Civil Aircraft Within the United States, is revised to read as follows:

PART 375—NAVIGATION OF FOREIGN CIVIL AIRCRAFT WITHIN THE UNITED STATES

Subpart A—General

Sec.
375.1 Definitions.
375.2 Applicability.
375.3 [Reserved]

Subpart B—Authorization

375.10 Certain foreign civil aircraft registered in ICAO member states.
375.11 Other foreign civil aircraft.

Subpart C—Rules Generally Applicable

375.19 Nature of privilege conferred.
375.20 Airworthiness and registration certificates.
375.21 Airmen.
375.22 Flight operations.
375.23 Maximum allowable weights.
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Subpart D—Authorized Operations

375.30 Operations other than commercial air operations.
375.31 Demonstration flights of foreign aircraft.
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375.35 Free transportation.
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Subpart E—Operations Requiring Specific Preflight Authorization on Filing

375.40 Permits for commercial air operations.
375.41 Agricultural and industrial operations within the United States.
375.42 Transport operations—occasional planeload charters.
375.43 Application for foreign aircraft permit.
375.44 Issuance of permit.
375.45 Records and reports of occasional planeload charters.

Subpart F—Transit Flights.

375.50 Transit flights; scheduled international air service operations.

Subpart G—Penalties

375.60 Penalties.

Subpart H—Special Authorization

375.70 Special authorization.
Appendix A—Form 4509

Authority: 49 U.S.C. 1324, 1372, 1502, 1508.

Subpart A—General

§ 375.1 Definitions.

As used in this part:

"Act" means the Federal Aviation Act of 1958, as amended;

"Air transportation" means the carriage by aircraft of persons or property as a common carrier for compensation or hire or the carriage of mail by aircraft in interstate, overseas, or foreign commerce (see section 101 (10) and (23) of the Federal Aviation Act, 49 U.S.C. 1301);

"Category" shall indicate a classification of aircraft such as airplane, helicopter, glider, etc.;

"Commercial air operations" shall mean operations by foreign civil aircraft engaged in flights for the purpose of crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, or similar agricultural and industrial operations performed in the United States, and any operations for remuneration or hire to, from or within the United States including air carriage involving the discharging or taking on of passengers or cargo at one or more points in the United States, including carriage of cargo for the operator's own account if the cargo is to be resold or otherwise used in the furtherance of a business other than the business of providing carriage by aircraft, but excluding operations pursuant to foreign air carrier permits issued under section 402 of the Act, exemptions, and all other operations in air transportation.

"Exemption" means an exemption granted, under section 416(b) of the Act, authorizing air transportation by a foreign air carrier;

"Foreign air carrier permit" means a permit authorizing foreign air transportation by a foreign air carrier pursuant to section 402 of the Act;

"Foreign aircraft permit" means a permit authorizing navigation of foreign civil aircraft in the United States pursuant to section 1108(b) of the Act and this part;

"Foreign civil aircraft" means (a) an aircraft of foreign registry that is not part of the armed forces of a foreign nation, or (b) a U.S.-registered aircraft owned, controlled or operated by persons who are not citizens or permanent residents of the United States;

"Stop for non-traffic purposes" means a landing for any purpose other than taking on or discharging passengers, cargo or mail, and does not include landings for embarking or disembarking stopover passengers or transshipped cargo or mail, or for other than strictly operational purposes.

"Type" means all aircraft of the same basic design including all modifications thereto except those modifications that result in a change in handling or flight characteristics.

§ 375.2 Applicability.

The provisions of this part regulate the admission to, and navigation in, the United States of foreign civil aircraft other than aircraft operated under authority contained in a foreign air carrier permit or exemption. This part also contains provisions that specify the extent to which certain classes of flight operations by foreign civil aircraft may be conducted, and the terms and conditions applicable to such operations. Nothing in this part shall authorize any foreign civil aircraft to engage in air transportation nor be deemed to provide for such authorization by the Department.

§ 375.3 [Reserved]

Subpart B—Authorization

§ 375.10 Certain foreign civil aircraft registered in ICAO member states.

Subject to the observance of the applicable rules, conditions, and limitations set forth in this part:

(a) Foreign civil aircraft manufactured in a State that at the time of manufacture was a member of the International Civil Aviation Organization (ICAO), and registered in a State that at the time of flight is a member of ICAO, may be navigated in the United States;

(b) Foreign civil aircraft manufactured in a State that at the time of manufacture was not a member of ICAO, and registered in a State that at the time of flight is a member of ICAO, may be navigated in the United States (1) if the State of registry has notified ICAO that the requirements under which it issues or renders valid certificates of airworthiness are equal to or above the minimum standards established pursuant to the Chicago Convention, or (2) if such notification has not been made to ICAO at the time of flight, there is on file with the Department a statement by the State of registry that, with regard to aircraft of the type that is proposed to be operated hereunder, the requirements under which certificates of airworthiness are issued or rendered valid are equal to or above the minimum standards established pursuant to the Chicago Convention.

§ 375.11 Other foreign civil aircraft.

A foreign civil aircraft other than those referred to in § 375.10 may be navigated in the United States only when (a) the operation is authorized by the Department under the provisions of this part, and (b) the aircraft complies with any applicable airworthiness standards of the Federal Aviation Administration for its operation.

Subpart C—Rules Generally Applicable

§ 375.19 Nature of privilege conferred.

The provisions of this part, and of any permit issued hereunder, together with section 1108(b) of the Act, are designed, among other purposes, to carry out the international undertakings of the United States in the Chicago Convention, in particular Article 5. That article gives foreign aircraft the privilege of "taking on or discharging passengers, cargo or mail" subject to the right of the State where such embarkation or discharge takes place to impose such regulations, conditions or limitations as it may consider desirable. The U.S. Congress by the 1953 amendment to section 6 of the Air Commerce Act of 1926, now designated as section 1108(b) of the Act, authorizes the Department to permit such operations only where conditions of reciprocity and the interest of the public in the United States are met. Thus, the operator of any foreign registered aircraft is not entitled as a matter of right to the issuance, renewal or freedom from modification or change in a permit issuable pursuant to this authority. Accordingly, any authority conferred by this part may be withheld, revoked, amended, modified, restricted, suspended, withdrawn, or canceled by the Department in the interest of the public of the United States, without notice or hearing.

§ 375.20 Airworthiness and registration certificates.

Foreign civil aircraft shall carry currently effective certificates of registration and airworthiness issued or rendered valid by the country of registry and shall display the nationality and registration markings of that country. However, a foreign civil aircraft may carry, in lieu of such certificate of airworthiness, an effective special flight authorization issued by the Federal Aviation Administration for the operations being performed.

§ 375.21 Airmen.

Members of the flight crew of a foreign civil aircraft shall have in their personal possession valid airman certificates or licenses authorizing them to perform their assigned functions in the aircraft and for the operation involved issued or rendered valid by the country of registry of the aircraft or by the United States. No such flight crew members shall perform any flight duty within the United States that they are not currently authorized to perform in the country issuing or validating the certificate.

§ 375.22 Flight operations.

Flights of foreign civil aircraft in the United States shall be conducted in accordance with the currently applicable rules of the Federal Aviation Administration.

§ 375.23 Maximum allowable weights.

Foreign civil aircraft that are permitted to navigate in the United States on the basis of foreign airworthiness certificates must conform to the limitations on maximum certificated weights prescribed or authorized for the particular variation of the aircraft type, and for the particular category of use, by the country of manufacture of the aircraft type involved.

§ 375.24 Entry and clearance.

All U.S. entry and clearance requirements for aircraft, passengers, crews, baggage and cargo shall be followed.

§ 375.25 Unauthorized operations.

No foreign civil aircraft shall be navigated in the United States unless authorized by this part. Commercial air operations (other than those authorized by § 375.36) shall not be undertaken without a permit issued by the Department.

§ 375.26 Waiver of sovereign immunity.

Owners and operators of aircraft operated under this part that are engaged in proprietary of commercial activities waive any defense of sovereign immunity from suit in any action or proceeding instituted against any of them in any court or other tribunal in the United States for any claim relating to that operation.

Subpart D—Authorized Operations

§ 375.30 Operations other than commercial air operations.

Foreign civil aircraft that are not engaged in commercial air operations into, out of, or within the United States may be operated in the United States and may carry non-revenue traffic to, from or between points in the United States.

§ 375.31 Demonstration flights of foreign aircraft.

Flights of foreign civil aircraft within the United States may be made for the purpose of demonstration of the aircraft or any component thereof (including demonstrations at airshows), provided no persons, cargo or mail are carried for remuneration or hire.

§ 375.32 Flights incidental to agricultural and industrial operations outside the United States.

Foreign civil aircraft that are engaged in agricultural or industrial operations to be performed wholly outside the United States may be navigated into, out of, and within the United States in connection with those operations provided that the aircraft is not at the time engaged in the carriage of passengers, cargo, or mail for remuneration or hire.

§ 375.33 Transit flights, irregular operations.

Foreign civil aircraft carrying passengers, property or mail for remuneration or hire, but not engaged in scheduled international air services, are authorized to navigate nonstop across the territory of the United States and to make stops for non-traffic purposes. The navigation of foreign civil aircraft in the United States is not authorized under this section when the elapsed time between landing and takeoff at a stop in the United States exceeds 24 hours and passengers are permitted to leave the airport or when passengers, property or mail are transferred to another aircraft. Flights involving stops under such circumstances may, however, be performed in the case of emergency relating to the safey of the aircraft, passengers, cargo or crew.

§ 375.34 Indoctrination training.

Foreign civil aircraft may be operated in the United States for the purpose of giving indoctrination training in the operation of the aircraft concerned to a buyer or a buyer's employees or designees. This section does not, however, authorize foreign civil aircraft to be used within the United States for the purpose of flight instruction for remuneration or hire.

§ 375.35 Free Transportation.

(a) Foreign civil aircraft may be navigated in the United States by a foreign air carrier for the transportation of persons and property specified in paragraph (b) of this section over the following non-traffic segments provided such transportation is not for compensation or hire:

(1) Between two or more points in the United States;

(2) Between a point in the United States named in the carrier's section 402 permit or exemption, and a point outside the United States not so named, when authorized in accordance with the provisions of Part 216 of this chapter to carry blind sector traffic to or from such unnamed foreign point; and

(3) Between a point in the United States and a point outside thereof when the carrier lands at the United States point for non-traffic purposes in exercise of the privilege granted under the International Air Services Transit Agreement.

(b) Free transportation may be provided under this section for the following categories of persons and property:

(1) Directors, officers and employees, and their parents and immediate families, of the foreign air carrier operating the aircraft;

(2) Directors, officers and employees, and their parents and immediate families, of an air carrier or another foreign air carrier traveling pursuant to a pass interchange arrangement;

(3) Travel agents being transported for the purpose of familiarizing themselves with the carrier's services, if the agents are under no obligation to sell the transporting carrier's services;

(4) Witnesses and attorneys attending any legal investigation in which any such foreign air carrier is involved;

(5) Persons injured in aircraft accidents and physicians and nurses attending such persons;

(6) Any persons or property with the object of providing relief in cases of general epidemic, natural disaster or other catastrophe;

(7) Any person who has the duty of guarding foreign government officials travelling on official business; and

(8) Guests of a foreign air carrier (including members of the press) on delivery flights of newly-acquired or newly-renovated aircraft.

(c) A charge reasonably related to the value of meals and beverages furnished enroute shall not be deemed to constitute compensation or hire for purposes of this section.

§ 375.36 Lease of foreign civil aircraft without crew.

Foreign civil aircraft that are leased without crew to an air carrier or citizen or permanent resident of the United States, and used by the lessee in otherwise authorized air transportation or commercial air operations, may be operated into, out of, and within the United States in accordance with any applicable regulations prescribed by the Federal Aviation Administration.

Subpart E—Operation Requiring Specific Pre-Flight Authorization of Filing

§ 375.40 Permits for commercial air operations.

(a) *Permit required.* Except for aircraft being operated under a foreign air carrier permit, an exemption, or as otherwise provided in Subpart D or H of this part, foreign civil aircraft may engage in commercial air operations only if there is carried on board the aircraft a permit issued by the Department in accordance with this subpart authorizing the operations involved.

(b) Aircraft are not authorized to engage in air transportation under this section. Where an operation involves the carriage of persons, property or mail for compensation or hire, the Department will determine whether particular flights for which a permit is sought will be in common carriage, and therefore in air transportation, based on all the facts and circumstances surrounding the applicant's entire operations. The burden rests upon the applicant in each instance to demonstrate by an appropriate factual showing that the contemplated operation will not constitute common carriage from, to or within the United States. In general, an applicant that holds itself out to the public, or to a particular class or segment, as willing to furnish transportation for hire is a common carrier.

§ 375.41 Agricultural and industrial operations within the United States.

Foreign civil aircraft shall not be used for such commercial air operations as crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting or similar agricultural or industrial operations within the United States, including its territorial waters and overlying airspace, unless a permit has been issued by the Department and the operation is conducted in accordance with all applicable State and local laws and regulations as well as the applicable provisions of this part.

§ 375.42 Transport operations—occasional planeload charters.

Occasional planeload charters may be authorized where, because of their limited nature and extent, special equipment or facilities utilized, or other circumstances pertaining to them, it appears that they are not within the scope of the applicant's normal holding out of transportation services to the general public. Such charters are normally limited to those in which the entire capacity of the aircraft is engaged by a single charterer, and since they are occasional in nature, should not exceed for any one applicant more than six flights during a calendar year. This part does not authorize operations that involve solicitation of the general public such as is usually involved in the transportation of individually-ticketed passengers or individually-waybilled cargo, or in which the charterer is a travel agent, a charter operator, a broker, an air freight forwarder or any other organization that holds itself out to the general public to provide transportation services. Carriage of cargo for the operator's own account is governed by the provisions of this section if the cargo is to be resold or otherwise used in the furtherance of a business other than the business of providing carriage by aircraft.

§ 375.43 Application for foreign aircraft permit.

(a) Applications for foreign aircraft permits shall be submitted on OST Form 4509, (Appendix A), in duplicate, addressed to the Chief, Discrete Operations Branch, Licensing Division, P–45, Office of Aviation Operations. Upon a showing of good cause, applications may be made by telegram or by telephone.

(b) Applications shall contain a proper identification (including citizenship) of the applicant (the operator of the aircraft concerned) and of the owner thereof (if different from the applicant), a description of the aircraft by make, model, and registration marks; and a full description of the operations for which authority is desired, indicating type and dates of operations and number of flights, and routing. In the case of cargo flights, the names of all contractors, agents, if any, and the beneficial owner of the cargo, and a description of the cargo and of the proposed operations shall be provided. In the case of passenger flights, a full identification and description of the group chartering the aircraft, and identification of the travel agent, if any, shall be provided. Applications shall also contain a statement as to whether the applicant's homeland allows operators of U.S.-registered aircraft to conduct similar operations.

(c) Applications shall be filed at least 15 days in advance of the proposed commencement date of the operations. The Department may direct the applicant to serve copies of its application on additional persons. Late applications may be considered by the Department upon a showing of good cause.

(d) (1) Any party in interest may file a memorandum supporting or opposing an application. Two copies of each memorandum shall be filed within 7 business days after the application is filed but no later than the proposed commencement date of the operations. Memoranda will be considered to the

extent practicable; the Department may act on an application without waiting for supporting or opposing memoranda to be filed.

(2) Each memorandum shall set forth the reasons why the applications should be granted or denied, accompanied by whatever data, including affidavits, the Department is asked to consider.

(3) A copy of each memorandum shall be served on the applicant.

(e) (1) Unless otherwise ordered by the Department, each application and memorandum filed in response shall be available for public inspection at the Licensing Division of the Office of Aviation Operations immediately upon filing. Notice of the filing of all applications shall be published in the Department's Weekly List of Applications Filed.

(2) Any person objecting to public disclosure of any information in an application or memorandum must state the grounds for the objection in writing. If the Department finds that disclosure of all or part of the information should be withheld under applicable provisions of law, and the public interest does not require disclosure, it will order that the injurious information be withheld.

(Information collection requirements contained in this section approved by the Office of Management and Budget under control number 2106-0002).

§ 375.44 Issuance of permit.

(a) The Department will issue a foreign aircraft permit if it finds that the proposed operations meet the requirements of this part and are in the public interest. Foreign aircraft permits may be conditioned or limited by the Department. Permits must be carried aboard the applicant's aircraft during flight over U.S. territory, and are not transferable.

(3) In determining whether to grant a particular application, the Department will consider, among other factors, the extent to which the country of the applicant's nationality deals with U.S. civil aircraft operators on the basis of substantial reciprocity, and whether the operation is otherwise in the public interest.

§ 375.45 Records and reports of occasional planeload charters.

(a) *Cargo documents.* The holder of a permit for cargo operations shall issue a manifest or shipping document to its shipper with respect to each shipment.

(b) [Reserved]

(c) *Contents of documents for passenger flights.* The holder of a permit for passenger charters originating or terminating in the United States shall require each charterer to file with it prior to flight a list of names and addresses of all passengers to be transported on each flight.

(d) *Reports of unused authority.* All foreign operators of occasional planeload charters for which authority is granted must notify the Department, in writing, not later than 15 days after the expiration of their permits, or their failure to use this authority. The unused authority shall otherwise be deemed to have been exercised.

Subpart F—Transit Flights

§ 375.50 Transit flights; scheduled international air service operations.

(a) *Requirement of notice.* Scheduled international air services proposed to be operated pursuant to the International Air Services Transit Agreement in transit across the United States may not be undertaken by foreign civil aircraft unless the operator of such aircraft, and (if other than the operator) the carrier offering such service to the public, has, not less than 30 days prior to the date of commencement of such service, filed a Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement in accordance with the provisions of paragraphs (b) and (c) of this section.

(b) *Filing of the notice.* An original and two copies of the Notice shall be filed with the Chief, Discrete Operations Branch, Licensing Division, P-45, Office of Aviation Operations. Copies of the Notice shall be served upon the Department of State and the Administrator of the Federal Aviation Administration. The filing date shall be the date of actual receipt by the Department.

(c) *Content of notice.* A "Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement" shall be clearly labeled as such, and as a minimum shall set forth, with whatever detail may be necessary, the following information:

(1) The name, country or organization, and citizenship of the operator, and, if other than the operator, of the carrier offering the services to the public. If any interest (direct or indirect) in the operator or offeror of services is held by nationals of a country other than the country of organization or citizenship, the nature and extent of such interest must be fully disclosed. If any officer or director of the operator or carrier offering the services is a national of a country other than the country of organization or citizenship, the position of duties of such officer or director, and the officer and director's relevant position in relation to other officers and directors must similarly be fully disclosed. If the information required in this subsection has been previously supplied to the Department, the applicant may incorporate it by reference.

(2) The State of registration of the aircraft proposed to be operated.

(3) A full description of the proposed operations including the type of operations (passenger, property, mail, or combination), date of commencement, duration and frequency of flights, and routing (including each terminal and intermediate point to be served).

(4) A statement as to whether or not any advertisement or publication of the proposed operations has been made in the United States. If there has been any advertisement or publication of the operations in the United States, copies of all such advertisements or publications shall be included.

(5) Any change with respect to these matters (minor changes in schedules or routing excepted) shall also be filed with the Department.

(d) *Authorized operations.* If the operator and the carrier offering services to the public (if different from the operator) have filed a "Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement," at least 30 days before the date of commencement of the proposed operations in accordance with paragraphs (a), (b), and (c) of this section, the described operations may be commenced and performed without further authorization from the Department, unless and until the Department issues an order notifying the operator and/or the carrier offering the services to the public that, considering the matters submitted in the Notice, the Department is of the view that a question may exist as to whether (1) the proposed services are authorized pursuant to the terms of the International Air Services Transit Agreement; (2) substantial ownership and effective control are vested in nationals of a State party to the International Air Services Transit Agreement; (3) the proposed operations will be in compliance with the laws of the United States, the Department's rules, or the provisions of this section; or (4) the operator or its government have performed their obligations under the International Air Services Transit Agreement.

(e) *Prohibited operations.* If the Department issues an order of notification as described in paragraph (d) of this section, neither the operator, nor the carrier offering the services to the public, shall commence the proposed operations, or, except as may be

otherwise specified in the order, operate any flights subsequent to receipt of the order, unless and until the Department issues a foreign aircraft permit pursuant to the provisions of section 1108(b) of the Act and this part specifically authorizing such operations.

(f) *Foreign aircraft permit—application and procedures.* If the Department issues an Order of Notification as described in paragraph (d) of this section, the carrier's Notice of Proposed Transit Flights Pursuant to the International Air Services Transit Agreement shall be treated as an application for the required foreign aircraft permit, and further procedures on such application shall be as directed by the Department.

(g) *Short notice filing.* Nothing in this section shall be construed as precluding the filing of an application for a foreign aircraft permit to perform transit operations pursuant to the International Air Services Transit Agreement less than 30 days in advance of the proposed operation. No such flights shall be operated, however, unless or until a specific foreign aircraft permit has been issued by the Department.

(h) *Nature of privilege conferred.* Air transportation is not authorized under this section, and the burden rests upon each operator and carrier to show that the proposed operations will not constitute air transportation within the meaning of the Federal Aviation Act. In addition, each operator and carrier has the burden of demonstrating that the proposed operations are authorized by the International Air Services Transit Agreement, and that the appropriate authorization should not be withheld pursuant to Section 5 of Article I thereof. Stopovers for the convenience or pleasure of the passengers are not authorized under this section and stops other than for strictly operational reasons shall not be made. The consolidation on the same aircraft of an operation under this section with a service authorized under section 402 or 416(b) of the Act is not authorized by this section. Any authorization or permit granted under this section is nontransferable, and may be withheld, revoked, suspended, withdrawn, or cancelled by the Department, without notice or hearing, if required by the public interest. Operators of aircraft registered in countries not parties to the International Air Services Transit Agreement shall make special application to the Department under § 375.70.

Subpart G—Penalties

§ 375.60 Penalties.

The operation of a foreign aircraft within the United States or over adjacent territorial waters in violation of the provisions of this part constitutes a violation of the Federal Aviation Act and of this chapter, and may, in addition, constitute a violation of the rules of the Federal Aviation Administration. Such operation makes the person or persons responsible for the violation or violations subject to a civil penalty as provided in section 901 of the Act, and to the alteration, amendment, modification, suspension or revocation of any permit issued under this part and of any United States certificate involved as provided in section 609 of the Act. Engaging in air transportation as defined in the Act by a foreign aircraft without a foreign air carrier permit issued pursuant to section 402 of the Act or an exemption, or in violation of the terms of such authority constitutes not only a violation of this Part but of Title IV of the Act as well, which entails a criminal penalty as set forth in section 902 of the Act.

Subpart H—Special Authorization

§ 375.70 Special authorization.

Any person desiring to navigate a foreign civil aircraft within the United States other than as specifically provided in this part may petition the Department for a special authorization to conduct the particular flight or series of flights. Such authorization may be issued only if the Department finds that the proposed operation is fully consistent with the applicable law, that the applicant's homeland grants a similar privilege with respect to operators of U.S.-registered aircraft, and that the proposed operation is in the interest of the public of the United States.

BILLING CODE 4910-62-M

Appendix A—Form 4509

Approved by OMB
No. 2106-0002
Expires 11/30/87

U.S. Department of Transportation

APPLICATION FOR FOREIGN AIRCRAFT PERMIT OR SPECIAL AUTHORIZATION UNDER PART 375

(See Instructions On Reverse Side)

DO NOT WRITE—FOR OFFICIAL USE ONLY

Disposition of Applications:

- ☐ Approved
- ☐ Approved, subject to condition(s) on reverse.
- ☐ Disapproved/Dismissed for reason(s) cited on reverse.

Under assigned authority _____

Effective from _____ to _____.

Director, Office of Aviation Operations

TO: Department of Transportation
Licensing Division, P-45
Office of Aviation Operations
Washington, D.C. 20590

1. Name and address of applicant: (operator)

Nationality:

Operations pursuant to this authorization shall conform to Part 375 of the Department's Regulations and Part 91 of the Federal Aviation Regulations. THIS PERMIT MUST BE CARRIED ABOARD AIRCRAFT DURING FLIGHT OVER UNITED STATES TERRITORY.

2. Send authorization to:
a. Name and address:

b. Telephone:

3. Aircraft make, model, and registration or identification marks:

4. Country in which aircraft is registered:

5. Name and address of registered owner of aircraft:

6. Name and address of contractor/charterer:

7. Dates of flights:

8. Planned routing of flights (indicate non-traffic stops by asterisks):

9. Description of operations (see instructions) (Check one):
Passenger ☐ Cargo ☐ Agricultural or Industrial operation ☐

10. Does the nation which is the domicile of the applicant grant to United States carriers a privilege similar to that requested herein?_____; if so, has the fact of such reciprocity been established with the Department?_____. If the fact has not been established with the Department, provide documentation to establish such reciprocity.

OST Form 4509 (Rev. 2/20/86)

11. If application is being filed late, state reasons for lateness:

12. Other information requested by the Department:

CERTIFICATION

I hereby certify that the flights for which authority is sought herein conform to the requirements of the applicable regulations and orders of the Department of Transportation.

(Date) (Signature and title of authorized officer)

INSTRUCTIONS

1. Prepare an original and one copy of this application according to Section 375.43 of the Department's Regulations. If extra space is required to complete an item, continue on a separate sheet of paper.

2. Under Item 9:

   (a) For passenger flights, provide full identification or description of group contracting for charter, and name and address of travel agent, if any.

   (b) For cargo flights, provide the names of all contractors, description of cargo, beneficial owner of cargo, and provide a full description of the proposed operation including nature of any service to be performed by any exporter, importer, or transportation agent.

   (c) For agricultural or industrial operations, describe area involved and purpose of operations.

3. Send the application to: Department of Transportation, Licensing Division, P-45, Office of Aviation Operations, Washington, D.C. 20590.

4. See Part 91 of Federal Aviation Regulations and 375 of the Department's Regulations (14 CFR 91 and 14 CFR 375) for a full statement of the rules respecting navigation of foreign civil aircraft within the United States.

DO NOT WRITE—FOR OFFICIAL USE ONLY

Exercise of the authorization is subject to the following condition(s):
OR Application is disapproved/dismissed for the following reason(s):

Issued in Washington, D.C. on February 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-4117 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-62-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1215

Tracking and Data Relay Satellite System (TDRSS); Use and Reimbursement Policy for Non-U.S. Government Users

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The existing rule states that rates for TDRSS services will be set by the Associate Administrator for Space Tracking and Data Systems at NASA Headquarters. 14 CFR Part 1215 is being amended by revising Appendix A to reflect the rate changes for CY 1987. Since this revision involves NASA management procedures and decisions, no public comment is required.

EFFECTIVE DATE: March 3, 1986.

ADDRESS: Office of Space Tracking and Data Systems, Code T, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jack W. Wild, 202–453–2030.

List of Subjects in 14 CFR Part 1215.

Satellites, Tracking and data relay satellite, Communications equipment, Government contract.

PART 1215—TRACKING AND DATA RELAY SATELLITE SYSTEM (TDRSS)

1. The authority citation for Part 1215 continues to read as follows:

Authority: Sec. 203, Pub. L. 85–568, 72 Stat. 429, as amended; 42 U.S.C. 2473.

PART 1215—[AMENDED]

For reasons set out in the Preamble, Appendix A to 14 CFR Part 1215 is revised to read as follows:

Appendix A—Estimated Service Rates in 1987 Dollars for TDRSS Standard Services (Based on NASA Escalation Estimate)

TDRSS user service rates for services rendered in CY–87 based on current projections in 1987 dollars are as follows:

Single Access Service—Forward command, return telemetry, or tracking, or any combination of these, the base rate is $130.00 per minute for non-U.S. Government users.

Multiple Access Forward Service—Base rate is $29.00 per minute for non-U.S. Government users.

Multiple Access Return Service—Base rate is $9.00 per minute for non-U.S. Government users.

Robert O. Aller,

Associate Administrator for Space Tracking and Data Systems.

February 6, 1986.

[FR Doc. 86–4437 Filed 2–28–86; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket Nos. RM85–19–001, RM85–19–002, RM85–19–003, RM85–19–004, RM85–19–005]

Generic Determination of Rate of Return on Common Equity for Public Utilities

February 24, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; granting of rehearing for purposes of further reconsideration.

SUMMARY: On December 26, 1985 (51 FR 343, January 6, 1986), the Commission issued a final rule concerning generic determination of rate of return on common equity for public utilities. By this order, the Commission grants rehearing for the limited purpose of further consideration in order to allow sufficient time for due consideration of the matters raised in requests for rehearing. This does not constitute action on the merits of the requests.

EFFECTIVE DATE: February 24, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8015.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued February 24, 1986.

On January 24, 1986, and January 27, 1986, the Southern Company and other parties [1] filed requests for rehearing of the Commission's order issued in this proceeding on December 26, 1985. 33 FERC ¶ 61,426.

In the absence of Commission action within 30 days, the requests for rehearing would be deemed to have been denied 18 CFR 385.713. In order to allow sufficient time for due consideration of the matters raised, the Commission is granting rehearing for the limited purpose of further consideration. This order does not, however, constitute action, is whole or in part, on the merits of the requests for rehearing.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4556 Filed 2–28–86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to correct the regulation for use of virginiamycin in complete broiler and fryer chicken feeds for increased rate of weight gain and improved feed efficiency.

EFFECTIVE DATE: March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 27, 1981 (46 FR 18966), FDA published a document reflecting approval of supplemental NADA's 91–467 and 91–513 filed by SmithKline Animal Health Products, Division of SmithKline Beckman Corp.,

[1] The Edison Electric Institute, New England Power Company, the Wholesale Customer Group, Boston Edison Company, El Paso Electric Company, Florida Power Corporation, Montaup Electric Company, and Wisconsin Electric Power Company

1600 Paoli Pike, West Chester, PA 19380. The NADA's provided for the manufacture of complete feeds containing 5 or 5 to 15 grams of virginiamycin per ton for increased rate of weight gain at 5 to 15 grams per ton and for improved feed efficiency at 5 grams per ton. Because the 5 to 15 grams per ton claim includes increased rate of weight gain at 5 grams per ton, the regulations are corrected to properly reflect that the lower level claim includes both indications.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center For Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

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

2. Section 558.635 is amended by revising paragraph (f)(2)(ii) to read as follows:

§ 558.635 Virginiamycin.

* * * * *

(f) * * *

(2) * * *

(ii) 5 grams per ton for increased rate of weight gain and improved feed efficiency in broiler chickens, not for use in layers.

* * * * *

Dated: February 25, 1986.

Marvin A. Norcross,

Acting Associate Director for New Animal Drug Evaluation.

[FR Doc. 86–4444 Filed 2–28–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8073]

Income, Excise, and Estate and Gift Taxes; Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984

Correction

In FR Doc. 86–2172, beginning on page 4312, in the issue of Tuesday, February 4, 1986, make the following corrections:

1. On page 4313, second column, in the table, under "Subjects" sixth line, "ESPO" should read "ESOP".

2. On page 4315, first column, in § 1.72(e)–1T A–3(b), fourth line, after the word "made", insert "to".

3. On page 4316, first column, in § 1.79–4T A–3, seventh line, "individual" should read "individuals".

4. On page 4321, § 1.404(b)–1T A–2(b)(1), third column, eighth line from bottom of paragraph, remove "or plan,".

5. On page 4327, first column, in § 1.419–1T A–10(a), first line, "an" should read "and". In the third line, "and" should read "an".

6. On page 4332, § 1.512(a)–5T A–1, second column, first line, "512(c)(3)" should read "512(a)(3)".

7. On page 4333, first column, in § 1.512(a)–5T A–4(a), fourteenth line, "Q8A–3" should read "Q & A–3".

BILLING CODE 1205–1–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Approval of Permanent Program Amendments From the Commonwealth of Kentucky Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of program amendments submitted by Kentucky as modifications to the State's permanent regulatory program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments were submitted on August 13, 1985. The amendments pertain to: definitions, small operator assistance, permitting, inspection and enforcement, topsoil, surface and ground water monitoring, disposal of excess spoil, stabilization of surface areas and auger mining. The amendments pertaining to surface and ground water monitoring supersede emergency regulations submitted to OSMRE on May 20, 1985.

After providing for public comment and conducting a thorough review of the program amendments, the Director has determined that the amendments meet the requirements of SMCRA and the Federal regulations and is approving these amendments. The Federal rules at 30 CFR Part 917 codifying decisions concerning the Kentucky program are being amended to implement this action.

This final rule is being made effective immediately to expedite the State program amendment process and encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: March 3, 1986.

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

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSMRE. The Kentucky program was conditionally approved by the Secretary of the Interior subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register**. Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 917.11, 30 CFR 917.15, 30 CFR 917.16 and 30 CFR 917.17.

II. Submission of Program Amendments

On August 13, 1985, Kentucky submitted amendments to its regulations pertaining to definitions, small operator assistance, permitting requirements, inspection and enforcement, topsoil, surface and ground water monitoring, disposal of excess spoil, stabilization of surface areas and auger mining. These regulation changes were submitted, in part, in response to a letter from the Director, OSMRE, which identified areas of the Kentucky program needing revision. The amendments pertaining to surface and ground water monitoring at 405 KAR 7:020, 405 KAR 8:030, 405 KAR 8:040, 405 KAR 16:110 and 405 KAR 18:110 supersede emergency regulations that were submitted previously to

OSMRE and announced for public comment on July 11, 1985 (50 FR 28222).

On October 30, 1985, OSMRE published a notice in the Federal Register (50 FR 45118) announcing receipt of the amendments and inviting public comment on their adequacy. The public comment period ended November 29, 1985. The public hearing scheduled for November 25, 1985, was not held because no one requested an opportunity to testify.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendments submitted by Kentucky on August 13, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII. Findings on each section of the rules are discussed below. Only those provisions of particular interest are discussed in the specific findings which follow, and lack of discussion of a specific provision does not indicate or imply any deficiency in the provision. The provisions not specifically discussed are found to be no less stringent than SMCRA and no less effective than the Federal rules.

405 KAR 7:020

Amendments to 405 KAR 7:020 supersede emergency regulations 405 KAR 7:020E submitted to OSMRE on May 20, 1985 and announced for public comment in the July 11, 1985 Federal Register (50 FR 28222).

1. Kentucky rule 405 KAR 7:020 is amended to modify the definition of "aquifer" to mean a zone, stratum or group of strata that can store and transmit water in sufficient quantities for domestic, agriculture, industrial or other beneficial use. The Federal definition differs in that it refers to sufficient quantities for a "specific use", as did the previous Kentucky rule. The Director finds the amendment to be no less effective than the Federal rule since it serves to clarify application of the definition.

2. A definition of "coal mine waste" is added to 405 KAR 7:020 which is the same as the Federal definition at 30 CFR 701.5.

3. The definition of "coal processing waste" is amended to include materials which are separated from the coal during cleaning, concentrating or other processing or preparation of coal, similar to and no less effective than the Federal definition in 30 CFR 701.5.

4. A definition of "excess spoil" is added to 405 KAR 7:020 to mean spoil material disposed of in a location other than the extraction area, except that spoil used to achieve approximate original contour is not considered excess spoil. This is similar to the Federal definition in 30 CFR 701.5 and no less effective.

5. A definition of "refuse pile" is added to mean a surface deposit of coal mine waste that is not retained by an impounding structure and does not impound water, slurry or other liquid or semi-liquid material. This is similar to the Federal definition at 30 CFR 701.5 except that the Federal definition does not contain the language concerning retention by an impounding structure. The Kentucky rule clarifies what the Federal rule implies and is no less effective than the Federal rule.

6. Kentucky has added a definition of "E horizon" to its "soil horizons" definition that is identical to the Federal definition at 30 CFR 701.5.

7. The Kentucky definition of "spoil" is amended to mean overburden and other materials, excluding topsoil, coal mine waste and mined coal, that are excavated during surface coal mining and reclamation operations. The Federal definition in 30 CFR 701.5 differs in that it includes only overburden removed during surface coal mining operations. The Director finds the Kentucky definition to be more explicit but not less effective than the Federal rule.

8. The Kentucky definition of "undergound development waste" is amended to more closely resemble the Federal definition except that Kentucky uses "extracted" to replace the Federal term "excavated, moved, and disposed of." The Director finds that this change does not change the effect of the definition and that it is no less effective than the Federal definition in 30 CFR 701.5.

9. Kentucky has added a definition of "water transmitting zone" to mean "a body of consolidated or unconsolidated rocks which, due to their greater primary or secondary permeability relative to the surrounding rocks, can reasonably be considered to function as a single hydraulic medium for the flow of ground water." Although the Federal rules do not contain this definition, it does not conflict with Federal requirements and the Director therefore finds it acceptable.

10. Kentucky has added the abbreviation KPDES for Kentucky Pollutant Discharge Elimination System.

11. Some non-substantive changes of an editorial nature were made in 405 KAR 7:020 which the Director finds acceptable.

The Director, therefore, finds Kentucky's amendments to 405 KAR 7:020 no less effective than the Federal rules.

405 KAR 7:080

12. Kentucky has amended its small operator assistance program (SOAP) rules at 405 KAR 7:080 to clarify that operators are eligible for assistance if actual and attributed production does not exceed 100,000 tons during any consecutive 12 month period. The Director finds that this is no less effective then the Federal requirements at 30 CFR 795.6(a).

13. Kentucky has added a restriction in section 3 of 405 KAR 7:080 that Federal funds specifically authorized for SOAP program services listed in 405 KAR 7:080 section 4 shall not be used for administrative costs. The Director finds that this is in keeping with OSMRE policy on SOAP funding.

14. Kentucky had deleted the requirement in 405 KAR 7:080 section 4(3) that authorized representatives of the Kentucky Natural Resources and Environmental Protection Cabinet (NREPC) conduct periodic on-site evaluations of SOAP activities. The Director finds this deletion acceptable since there is no Federal counterpart in 30 CFR Part 795.

15. Kentucky has amended its requirements for eligibility for assistance at 405 KAR 7:080 section 5. The amended requirements are substantially the same as the Federal requirements at 30 CFR 795.6(a). Therefore, the Director finds them no less effective than the Federal requirements.

16. Kentucky has amended section 6 of 405 KAR 7:080, regarding how to file for assistance, so that it closely resembles the Federal requirements of 30 CFR 795.7. However, Kentucky has amended paragraph (7)(c) so that, instead of showing the location and extent of known workings for any underground mine in the affected area, the topographic map need only show the location and extent of known workings for the proposed underground mine. The Director finds that, for the purposes of denoting the location and extent of mining for SOAP assistance, it is sufficient to show the workings for the proposed underground mine. The Kentucky rule is, therefore, no less effective than the Federal rule.

17. Kentucky has amended 405 KAR 7:080 section 7 to add that the NREPC shall notify an applicant in writing when a SOAP application is approved and to reword the requirement to notify an applicant who is found ineligible. The Director finds the rule no less effective than the Federal requirements for application approval and notice in 30 CFR 795.8.

18. Section 8 of 405 KAR 7:080 is amended to provide that information "may" rather that "shall" be applied under the small operator assistance program, and to add several types of required information to the list of information that may be included in the SOAP-funded data collection. The Director has determined that the rule satisfies the provisions in 30 CFR 795.9(b) for data requirements.

19. Kentucky has amended, in section 9, the formula for allocation of funds when funds are less than those required to provide all SOAP services. The Director finds that this section adequately satisfies the requirement in 30 CFR 795.11(b) that the regulatory authority establish a formula.

20. Kentucky has amended section 10 of 405 KAR 7:080 to more closely resemble the wording in the Federal rule at 30 CFR 795.10. The Director finds the changes no less effective than the Federal rules.

405 KAR 8:030

The amended rules at 405 KAR 8:030 supersede emergency regulations 405 KAR 8:030E submitted to OSMRE on May 20, 1985 and announced for public comment in the July 11, 1985 **Federal Register** (50 FR 28222). The amendments pertain to permit requirements for surface mines for geologic and hydrologic information in sections 12 through 16, land use information in section 22, mining and reclamation plan requirements in section 24, the blasting plan in section 26, and protection of the hydrologic balance in section 32.

21. The amendments to section 12 add requirements similar to the Federal requirements in 30 CFR 780.21 (a), (c), (d), (f), and (g), except that paragraph (4) of the Kentucky rule requires water quality analyses to be conducted according to the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," and 30 CFR 780.21(a) references the fifteenth edition. The Director finds the amended rules no less effective than the Federal rules, but recommends that Kentucky use an updated version of the referenced manual.

22. Section 13 is amended by deleting previous language and adding new language which contains requirements similar to the Federal requirements in 30 CFR 780.22, geologic information. The Kentucky rules contain requirements for additional sampling or information when necessary, in 405 KAR 8:030 sections 13(1)(a)(4) and (13)(3), which are not found in the Federal rules but for which regulatory authority discretion is provided in 30 CFR 780.22(c). Therefore, the Director finds the Kentucky rules no less effective than 30 CFR 780.22.

23. Section 14 is amended concerning requirements for baseline ground water information and supplemental information. The amended rules contain requirements similar to those found in 30 CFR 780.21 (b)(1) and (b)(3), with one exception. The Kentucky rules in paragraph (3)(b) require ground water information to include data on dissolved iron and dissolved manganese while the Federal rule at 30 CFR 780.21(b)(1) specifies total iron and total manganese. However, the Director finds the Kentucky rule no less effective for the following reason. Ground water in a natural state is naturally filtered through rocks, etc., and therefore does not contain particulate matter. When taking a ground water sample from a monitoring well, particulate matter from the well may be disturbed and included in the sample water. So, a reading of the total iron and total manganese may give a distorted reading of the condition of the ground water. A reading of the dissolved iron and dissolved manganese would be taken by filtering the sample which should given a reading which would be closer to the true condition of the ground water. The Director, therefore, finds section 14 of 405 KAR 8:030 no less effective than 30 CFR 780 (b)(1) and (b)(3).

24. Section 15 is amended by deleting previous requirements and adding requirements for baseline surface water information. This section of the Kentucky rules covers all the requirements found in 30 CFR 780.21(b)(2) and, therefore, the Director finds the Kentucky rule no less effective than the Federal rule.

25. Section 16 of 405 KAR 8:030 is amended to clarify requirements for alterntive water supply information. The Kentucky rule contains the requirements of 30 CFR 780.21(e) and the Director finds it to be no less effective than the Federal counterpart.

26. Kentucky has added paragraph (4) to section 22 of 405 KAR 8:030, land use information, to require that the permit application contain a description identifying cities, towns, municipalities, or parts thereof that are located within the proposed permit area. Although the Federal counterpart rule at 30 CFR 779.22 does not contain this specific requirement, the Kentucky rule is consistent with Federal requirements to show the uses of the land existing at the time the application is filed. The Director finds the amended language no less effective than the Federal rule.

27. Kentucky has amended 405 KAR 8:030 section 24(4)(d) to require the plan for removal, storage and redistribution of soil materials to include a demonstration of suitability of any proposed topsoil substitutes or supplements. Although the Federal counterpart at 30 CFR 780.18(b)(4) specifies which characteristics of the topsoil substitutes are to be analyzed, the Kentucky rule is no less effective since the Kentucky rule at 405 KAR 16:050 section 1(3) contains similar requirements.

28. Kentucky has amended 405 KAR 8:030 section 26 to delete some previous requirements and to add new requirements for the blasting plan. The amended Kentucky rule contains the requirements found in the Federal permitting requirements for a blasting plan at 30 CFR 780.13 and, therefore, the Director finds the Kentucky rule no less effective than the Federal rule.

29. Kentucky has deleted existing language and added new language to section 32 of 405 KAR 8:030 which establishes permitting requirements for protection of the hydrologic balance. The Director finds that the Kentucky rule contains requirements similar to and no less effective than those contained in 30 CFR 780.21 (f), (g), (h) and (i)(1). (The Kentucky counterpart to 30 CFR 780.21(i)(2) is contained in 405 KAR 16:110 section 2.)

405 KAR 8:040

Amendments to 405 KAR 8:040 supersede emergency regulations 405 KAR 8:040E submitted to OSMRE on May 20, 1985 and announced for public comment in the July 11, 1985 **Federal Register** (50 FR 28222). The amendments pertain to permit requirements for underground mines for geologic and hydrologic information, land use information, mining and reclamation plan requirements, protection of the hydrologic balance and blasting similar to the changes in 405 KAR 8:030 for surface mines. The amendments also modify section 28, requirements for underground development waste and excess spoil.

30. Section 12, General requirements for baseline geologic and hydrologic information, contains requirements similar to the Federal rules at 30 CFR 784.14 (a), (c), (d), (e) and (f), except that paragraph (4) of the Kentucky rule references the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," and should reference the fifteenth edition. The Director finds the amended rules no less effective than The Federal rules, but recommends that Kentucky use an updated version of the referenced manual.

32. Section 14, baseline ground water information, contains requirements that are similar to the Federal requirements in 30 CFR 784.14 (b)(1) and (b)(3) which the Director finds no less effective than the Federal rules.

33. Section 15 of 405 8:040, baseline surface water information, covers the requirements found in 30 CFR 784.14 (b)(2) and is no less effective than this Federal rule.

34. Section 16 contains discretionary provisions for alternative water supply information. Although the Federal rules do not contain a counterpart to this provision, the Director finds the section consistent with the Federal rules.

35. Kentucky has added paragraph (4) to section 22 of 405 KAR 8:040, land-use information, to require that the permit application contain a description identifying the extent to which cities, towns and municipalities, or parts thereof, are located within the proposed permit area. Although Federal land use information rules at 30 CFR 783.22 do not contain this specific requirement, The Kentucky rule is consistent with the Federal requirements.

36. Kentucky has amended 405 KAR 8:040 section 24(4)(d) to require the plan for removal, storage and redistribution of soil materials to include a demonstration of suitability of any proposed topsoil substitutes or supplements. Although the Federal counterpart at 30 CFR 780.18(b)(4) specifies which characteristics are to be analyzed, the Kentucky rule is no less effective since it references 405 KAR 18:050 which contains similar requirements.

37. Section 28 of 405 KAR 8:040 is amended to cross-reference applicable provisions of 405 KAR 18:140 (on coal processing waste disposal) and 18:160 (coal processing waste dams and impoundments). The Director finds the rule no less effective than the Federal requirements for underground development waste in 30 CFR 784.19.

38. Section 32 of 405 KAR 18:040 contains underground mine permitting requirements for protection of the hydrologic balance. The Director finds that the Kentucky rule contains requirements similar to and no less effective than those contained in 30 CFR 784.14 (e), (f), (g) and (h).

38. Kentucky has added section 39 to 405 KAR 8:040 to establish underground mine permit requirements for blasting. Although the Federal requirements for underground mine permits do not contain such provisions, the Kentucky rule is consistent with Federal provisions for surface blasting activities incident to underground mining in 30 CFR 817.61–817.68. The Director finds the Kentucky rule no less effective than the Federal provisions.

405 KAR 12:010

Kentucky has amended various provisions in its inspection and enforcement rules. Some of the changes are non-substantive or of an editorial nature and these are found to be acceptable. Substantive changes are discussed below along with the Director's findings.

40. Section 3 of 405 KAR 12:010 is amended concerning inspectors' right of entry and access to mining and exploration sites and records. The Director finds the rules no less effective that the Federal rules for right of entry at 30 CFR 840.12. This section is also amended in subsection (5) to allow for the use of aerial inspections to complete the requirements for partial inspections and to further clarify frequency requirements. Subsection (6) is added to establish requirements for aerial inspections. The Kentucky rules concerning aerial inspections are similar to and no less effective than the Federal rules on aerial inspections in CFR 840.11 (d) (1) and (2).

41. Section 4 of 405 KAR 12:010 is amended to add requirements concerning retention of records of inspections for five years after final bond release or final action by the NREPC on a permit. The Director finds the Kentucky rules consistent with and no less effective than the Federal rules for availability of records at 30 CFR 840.14.

42. Section 5 of 405 KAR 12:010 is amended to apply the penalties and sanctions provisions of that section to coal exploration and reclamation operations. The Director finds this rule consistent with and no less effective than 30 CFR 840.13 which requires State programs to contain civil and criminal penalty provisions no less stringent than section 518 of SMCRA and consistent with 30 CFR Part 845.

405 KAR 12:020

Kentucky has amended various provisions in its enforcement rules at 405 KAR 12:020, including some non-substantive and editorial changes. Substantive changes are discussed below.

43. Changes are made in sections 1 and 2, which clarify the Kentucky rules and include coal exploration operations under the requirements of the rules. The Director finds these changes consistent with the Federal enforcement provisions.

44. Section 3 of 405 KAR 12:020 is amended to clarify the rule and to add paragraph (1)(c) to require an authorized representative of NREPC to immediately issue an order of cessation and immediate compliance if operations are being conducted without a permit or coal exploration is being conducted without proper notice or approval. The Director finds this provision no less effective than 30 CFR 843.11(a)(2) which provides that operating without a permit constitutes a condition which causes or can cause significant, imminent environmental harm, except in certain instances.

45. The requirements for notice of inspection of noncompliance in Section 4 are amended to provide for NREPC actions concerning notices of inspection of noncompliance. The Director finds the rule to be consistent with and no less effective than provisions for inspection and enforcement in 30 CFR Parts 842 and 843.

46. Section 5 of 405 12:020 is amended to clarify requirements for service of notices and orders, and to add instructions for serving notices and orders to coal exploration and reclamation operations. The amended language is similar to and no less effective than the Federal requirements for service of notices and orders at 30 CFR 843.14.

47. Changes are made in section 6 concerning expiration of notices and orders, which clarify the rule and make it applicable to exploration sites as well as mine sites. The Kentucky rule is no less effective than the Federal rules for extension or termination of cessation orders in 30 CFR 843.11 (e) and (f).

48. Section 7 of 405 KAR 12:020 is amended to give the NREPC the authority to initiate formal hearings for suspension or revocation of permits, to initiate formal hearings for bond forfeitures, and to initiate formal herings or judicial proceedings for other relief measures. This is consistent with the Federal rules which require the regulatory authority to initiate actions which require these powers.

405 KAR 16:050

49. Kentucky has amended its surface mining requirements for topsoil at 405 KAR 16:050. Minor clarifying changes are made in section 1. Section 2 of 405 KAR 16:050 is amended to add provisions for handling of topsoil and substitute soil materials and for selecting substitute materials. Provision is made for NREPC to choose not to require topsoil removal for certain specified minor disturbances. Section 3 is amended to clarify requirements for storage of topsoil, to allow use of vegetative material as mulch is such measures are demonstrated to have no

adverse effect on topsoil and if approved by the regulatory authority, and to allow for temporary distribution of soil materials for long-term storage. Section 4 is amended to clarify requirements for redistribution of soil and to establish additional criteria for when soil materials shall be redistributed and for possible exemptions of topsoil redistribution on embankments of permanent impoundments and of roads. Section 5 contains minor changes for nutrients and soil amendments requirements. Kentucky's amended rules at 405 KAR 16:050 contain all requirements found in the Federal requirements for removal, storage and redistribution of topsoil and subsoil, for topsoil substitutes and supplements, and for subsoil segregation at 30 CFR 816.22. The Director has determined therefore that the Kentucky rules are no less effective than the Federal rules.

405 KAR 16:110

Amendments to 405 KAR 16:110 supersede emergency regulations 405 KAR 16:110E submitted to OSMRE on May 29, 1985 and announced for public comment in the July 11, 1985 **Federal Register** (50 FR 28222).

50. Section 1 of 405 KAR 16:110 contains requirements which are similar to the requirements in 30 CFR 816.41(a) concerning general requirements for hydrologic balance protection and 816.41(c) concerning ground water monitoring, and which the Director finds no less effective than the Federal rules. (the Kentucky counterpart to 30 CFR 816.41(b) is contained in 405 KAR 16:060 which is not being amended by this action.)

51. Section 2, ground water monitoring, reiterates some material contained in the Kentucky permitting requirements (which the Director is approving in this notice) and adds a provision allowing the NREPC to waive monitoring of certain water transmitting zones when certain demonstration is made by the applicant. The waiver language is similar to Federal rule 30 CFR 780.21(i)(2). The Director finds these rules to be no less effective than the Federal rules.

52. Section 3, surface water monitoring, establishes requirements which are similar to those at 30 CFR 816.41(e) for surface water monitoring, and reiterates requirements in the Kentucky permitting rules that are similar to some of the requirements in 30 CFR 780.21(b)(2) for surface water information permitting requirements. The Director finds the Kentucky rules no less effective than the Federal counterparts. (The Kentucky counterpart to 30 CFR 816:41(d) is contained in 405 KAR 16:060 which is not being amended by this action).

405 KAR 16:130

Kentucky has amended its rules for disposal of excess spoil, for surface mining activities, at 405 KAR 16:130.

53. Section 1 of 405 KAR 16:130 contains general requirements for disposal of excess spoil. The Kentucky rule contains all the requirements found in the Federal provisions for disposal of excess spoil at 30 CFR 816.71, including: General provisions; design certification requirements; location and foundation requirements; placement of excess spoil provisions; requirements for drainage control and surface area stabilization; inspection requirements; and provisions for disposal of excess spoil in underground workings. The Kentucky rules contain extra clarifying requirements not found in the Federal rules but which are consistent with and not in conflict with Federal requirements. The Kentucky rule does not contain a direct counterpart to 30 CFR 816.71(i) which allows disposal of coal mine waste in excess spoil fills. Instead Kentucky allows, at section 1(10)(a) disposal of excess spoil in coal mine waste refuse piles in accordance with the Kentucky requirements for disposal of coal processing waste, which the Director finds acceptable. Therefore, the Director finds the Kentucky rules no less effective than the Federal rules.

54. Section 2 of 405 KAR 16:130 contains the requirements found in the Federal rules for drainage control for disposal of excess spoil in valley fills and head-of-hollow fills, found in 30 CFR 816.72(a), except that the Federal rule specifies that diversion channels used will be designed to safely pass the runoff from a 100-year, 6-hour precipitation event and the Kentucky rule specifies a 100-year, 24-hour event.

Although the Federal rules specify the 100-year, 6-hour event, Kentucky has found that for watershed characteristics in Kentucky, diversion ditches designed for a 24-hour event are sufficient to safely pass run-off from the 6-hour event also. Since this provides protection no less effective than the Federal rules provide, Kentucky has chosen to retain the 100-year, 24-hour event in its rules in order to avoid any problems or confusion that may result from a change in design requirements at this time. In the preamble to its July 19, 1983 rule changes, OSM recognized that, depending on the watershed, either the 6-hour or 24-hour event could result in higher runoff volume (48 FR 32920). Kentucky has found the 24-hour event to result in the higher runoff volume in Kentucky. The Director, therefore, finds the Kentucky rule no less effective than the Federal rules.

55. Section 3 of 405 KAR 16:130, rock-core chimney drains, contains the requirements for rock-core chimney drains found in the Federal rules at 30 CFR 816.72(b). Therefore, the Director finds the Kentucky rule no less effective than the Federal rule.

56. Section 4 of 405 KAR 16:030, end-dumped fills, covers the requirements for durable rock fills found in 30 CFR 816.73. The Kentucky rule also contains additional material to define "durable rock" and to clarify sampling measures that are or may be required. The Director finds that additional material does not conflict with the Federal rule and serves to clarify Kentucky's requirements. The Director finds the Kentucky provisions no less effective than the Federal rules.

57. Kentucky has amended section 5, disposal on existing benches, to include requirements found in the Federal counterpart rules at 30 CFR 816.74. The Director finds the rule no less effective than its Federal counterpart.

58. Kentucky has added section 6 to 405 KAR 16:130 to establish applicability of the amended rules to existing and new permits which the Director finds to provide a reasonable transition period.

59. Rule 405 KAR 16:130 contains appendices A and B which clarify requirements of the rule and which the Director finds consistent with the Federal requirements.

405 KAR 16:170

60. Kentucky has amended 405 KAR 16:170, section 1, stabilization of surface areas, to require that all exposed surface areas shall be protected and stabilized to effectively control and limit erosion and air pollution attendant to erosion, consistent with 30 CFR 816.95(a). Kentucky has amended section 2, control measures, to make minor changes, and has deleted sections 3 and 4, which established additional measures and monitoring requirements and which are no longer found in the Federal requirements. The Director finds the rule no less effective than the Federal requirements in 30 CFR 816.95(a). (The Kentucky counterpart to 30 CFR 816.95(b) is found in the existing Kentucky rules at 405 KAR 16:190 section 6.)

405 KAR 18:050

61. Kentucky has amended its underground mining requirements for topsoil at 405 KAR 18:050. The amended rules are the same as those for surface mining topsoil requirements discussed in

this notice under 405 KAR 16:050. The comparable Federal rules for underground mining are at 30 CFR 817.22 and are the same as those for surface mining in 30 CFR 816.22. Therefore, the Director finds the Kentucky rules no less effective than the Federal rules for the reasons discussed in Finding 49 of this notice.

405 KAR 18:110

Amendments to 405 KAR 18:110 supersede emergency regulations 405 KAR 18:110E submitted to OSM on May 29, 1985 and announced for public comment in the July 11, 1985 **Federal Register** (50 FR 28222).

62. The amended rules for surface and ground water monitoring for underground mining operations at 405 KAR 18:110 are essentially the same as those for surface and ground water monitoring for surface mining operations discussed in this notice under 405 KAR 16:110, with one exception: Paragraph (1)(d) of section 1 of 405 KAR 16:110 does not appear in section 1 of 405 KAR 18:110. This paragraph requires monitoring to demonstrate that the mining operation has not proximately resulted in the contamination, diminution, or interruption of a ground or surface water supply that is used for certain purposes. Since the Federal counterpart to the Kentucky section 1 at 30 CFR 817.41(a) does not contain this specific requirement, and since the Federal rule 30 CFR 816.41(b)(2) which required restoration of premining recharge capacity has been suspended (February 21, 1985, 50 FR 7274), the Director finds that the Kentucky rule is no less effective than the Federal rule. Kentucky's rules at 405 KAR 18:060 provide protection against contamination of ground water and surface water. Therefore, for this reason and for the reasons stated above in the findings for 405 KAR 16:110, the Director finds the Kentucky rules at 405 KAR 18:110 no less effective than the Federal rules in 30 CFR 817.41 (a) and (c), and (e), and 30 CFR 784.14 (b)(2) and (h)(2) which are the underground mining equivalents to 780.21 (b)(2) and (i)(2).

405 KAR 18:130

63. The amended rules for disposal of excess spoil, for underground mining operations, at 405 KAR 18:130 are essentially the same as those for excess spoil for surface mining operations discussed in this notice under 405 KAR 16:130, with the exceptions that are discussed in the following paragraphs. The findings under 405 KAR 16:130 apply to this rule also, but the Federal cites are found in 30 CFR Part 817 rather than 816.

One difference from the surface mining requirements in 405 KAR 16:130 is that 405 KAR 18:130 section 1(11) contains provisions for spoil resulting from face-up operations not found in the Kentucky or Federal requirements for surface mining operations. However, the Federal requirements for underground mining operations do contain a counterpart to this Kentucky rule at 30 CFR 817.71(k). The Kentucky rule requirements are similar to the Federal requirements and the Director finds them no less effective.

Another difference is found in 405 KAR 18:130 section 4(2)(a)(2) which does not contain information found in the Kentucky counterpart at 405 KAR 16:130 section 4(2)(a)(2) that tells where one can obtain copies of a certain Kentucky manual. Lack of this information does not bear on the effectiveness of the rule.

The third difference is an added section at 405 KAR 18:130 section 6, requiring underground development waste to be disposed of in accordance with the coal mine waste requirements of 405 KAR 18:140 and 18:160 as applicable. Since the Federal definition of "coal mine waste" at 30 CFR 701.5 includes underground development waste, this requirement is consistent with the Federal requirements for coal mine waste.

The final difference is that, since 405 KAR 18:130 contains an additional section (section 6 discussed above), the comments under 405 KAR 16:130 which refer to section 6 should be applied to section 7 of 405 KAR 18:130.

For the reasons listed above and for the reasons listed in the disposal of excess spoil requirements for surface mining operations listed above under 405 KAR 16:130, the Director finds the Kentucky rules at 405 KAR 18:130 no less effective than the Federal requirements at 30 CFR 817.71, 817.72, 817.73 and 817.74.

405 KAR 18:170

64. Kentucky has amended 405 KAR 18:170, section 1, stabilization of surface areas, to require that all exposed surface areas shall be protected and stabilized to effectively control and limit erosion and air pollution attendant to erosion, consistent with 30 CFR 817.95(a). Kentucky has amended section 2, control measures, to make minor changes, and has deleted sections 3 and 4. The Director finds the rule no less effective than 30 CFR 817.95(a). (The counterpart to 30 CFR 817.95(b) is found in 405 KAR 18:190 section 4, which is not being amended at this time.)

405 KAR 20:030

Kentucky has amended its requirements for auger mining at 405 KAR 20:030.

65. Section 1, paragraph (1) is amended to provide that auger mining operations shall be conducted so as to maximize the utilization and conservation of coal in accordance with 405 KAR 16:010 as well as being planned and conducted to maximize recoverability of mineral reserves after the mining activities are completed. This is consistent with and no less effective than 30 CFR 819.13 (a) and (b) which contain similar requirements.

Paragraph (3)(a) of section 1 is amended so that, rather than requiring that auger holes discharging water containing toxic- or acid-forming material be sealed *or treated* within 72 hours, the rule now requires that auger holes discharging toxic or acid-forming material be sealed within 72 hours, and discharges shall be treated as necessary until the hole is properly sealed. This is similar to and no less effective than 30 CFR 819.15(b)(1). Paragraph (3)(b) now requires that auger holes not discharging water containing acid- or toxic-forming material be sealed within 30 days. This is similar to the Federal requirements in 30 CFR 819.15(b)(2) except that Kentucky uses a 30-day limit while the Federal rules use the general requirement of "contemporaneous as practicable." The Director has determined that the 30 day limit is reasonable and that the Kentucky rule is no less effective than the Federal rule.

Paragraph (4)(c) is added to add another test that must be met for the NREPC to allow an auger hole to be left unsealed. The added test is that drainage from the auger hole will not result in instability of the landfill. Although this provision is not included in the Federal rule, the Director finds that it is consistent with the Federal rules for auger mining and no less effective.

Paragraph (5)(d) is replaced by paragraph (6) which requires auger mining to comply with the subsidence performance standards in 405 KAR 18:210. This is consistent with 30 CFR 819.17 which requires auger mining to be conducted in accordance with 30 CFR 817.121 (a) and (c). Other minor changes are made to 405 KAR 20:030 to clarify the rules.

The Director finds the amended Kentucky rules at 405 KAR 20:030 to be no less effective than the Federal counterparts for auger mining.

IV. Public Comments

OSMRE solicited comments from the Environmental Protection Agency (EPA) and received its concurrence on the amendments. EPA stated that the Kentucky amendments demonstrate "the legal authority, administrative capability and technical conformity to OSMRE regulations necessary to maintain air and water quality standards . . .".

No comments were received in response to OSMRE's request for comments from the public.

V. Director's Decision

The Director, based on the above findings, is approving the Kentucky program amendments as submitted on August 13, 1985.

The Federal rules at 30 CFR Part 917 are being amended to implement the Director's decision.

VI. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: February 25, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 917—KENTUCKY

30 CFR Part 917 is amended as follows:

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

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

2. 30 CFR 917.15 is amended by adding a new paragraph (o) as follows:

§ 917.15 Approval of regulatory program amendments.

* * * * *

(o) The following amendments submitted to OSMRE on August 13, 1985, are approved effective March 3, 1986: Revisions to the Kentucky Administrative Regulations in 405 KAR 7:020, 405 KAR 7:080, 405 KAR 8:030, 405 KAR 8:040, 405 KAR 12:010, 405 KAR 12:020, 405 KAR 16:050, 405 KAR 16:110, 405 KAR 16:130, 405 KAR 16:170, 405 KAR 18:050, 405 KAR 18:110, 405 KAR 18:130, 405 KAR 18:170 and 405 KAR 20:030.

[FR Doc. 86–4555 Filed 2–28–86; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 513

[Army Regulation 600–15]

Indebtedness of Military Personnel; Claim Processing Policies

AGENCY: Army Department, DOD.

ACTION: Final rule.

SUMMARY: On September 28, 1979, a revised rule was published in the **Federal Register** (44 FR 190) with the title Assistance of Creditor by Department of the Army. This rule is revised and gives the Army's policy and procedures governing private indebtedness of Army members. Also, it provides guidance for processing claims. It forbids debt collectors from contacting commanders without prior consent of the debtor or without a court order.

EFFECTIVE DATE: March 3, 1986.

ADDRESS: Commander, U.S. Army Community and Family Support Center (DACF–IS–PA), Room 468, Hoffman I, 2461 Eisenhower Avenue, Alexandria, VA 22331–0522.

FOR FURTHER INFORMATION CONTACT: LTC Milton J. Brokaw, (202) 325–8951.

SUPPLEMENTARY INFORMATION: 32 CFR 513 is revised to give the Department of the Army's policy and guidance in handling debt claims against Army members. Army Regulation 600–15 complies with the Department of Defense Directive 1344.9 contained in Part 43a, Chapter 1 of this title. Army Regulation 600–15 applies to the Regular Army, the U.S. Army Reserve (USAR) on active duty, active duty for training or official active duty for training (30 days or more duration), the Army National Guard of the United States (ARNGUS) on active duty, active duty for training under Title 10, U.S.C. (30 days or more duration), and creditors (see glossary) who seek help in processing debt complaints against Army members. It does not apply to members of the USAR performing inactive duty training or to members of the ARNGUS performing duty in a state status under Title 32, U.S.C. This regulation does not apply to claims for support of family members under Army Regulation 608–99, or to claims by the Federal, State, or Municipal governments.

The U.S. Army Community and Family Support Center has certified that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612.

Pursuant to 5 U.S.C. 605(b), the regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the revision will not increase the economic burden of the existing regulation for any party since it only clarifies the present rules and does not substantively alter them.

List of Subjects in 32 CFR Part 513

Credit, Debts, Wages, Military personnel.

Accordingly, Part 513 is revised to Title 32 CFR to read as follows:

PART 513—INDEBTEDNESS OF MILITARY PERSONNEL

Sec.

513.1 General.
513.2 Administrative Procedures for Processing Complaints.
513.3 Administrative and Punitive Actions.
513.4 Conditions Creditors Must Meet Before Getting Help in Debt Processing.
513.5 Procedures Governing Nonactive Duty or Discharged Personnel.

Appendix A.—References

Appendix B.—Standards of Fairness

Appendix C.—Glossary

Authority: 10 U.S.C. 3012.

§ 513.1 General.

(a) *Purpose.* This regulation prescribes Department of the Army (DA) policy, responsibilities, and procedures in handling debt claims against soldiers.

(b) *References.* Required and related publications and prescribed and referenced forms are listed in appendix A.

(c) *Explanation of abbreviations and terms.* Abbreviations and special terms used in this regulation are explained in the glossary.

(d) *Responsibilities.* (1) The Deputy Chief of Staff for Personnel will set policy on processing debt claims against soldiers.

(2) The Commanding General, U.S. Army Community and Family Support Center (CG, USACFSC) will—

(i) Set procedures for processing debt claims against soldiers.

(ii) Process debt claims received at USACFSC regarding soldiers.

(iii) Carry out the objectives of the regulation to protect the rights of the soldier, his or her family members, and the interests of the Army.

(iv) Advise and assist the directors of Headquarters, Department of the Army (HQDA) agencies, commanders of the major Army commands, and other commanders on matters pertaining to indebtedness of soldiers.

(3) Officers having general court-martial jurisdiction will—(i) Ensure special emphasis on the indebtedness issue is given in command information programs. This includes soldiers being informed of their responsibility to manage their personal affairs satisfactorily and pay their debts promptly. Also, inform soldiers of the possible consequences of failure to pay their debts.

(ii) Take action on requests to file unfavorable information in a soldier's official personnel file. (See § 513.3.)

(4) First level field grade commanders will monitor instances of soldiers' repeated failure to pay debts that are brought to their attention. These commanders will take action, when proper.

(5) Immediate commanders will—(i) Ensure that soldiers are informed of the following:

(A) DA policy on indebtedness.

(B) The possible consequences of failure to pay their debts.

(ii) Manage the processing of debt claims per the terms of this regulation.

(iii) Answer all correspondence received from CG, USACFSC and other DA officials.

(iv) Answer all correspondence received directly from claimants and third parties (for example, Members of Congress). The commander will not include unreleasable information without the soldier's written consent. This complies with the Privacy Act of 1974. (See AR 340–21.) Commanders should ask the Staff Judge Advocate (SJA) for guidance in unusual or difficult situations.

(v) Inform the first level field grade commander of instances of soldiers' repeated failure to pay their debts. Also, point out actions taken or contemplated to correct the situation.

(vi) Refer correspondence or queries received from news media organizations to the unit, installation, or command public affairs officer for response.

(6) The unit, installation, or command public affairs officer will—(i) Answer correspondence and queries received from news media organizations.

(ii) Coordinate with the SJA before making any response.

(e) Policy.

(1) Soldiers are required to manage their personal affairs satisfactorily and pay their debts promptly. Failure to do so damages their credit reputation and affects the Army's public image. The Army, however, has no legal authority to force soldiers to pay their debts. Also, the Army cannot divert any part of a soldier's pay even though payment of the debt was decreed by a civil court. Only civil authorities can enforce payment of private debts.

(2) Debt claims against corporations and organizations to which a soldier belongs, or of which a soldier is an officer, will not be processed under this regulation. In this situation, the matter should be pursued in civil court. If a judgment is received specifically against the soldier, then this regulation will apply.

(3) Creditors who follow § 513.4 will have their debt complaints processed.

(4) Requests for help that do not follow § 513.4 will be returned without action with an explanation as discussed in § 513.4(d).

(5) The Army will revoke debt processing privileges for creditors who—(i) Refuse to abide by this regulation.

(ii) Try to use the Army as a debt collection agency. (See § 513.4(e).)

(6) The Army does not try to judge or settle disputed debts, or admit or deny whether claims are valid. The Army will not tell claimants whether any adverse action has been taken against a soldier as a result of the claim.

(7) If a soldier is not trying to resolve unpaid debts promptly or complaints of repeated failure to pay debts are received, commanders will consider the actions shown below. (See §§ 513.2(a)(3)(xv) and 513.3.)

(i) Making the failure a matter of permanent record.

(ii) Denial of reenlistment (enlisted personnel).

(iii) Administrative separation from the Service.

(iv) Punishment under the Uniform Code of Military Justice (UCMJ). When proper, such misconduct may be charged under articles 92, 123, 133, or 134 of the UCMJ.

(8) Checks that are dishonored for any reason remain proof of indebtedness until—(i) Made good.

(ii) Proven to be the error of the financial institution on which drawn, or the error of any other person or institution; such action then absolves the soldier of fault. (See § 513.2(c).)

(9) When necessary, commanders and soldiers are urged to seek help from the SJA.

(f) Banks and credit unions.

(1) Banks and credit unions located on military bases must apply Department of Defense (DOD) Standards of Fairness (app B) before making loans or credit agreements. Banks and credit unions that do not meet this requirement will be denied help in processing debt complaints.

(2) If soldiers are referred to off-base branches of an on-post bank or credit union, the branches also must comply with the Standards of Fairness before making loans or credit agreements.

(3) Interest rates and service charges for loans made by oversea military banking facilities are set by DOD.

(g) Fair Debt Collection Practices Act (section 1692, title 15, United States Code (15 USC 1692)).

(1) A debt collector may not contact any person other than the soldier, his or her lawyer or legal counsel, or the creditor about any debt collection. The debt collector, however, may contact the employer if he or she has a written and signed consent from the soldier, or a court order permitting contact. The written consent must include the debt collector's name. It is illegal for debt collectors to use another name when collecting debts.

(2) Debt collectors who have obtained the needed written consent or court order and who have followed § 513.4 will have their debt complaints processed.

(3) Creditors who collect only on their own behalf are exempt from the Act.

(h) Individual repayment plan of the Bankruptcy Act. Chapter XIII of the Bankruptcy Act (11 U.S.C. 1301, et seq.) provides for the protection and relief of individuals with a regular income. It also sets rules for paying debts under the supervision of U.S. Federal District Courts. Care must be taken not to confuse "bankruptcy" and "individual repayment plans" in order not to infringe on the rights of the soldier.

(i) *Locator service.* (1) Installations will honor requests for central locator service by a banking office (AR 210–135) or credit union (AR 210–24) located on a military installation. This service will be free when banking offices and credit unions cite AR 37–60. This service will be used to locate persons for settling accounts, checks that did not clear, and delinquent loans. The U.S. Army Finance and Accounting Center (USAFAC), Indianapolis, IN 46249–1016, will assist these banking offices and credit unions to locate soldiers who cannot be located locally.

(2) Current military addresses for all soldiers may be obtained by writing the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–5301. All requests must include the soldier's full name, rank, and social security number (SSN). They should include the date and place of birth if the SSN is not known. A check or money order for $3.50 payable to the Treasurer of the United States must be enclosed with each request. (See AR 37–60.)

(3) A debt collector should not write to the U.S. Army Enlisted Records and Evaluation Center (USAEREC) if he or she knows the soldier is represented by a civilian lawyer or military legal counsel. However, the debt collector may write to USAEREC if he or she—

(i) Does not know or cannot easily find out the name and address of the lawyer or legal counsel.

(ii) Does not receive a response from the lawyer or legal counsel.

(4) If a debt collector writes to USAEREC, a postcard cannot be used. Also, the request cannot state that the locator service is being sought in order to collect a debt. These actions would violate the Fair Debt Collection Practices Act (§ 513.1(g)).

(j) *Allotments of pay for debts.* (1) The Department of Defense Military Pay and Allowances Entitlements Manual sets forth the provisions governing allotments of pay. Voluntary allotments of military pay and allowances of soldiers in active military service are limited. Payment to a financial organization for credit to the account of the soldier (allotter) is permitted. Money thus credited may be used for any purpose desired and directed by the soldier.

(2) Creditors must not—

(i) Request that a soldier set up a bank account for the soldier to use in paying a debt.

(ii) Request a soldier to pay by allotment.

(iii) Send sample copies of an allotment form to the solider or guide the soldier on how to make out such an allotment.

(3) It is a soldier's option on how he or she pays the debt. A soldier who has an allotment going to his or her financial organization's account may request to have a bank transfer order in effect. However, there may be a charge for this service.

§ 513.2 Administrative procedure for processing complaints.

(a) *Commander's actions.* Upon receipt of a debt complaint, the commander will—

(1) Review the case to ensure that the terms of this regulation have been met.

(2) Consult the SJA if needed.

(3) Take the following actions:

(i) If any of the terms of § 513.4(c) have not been met by the creditor, return the complaint. Tell the writer that no action will be taken until those terms are met.

(ii) Upon receipt of subsequent inquiries from USACFSC, Members of Congress, or any other source, inform the writer that—

(A) The creditor has been told that his or her request lacked data or documentation.

(B) The commander regrets that he or she cannot process the complaint until the creditor supplies the necessary data.

(C) A reply previously has been made to the creditor. Enclose a copy of the reply.

(iii) If the creditor refuses or repeatedly fails to comply with any of the requirements, refer the complete case through channels to the Commander, USACFC, ATTN: DACF–IS–PA, ALEX VA 22231–0522. If it is believed the creditor's debt processing privileges should be revoked, include a recommendation stating the reasons.

(iv) If the soldier was not given full disclosure information when the debt was incurred, refer him or her to the SJA office. The SJA office will advise if the soldier has a right to file suit against the creditor. The soldier may be entitled to twice the amount of the finance charge, for a minimum of $100 up to a maximum of $1,000, plus court costs and lawyer fees. This does not apply to debts incurred before 30 June 1969.

(v) If in doubt as to the legality of the contract, consult the SJA. This action is to ensure that the contract terms do not violate Federal and State laws.

(vi) Accept as valid proof, claims based on court judgments, orders, or decrees.

(vii) If the debt or the amount of the debt is disputed or denied by the soldier, reply directly to the creditor. Tell him or her that Army policy requires that disputed debts be settled by civil courts. Do not, in the reply, try to judge or settle any disputed debts, or admit or deny the validity of the claim.

(viii) If the creditor has met all the requirements discussed in § 513.4, interview the soldier.

(A) Ensure that the soldier is properly advised of his or her rights under the Privacy Act of 1974. DA Form 4817–R (Consent/Nonconsent To Disclose Personal Information) will be completed.

(B) Notify the soldier of the debt complaint.

(C) Explain that the Army requires that soldiers pay their debts promptly. Failure to do so damages credit reputations and affects the Army's public image. Also, explain that the willful failure to resolve unpaid debts may result in administrative or punitive actions as described in § 513.3.

(D) Tell the soldier of his or her legal rights and duties. If appropriate, advise the soldier of his or her rights under article 31, UCMJ. Also, inform the soldier that counseling service is available under the Legal Assistance Program (AR 27–3).

(E) Review all available facts including the soldier's defenses, rights, and counterclaims.

(F) Urge the soldier to seek budget counseling and consumer protection advice, if proper. These services may be obtained from on-post credit unions, Army Community Service Program Counselors (AR 608–1), or through financial management seminars or workshops.

(G) Help the soldier in settling or in liquidating the debt. Give the soldier a copy of DA Pam 360–520 if proper. Answer any questions that he or she might have.

(H) Have the soldier sign a statement allowing or forbidding release of information to the claimant (DA Form 4817–R). AR 340–17 and AR 340–21, paragraph 3–3 govern this.

(I) Ask the soldier about his or her intentions. Give the soldier the chance to furnish a voluntarily signed statement admitting or denying the complaint or declining to do either.

(ix) Advise the claimant promptly that the soldier has been told of the complaint.

(x) Summarize the soldier's intentions if the soldier allows release of the information.

(xi) If proper, advise the claimant that indebtedness disputes must be resolved in a civil court of competent jurisdiction.

(xii) Ask the claimant to write, if necessary, directly to the soldier or his or her commander.

(xiii) Retain the statement allowing or forbidding release of information to the claimant with the case file for future reference. (See § 513.3.)

(xiv) Monitor actions closely to ensure promises made to claimants are being met.

(xv) Consider administrative or punitive action, if proper (See §§ 513.1(e)(7) and 513.3.)

(xvi) Inform the first level field grade commander of instances of soldiers' repeated failure to pay their debts. Also, point out actions taken or contemplated to correct the situation.

(b) Procedures for routing debt complaints.

(1) Send debt complaints through proper channels to the soldier's commander for action.

(2) If the soldier is a patient attached to a medical holding detachment (MHD), the complaint will be sent there for action. The commander of the MHD will take action per this regulation.

(3) The command receiving the complaint will acknowledge the letter and tell the writer of the referral. DA Form 209 (Delay, Referral, or Follow-Up Notice) may be used for this purpose.

(4) All correspondence to the President, received from outside of DOD, will be processed per AR 1–9.

(5) Send complaints to the soldier's new duty station if the soldier has been reassigned. Advise the claimant of the soldier's reporting date and the unit address to which correspondence should be sent.

(6) See § 513.5 for procedures governing processing of claims for nonactive duty or discharged personnel.

(c) Processing debt complaints based on dishonored checks.

(1) Writing checks against an account with no or not enough funds is a serious matter. It may be a misdemeanor or a felony. This depends on the amount of the check and the laws or statutes of the jurisdiction where the check is presented for payment. The soldier is responsible for making sure that money is in his or her bank account to cover checks written on that account. Writing bad checks may result in disciplinary or administrative action. Whether or not such action is taken, a dishonored check for not enough funds remains proof of an indebtedness except as provided in § 513.1(e)(8).

(2) Commanders must answer all check complaints, other than those discussed in § 513.2(c)(3), even if such complaints concerns checks errors caused by oversight or negligence. (AR 210–60 outlines ways for handling dishonored checks written on Army installations and in Army facilities.)

(3) Checks made good within 5 days of notice do not require any action if the complaint is based on—

(i) Bank or Government error.

(ii) Failure to date the check.

(iii) Inconsistent or not legible amounts shown on the check.

(iv) Lack of legible signature.

(4) Bad checks written by family members are not processed under this regulation except in the following instance. The SJA finds that these checks stand for debts for which the soldier may be held personally liable under Federal or State laws (for example, checks written for necessities such as rent, utilities, or food).

(d) Inquiries from USACFSC or DA officials. The commander must—

(1) Give USACFSC or DA officials complete data on all inquiries.

(2) Seek the advice of the SJA before replying to a court order if necessary.

(3) State "not applicable" to items that do not apply.

(4) If applicable, advise USACFSC or DA officials—

(i) Whether the soldier acknowledges the debt.

(ii) Of the corrective action taken (to include the amounts and dates payments will be made).

(iii) Of the method of payment (for example, personal check).

(iv) Whether the soldier allowed or forbade release of the information given. (See DA Form 4817–R.)

(v) Whether the soldier is following the terms of a court order.

(vi) Whether the soldier's actions follow Army policy as stated in this regulation.

(vii) In the reply, include your name, unit address, and your automatic voice network (AUTOVON) number. If no AUTOVON Number is available, include a commercial or other number where the unit can be reached.

(5) Return to USACFSC or DA officials inquiries received after the soldier has been transferred. Include a copy of his or her permanent change of station orders.

§ 513.3 Administrative and punitive actions.

(a) *Considerations.* Commanders will not tolerate irresponsibility, neglect, dishonesty, or evasiveness. Failure to pay debts promptly and honorably may require disciplinary or administrative action. If a soldier is not trying to resolve unpaid debts promptly or complaints of repeated failure to pay debts are received, commanders will consider—

(1) Making it a matter of permanent record (§ 513.3(b)).

(2) Denial of reenlistment (enlisted members) (AR 601–280).

(3) Administrative separation from the Service (AR 635–100 or AR 635–200).

(4) Punishment under the UCMJ. (See § 513.1(e)(7).)

(b) Official personnel files.

(1) The Army requires that all-inclusive information of the qualifications of its soliders be on file. This prevents selection of soldiers for positions of leadership, trust, and responsibility whose qualifications are questionable.

(2) Documents/records created or received in connection with debt complaints will be filed per AR 600–37 and the Army Functional Files System (AR 340–2 and AR 340–18).

(3) The soldier may show his or her negligence, disregard, or unwillingness to resolve the matter by repeatedly failing to pay his or her debts. In these cases, the commander will decide whether to place a letter of reprimand, admonition, or censure in the soldier's official personnel files. AR 600–37, chapter 2, governs action taken to file unfavorable information.

(4) If information does not merit filing in the soldier's official personnel files, the commander will—

(i) Continue to monitor the situation.

(ii) Furnish further guidance and help.

(iii) Consider later action (§ 513.3(b)(3)) if warranted by further evidence.

§ 513.4 Conditions creditors must meet before getting help in debt processing.

(a) Statutory and other regulatory requirements.

(1) The Truth-in-Lending Act, Public Law 90–321 (15 USC 1601), lists the general disclosure rules that must be met by creditors. It does not cover private parties who extend credit only rarely to help a person. (See § 513.4(f)(1).)

(2) Federal Reserve Board Regulation Z (12 CFR 226) lists specific disclosure rules for all credit transactions under the Truth-in-Lending Act.

(3) Certain States have rules that may apply to credit transactions in lieu of Federal Reserve Board Regulation Z. However, the Federal Reserve Board must first decide if the State sets largely the same rules and enforcement measures. States currently exempted from Regulation Z are Connecticut,

Maine, Massachusetts, Oklahoma, and Wyoming.

(4) DOD Standards of Fairness (app B) define fair and just dealings with soldiers. DA Pam 360–520, chapter 4, contains simplified explanations of these standards. Note that certain debt complaints are exempt (§ 513.4(f)).

(5) Certificate of Compliance certifies the creditor has complied with the full disclosure requirements of Federal or State laws and regulations, State laws regarding contact with the employer of the debtor, and the application of the Standards of Fairness to the consumer credit transaction.

(6) Full disclosure information shows what the soldier should know about contract terms.

(7) The Fair Debt Collection Practices Act contains other conditions a creditor must meet. (See § 513.1(g).)

(b) *State laws.* Florida, Louisiana, Maryland, Massachusetts, New York, North Carolina, and Wisconsin have passed laws that forbid creditors from contacting employers. This includes commanders, unless certain conditions are met. These conditions are the reduction of a debt to court judgment or the written permission of a debtor. The judgment must conform to the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 USC App, Sec 501 et seq., (1970)) if applicable. (See DA Pam 27–166.) Other States may enact similar laws; if they do, the same conditions will apply. Creditors wanting to make use of the debt processing privilege must first certify their compliance with the relevant State's law about contact with an employer. These laws, however, do not apply if the debtor is located in a State that has not passed such a law.

(c) Debt processing.

(1) Creditors, other than private parties described in 513.4(f)(1), must send—

(i) A signed copy of the Certificate of Compliance with DOD Standards of Fairness (app B) showing compliance with one of the following:

(A) The Truth-in-Lending Act.

(B) Federal Reserve Board Regulation Z.

(C) State regulations.

(ii) A true copy of the signed contract.

(iii) The general and specific disclosure information given the soldier before signing the contract.

(iv) A copy of a judgment or written permission from the soldier allowing the creditor to contact his or her employer about the debt, if applicable. (See § 513.4(b).)

(v) Photocopies of actual correspondence or documentary proof showing that every effort has been made to get payment by direct contact with the soldier. The creditor must give the soldier a chance to answer each inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(2) Foreign-owned companies having debt complaints must send—

(i) A true copy of the terms of the debt.

(ii) A certification that they have met the DOD Standards of Fairness.

(iii) An English translation of the above (if not already in English).

(iv) Documentation as in §§ 513.4(c)(1)(iv) and (v).

(3) Creditors not subject to Regulation Z, such as public utility companies, will send a certification with their request. It must state that no interest, finance charge, or other fee exceeds that permitted by the laws of the State in which the service was requested.

(4) Creditors not subject to the Truth-in-Lending Act must send—

(i) Legible copies of actual correspondence. (See § 513.4(c)(1)(v).)

(ii) Documentary proof showing that every effort has been made to get the payment by direct contact with the soldier.

(5) Creditors who have followed these terms may contact the soldier's commander for help. If the commander is contacted, the creditor must give the commander a chance to answer the inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.) If unsuccessful, after reasonable efforts to collect the debt, creditors may request help from USACFSC. In such cases, the information must be the same as that sent the commander. (See § 513.4(c)(6).) The request should be sent to the Commander, USACFSC, ATTN: DACF–IS–PA, ALEX VA 22331–0522.

(6) All requests for help must include—

(i) The soldier's full name, rank, and SSN.

(ii) Date and place of birth, if SSN is not known.

(iii) The amount and date of the original debt.

(iv) The terms of payment.

(v) The balance due.

(vi) Documents described in §§ 513.4(c) (1) through (4) which apply.

(7) Separate letters should be written on each account for prompt and efficient processing.

(8) Letters lacking data will be returned for added documents.

(d) Debt complaints returned to creditors without action. Requests for help in processing debt complaints will be returned without action with an explanation if—

(1) Creditors did not enclose the following:

(i) Documents showing compliance with the Truth-in-Lending Act, Federal Reserve Board Regulation Z, or State regulation.

(ii) Signed copies of the Certificate of Compliance with DOD Standards of Fairness.

(iii) A completed copy of form with the Full Disclosure Information. (See § 513.4(a)(6).)

(iv) Signed copies of the contract.

(v) Legible copies of actual correspondence or documentary proof showing that every effort has been made to get the payment by direct contact with the soldier. (See § 513.4(c)(1)(v).)

(2) The soldier is located in a State whose laws forbid creditors from contacting employers.

(3) The claim is obviously false or misleading.

(4) The finance charge does not conform to the State law where the contract is signed.

(5) A U.S. company operating overseas exceeds the lowest interest rate of the State or States where chartered or doing business in the United States.

(6) The contract or loan agreement provides that the debtor must pay the creditor's attorney fees, unless the following limitations in § 513.4(d)(6) (i) through (iii) are included. No attorney's fee may be charged for services done by a salaried employee of the creditor.

(i) The fees will have to be paid only in the event of a default by the soldier.

(ii) The fees will have to be paid only if a lawsuit is filed.

(iii) The fees will not exceed 20 percent of the amount found due.

(7) A penalty for prepayment has been charged.

(8) A charge has been made for an insurance premium without satisfactory proof of—

(i) A policy or insurance certificate having been issued.

(ii) Delivery of a policy or certificate to the soldier within 30 days of issuance.

(9) The late charge is in excess of 5 percent of the late payment, or $5, whichever is the lesser amount. Only one late charge may be made for any late installment. Late charges will not be made where an allotment has been timely filed, but payment has been delayed.

(10) The creditor has not given the soldier a chance to answer a previous inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(11) The claimant is a debt collector without a court order or a signed letter

of consent by the soldier. (See § 513.1(g).)

(12) The debt is covered by an order of a bankruptcy court. (e) Cancellation of debt processing privilege.

(1) Creditors who refuse or fail repeatedly to follow these terms will be referred through channels to the Commander, USACFSC, Attn: DACF-IS-PA, Alex, Va 22331-0522, by the commander.

(2) The CG, USACFSC will—

(i) Cancel debt processing privileges if the queries clearly show that the creditor is—

(A) Not conforming with this regulation.

(B) Trying to make unreasonable use of the debt processing privilege.

(C) Trying to use the Army as a collection agency.

(ii) Inform commanders worldwide by electrical message that the debt processing privilege of a specific creditor has been revoked.

(iii) Inform the creditor that his or her debt processing privilege has been revoked and state the reasons for this action. (f) Exemptions from Full Disclosure and Standards of Fairness. The debt complaints discussed below are exempt from the Full Disclosure and Standards of Fairness. This does not prevent the debtor from questioning service charges and negotiating a fair and reasonable settlement.

(1) Claims from private parties selling personal items (for example, car, furniture, appliances) on a one-time basis.

(2) Claims from companies or individuals giving services in which credit is given only to help the soldier (for example, utilities, milk, laundry, medical, and related services).

(3) Claims by endorsers, comakers, or lenders who intend only to help the soldier in getting credit. These claims, however, may not benefit the above through receipt of interest or otherwise.

(4) Contract for the purchase, sale, or rental of real estate.

(5) Claims in which the total unpaid amount does not exceed $50.

(6) Claims based on a revolving or open-end credit account. The account must show—

(i) The periodic interest rate and the equivalent annual rate.

(ii) The balance to which the interest is applied to compute the charge.

(7) Claims as security liens on real property (for example, a house). This does not include improvements or repairs.

(8) Attorneys representing parties under §§ 513.4(f) (1) through (7).

§ 513.5 Procedures Governing Nonactive Duty or Discharged Personnel.

(a) *Procedures governing nonactive duty personnel.* (1) Debt complaints against former soldiers or others not on active duty will be sent to the Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63132-5200.

(2) After ARPERCEN verifies the status, the following officials will act as prescribed below.

(i) Chief, National Guard Bureau, Wash DC 20310-2500, for soldiers of the Army National Guard.

(ii) The area commander concerned for Ready Reservists assigned to troop program units under their control. (See AR 140-1, para 1-6.)

(iii) ARPERCEN for nonunit soldiers assigned to Control Groups of the Ready Reserve, Standby Reserve, and Retired Reserve.

(3) The officials cited in § 513.5(a)(2) will ensure that debt complaints are delivered to the person concerned, using military channels. When the complaint cannot be delivered through military channels, it will be sent to the last known mailing address of the person by certified mail, using PS Form 3811 (Return Receipt, Registered, Insured, and Certified Mail). It should be marked Return Receipt Requested—Deliver to Addressee Only. This form is available at U.S. post offices.

(4) After delivery of correspondence, the responsible official will advise the claimant—

(i) Of the date and method of delivery.

(ii) That the military department does not control the personal affairs of nonactive duty personnel. These personnel usually are in a civilian status and are not subject to military discipline. Therefore, the matter has been left to the person's discretion.

(iii) Of the person's mailing address only if the conditions in § 513.5(c) are met.

(b) Procedures governing discharged personnel.

(1) Debt complaints against persons who have been discharged from the service (that is, those now holding no military status) will be sent to ARPERCEN.

(2) ARPERCEN will return the correspondence, and all accompanying documentation, and advise the claimaint—

(i) That the person is no longer a member of the Army or the Reserve Components.

(ii) Of the date of discharge.

(iii) That the Army no longer has control or authority over the discharged personnel. Therefore, the Army can take no further action in this matter.

(iv) Of the person's mailing address only if the conditions in § 513.5(c) are met.

(c) Conditions for disclosing mailing address. Nonactive duty and discharged personnel's mailing addresses will not be discussed unless—

(1) The person consents in writing to the release of his or her address.

(2) The claimant sends a court order directing the release of the address.

(3) Any other reason that does not constitute a violation of the Privacy Act of 1974.

(d) Retired personnel.

(1) The claimant may be advised that correspondence may be sent to the retired person as follows:

(i) Place correspondence in a stamped envelope with the retired person's name typed or printed on the envelope.

(ii) Place a stamped envelope in a second envelope and mail to Commander, ARPERCEN, Attn: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63131-5200.

(2) ARPERCEN will forward the correspondence to the retired person, but cannot release the address per provisions of the Privacy Act of 1974.

Appendix A—References

Section I

Required Publications.

AR 340-2

Maintenance and Dispostion of Records in TOE Units of the Active Army, the Army Reserve and the National Guard. (Cited in § 513.3(b)(2).)

AR 340-17

Release of Information and Records from Army Files. (Cited in § 513.2(a)(3)(viii)(H).)

AR 340-18

The Army Functional Files System. (Cited in § 513.3(b)(2).)

AR 340-21

The Army Privacy Program. (Cited in §§ 513.1(d)(5)(iv) and 513.2(a)(3)(viii)(H).)

AR 600-37

Unfavorable Information. (Cited in § 513.3(b) (2) and (3).)

DA Pam 27-166

Soldiers' and Sailors' Civil Relief Act. (Cited in §513.4(b).)

DA Pam 360-520

Credit: Master or Servant. (Cited in §§ 513.2(a)(3)(viii)(G) and 513.4(a)(4).)

Uniform Code of Military Justice. (Cited in §§ 513.1(e)(7)(iv), 513.2(a)(3)(viii)(D) and 513.3(a)(4).)

Section II

Related Publications.

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 1–9

White House Liaison, Communications, and Inspections.

AR 11–2

Internal Control Systems.

AR 27–3

Legal Assistance.

AR 37–60

Pricing for Materiel and Services.

AR 140–1

USAR—Mission, Organization, and Training.

AR 210–24

Credit Unions.

AR 210–60

Control and Prevention of Abuse of Check Cashing Privileges.

AR 210–135

Banking Service on Army Installations.

AR 601–280

Army Reenlistment Program.

AR 608–1

Army Community Service Program.

AR 608–99

Family Support, Child Custody, and Paternity.

AR 635–100

Officer Personnel (Separations).

AR 635–200

Enlisted Personnel (Separations).

DODD 1344.9

Indebtedness of Military Personnel.
Federal Reserve Board Regulation Z Truth in Lending.

Section III

Prescribed Forms.

DA Form 4817–R

Consent/Nonconsent to Disclose Personal Information. (Cited in §§ 513.2(a)(3)(viii) (A) and (H), and 513.2(d)(4)(iv).)

Section IV

Referenced Forms.

DA Form 209

Delay, Referral, or Follow-Up Notice.

PS Form 3811

Return Receipt, Registered, Insured, and Certified Mail.

Appendix B—Standards of Fairness

B–1. No finance charge contracted for, made, or received under any contract shall be in excess of the charge which could be made for such contract under the law of the place in which the contract is signed in the United States by the military member.

a. In the event a contract is signed with a U.S. company in a foreign country, the lowest interest rate of the State or States in which the company is chartered or does business shall apply.

b. However, interest rates and service charges applicable to overseas military banking facilities will be established by the Department of Defense.

B–2. No contract or loan agreement shall provide for an attorney's fee in the event of default unless suit is filed, in which event the fee provided in the contract shall not exceed 20 percent of the obligation found due. No attorney fees shall be authorized if the attorney is a salaried employee of the holder.

B–3. In loan transactions, defenses which the debtor may have against the original lender or its agent shall be good against any subsequent holder of the obligation. In credit transactions, defenses against the seller or its agent shall be good against any subsequent holder of the obligation, provided that the holder had actual knowledge of the defense or under conditions where reasonable inquiry would have apprised the holder of this fact.

B–4. The military member shall have the right to remove any security for the obligation beyond State or national boundaries if the military member or family moves beyond such boundaries under military orders and notifies the creditor, in advance of the removal, of the new address where the security will be located. Removal of the security shall not accelerate payment of the obligation.

B–5. No late charge shall be made in excess of 5 percent of the late payment, or $5 whichever is the lesser amount, or as provided by law or applicable regulatory agency determination. Only one late charge may be made for any tardy installment. Late charges will not be levied where an allotment has been timely filed, but payment of the allotment has been delayed. Late charges by overseas banking facilities are a matter of contract with the Department of Defense. Late charges by Federal credit unions are set at 20 percent of the interest due with a minimum of not less than 5 cents.

B–6. The obligation may be paid in full at any time or through accelerated payments of any amount. There shall be no penalty for prepayment and in the event of prepayment that portion of the finance charges which has inured to the benefit of the seller of the creditor shall be prorated on the basis of the charges which would have been ratably payable had finance charges been calculated and payable as equal periodic payments over the terms of the contract and only the prorated amount to the date of prepayment shall be due. As an alternative the "Rule of 78" may be applied.

B–7. If a charge is made for loan insurance protection, it must be evidenced by delivery of a policy or certificate of insurance to the military member within 30 days.

B–8. If the loan or contract agreement provides for payments in installments, each payment, other than the down payment, shall be in equal or substantially equal amounts, and installments shall be successive and of equal or substantially equal duration.

B–9. If the security for the debt is repossessed and sold in order to satisfy or reduce the debt, the repossession and resale will be governed by the laws of the State in which the security is requested.

B–10. A contract for personal goods and services may be terminated at any time before delivery of the goods or services without charge to the purchaser. However, if goods made to the special order of the purchaser result in preproduction costs, or require preparation for delivery, such additional costs will be listed in the order form or contract.

a. No termination charge will be made in excess of this amount. Contracts for delivery at future intervals may be terminated as to the undelivered portion.

b. The purchaser shall be chargeable only for that proportion of the total cost which the goods or services delivered bear to the total goods called for by the contract. (This is in addition to the right to rescind certain credit transactions involving a security interest in real estate provided by Public Law 90–321, "Truth-in-Lending Act," Section 125 (15 USC 1601 (1976)) and the Federal Reserve Board Regulation Z (12 CFR 226, 226.3, 226.9 (1978)).

Appendix C—Glossary

Section I—Abbreviations

ARNGUS: Army National Guard of the United States
ARPERCEN: U.S. Army Reserve Personnel Center
AUTOVON: automatic voice network
DA: Department of the Army
DOD: Department of Defense
HQDA: Headquarters, Department of the Army
MHD: medical holding detachment
SJA: staff judge advocate
SSN: social security number
UCMJ: Uniform Code of Military Justice
USACFSC: U.S. Army Community and Family Support Center
USAEREC: U.S. Army Enlisted Records and Evaluation Center
USAFAC: U.S. Army Finance and Accounting Center
USAR: U.S. Army Reserve

U.S.C. U.S. Code

Section II—Terms

Check: A written order, usually on a standard printed form, directing a bank or credit union to pay money.

Creditor: Any person or business that offers or extends credit, or to whom or to which a debt is owed. This term includes lending institutions (such as centralized charge systems) which, although not parties to the original transactions, seek help in collecting debts.

Debt: Any legal debt acknowledged by the soldier, or in where there is no reasonable dispute as to the facts or law, or which has been reduced to judgment.

Debt collector: Any person or business that solely collects debts owed to another person or business. (A debt collector is not a creditor.)

Disputed debt: Any debt, not reduced to a judgment, in which there is a genuine dispute between the parties as to the facts or law relating to the debt which would affect the obligation the soldier to pay.

Family member: As used in this regulation, an individual who qualifies for dependency benefits under certain conditions as set by Army regulations. (For example, spouse or unmarried child, to include stepchildren, and adopted or illegitimate children.)

Judgment: Any decision given by a court of justice or other competent tribunal as a result of proceedings instituted therein. As defined, a judgment includes any administrative enforcement order (Vollstreckungsanordnung) issued by the German federal post office (Deutsche Bundespost) regarding unpaid telephone bills. Such orders come within the coverage of this regulation regardless of where the soldier is stationed.

Soldier: Commissioned and warrant officers and enlisted personnel.

John O. Roach, II,

Army Liaison Officer, with the Federal Register.

[FR Doc. 86-4290 Filed 2-28-86; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3140

[Circular No. 2576]

Combined Hydrocarbon Leasing; Paying Quantities and Diligent Development of Combined Hydrocarbons

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking provides definitions of and procedures for meeting the production in paying quantities and diligent development requirements for tar sand in all combined hydrocarbon leases. The definitions and procedures in the final rulemaking will be used by the Secretary of the Interior in carrying out his responsibilities under the Combined Hydrocarbon Leasing Act of 1981.

EFFECTIVE DATE: April 2, 1986.

ADDRESS: Any suggestions or inquiries should be sent to: Director (650), Bureau of Land Management, Room 3600, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Edward E. Coggs, (202) 343-2892

or

Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking on combined Hydrocarbon Leasing; Amendment Covering Paying Quantities and Diligent Development of Combined Hydrocarbon Leases was published in the **Federal Register** on January 10, 1985 (50 FR 1300), with a 60-day comment period. The comment period was extended to April 3, 1985, by a publication in the **Federal Register** on March 19, 1985, (50 FR 10998).

During the comment period, five written comments were received on the proposed rulemaking. These comments were given careful consideration. The comments were generally favorable, with suggestions for specific changes to the proposed rulemaking. Comments on specific sections of the proposed rulemaking will be addressed in the preamble under the section being discussed. Only those sections that were the subject of comments will be addressed.

Section 3142.1 Diligent development

Several comments were received on this section of the proposed rulemaking. The comments questioned whether the diligent development portion of the proposed rulemaking would be equally applicable to competitively obtained leases and to conversion leases. The diligent development requirements, which have been adopted with only minor changes by the final rulemaking, will be equally applicable to both competitive and conversion leases. The Department of the Interior has defined diligent development in its regulations in a manner that recognizes the financial commitment of a lessee to the development of the tar sand resource. However, under section 17(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(e)) a combined hydrocarbon lease, whether issued as a conversion or competitive lease, has a primary term of ten years and for so long thereafter as oil or gas is produced in paying quantities. The only relief from this requirement to produce in paying quantities other than relief by a limited term extension, is provided by section 17(f) of the Act (30 U.S.C. 226(f)) for those leases with wells capable of production in paying quantities and for those leases which are suspended. However, the producible well provision would not be applicable to tar sand surface mines. Therefore, in the event a lessee fails to meet the requirement for production in paying quantities on a tar sand lease, the final rulemaking provides that the lessee will, if he/she has met the diligent development requirements for a tar sand lease, receive a suspension of production. This suspension will allow lessees to refine their technology after the end of the primary term without lease expiration. The Department believes this benefit should be available to all combined hydrocarbon leases, no matter how issued, and therefore, will apply this diligent development requirement to both converted and competitive combined hydrocarbon leases.

The penalty for failure to meet the diligent development obligation is lease expiration—either at the end of the primary term for failure to produce in paying quantities or during the extended term for failure to produce or to receive a lease suspension. The Department of the Interior may take certain actions to enforce this remedy, such as refusal to approve a supplement to an approved plan of operations which would authorize drilling or mining activity on the lease if the diligent development requirements have not been met. In the event a combined hydrocarbon lease is producing, or has a well capable of producing, oil or gas in paying quantities by conventional methods, the Department's remedy would be lease cancellation under 30 U.S.C. 188(a). Before pursuing such a drastic remedy, the Department would give considerable weight to the existence of production from the lease prior to conversion and to the lessee's justification of why the diligent development requirements were not met.

A final comment on this section expressed the view that the proposed rulemaking was confusing as to the interrelationship between the requirement for production in paying quantities and the requirement for diligent development of a lease. After careful review of the comment and the provisions of the proposed rulemaking, the final rulemaking has adopted an amendment as paragraph (c) that clarifies that a lessee will have met the requirement for diligent development if that lessee has achieved production in

paying quantities by the end of the primary term of the lease. This new provision will be applicable only on leases where tar sand is developed by unconventional methods.

Section 3142.2–1 Minimum Production Schedule

One comment suggested that this section of the proposed rulemaking would provide an incentive to a lessee to purposely understate the recoverable tar sand reserves estimate. Thus, if a lessee understated the recoverable tar sand reserve estimates, he/she could avoid or reduce the payment of advance royalties by making it easier to meet a (artificially low) minimum production requirement. The authorized officer should base the estimated recoverable tar sand reserves on all available data. It was the intent of the Department of the Interior in issuing the proposed rulemaking to allow the authorized officer to use other data to judge the adequacy of the estimates provided by the lessee. This is evidenced by the provision in the proposed rulemaking, which has been rewritten for clarification in the final rulemaking, providing a two-year period between the submission of data by the lessee and the initiation of the minimum production schedule. The final rulemaking has also been changed to clarify that the minimum production amount is established under the lease, rather than specifically set out in the lease, (see section 4 of the current lease form) and that the minimum production schedule will be part of the plan of operations.

Section 3142.2–2 Advance Royalties in Lieu of Production

As the result of a comment on this section of the proposed rulemaking, the section was carefully reviewed. That review resulted in the addition of new paragraphs (b) and (c) to the final rulemaking. These paragraphs clarify the conditions under which a lessee: (1) May request a suspension of production and pay advance royalty in lieu of production because of a failure to produce from the lease during a lease year; and (2) will pay advance royalty because of a failure to produce in an amount sufficient to meet the minimum production schedule for that year for the lease. Due to comments on the legality of allowing payment of advance royalty in lieu of production after the primary term of the lease expires, the final rulemaking provides for a suspension of production under section 17(f) of the Mineral Leasing Act (30 U.S.C. 226(f)) upon payment of advance royalty. The Mineral Leasing Act also provides that no lease shall expire while production is suspended. After studying this issue, the Office of the Solicitor, Department of the Interior, concluded that the Bureau of Land Management may establish appropriate criteria for granting a suspension because the statute specified none (Solicitor's Opinion M–36953, 92 I.D. 293, 301 (1985)). A suspension of production does not prevent the lessee from operating on the lease, including the removal of minimal quantities of the tar sand resource needed for testing oil recovery technology.

Section 3142.3 Expiration

One comment recommended that this section be amended to provide for termination of the lease during the primary term, as provided in the general regulations covering leases in § 2920.9–3(a)(1). Section 2920.9–3(a)(1) is, by its own terms, applicable to leases issued under Part 2920, but is not applicable to leases issued under subchapter C. The final rulemaking has not adopted the recommended amendment.

The principal author of this final rulemaking is Edward E. Coggs, Division of Solid Mineral Leasing, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management and the Office of the Solicitor, Department of the Interior.

The Department of the Interior has determined that this document is not a major rule Under Executive Order 12291 and will not have a significant economic effect of a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The leasing procedures provided in this final rulemaking are available to all entities who wish to avail themselves of the opportunity to lease and develop combined hydrocarbon resources, regardless of the size of the entity. The final rulemaking follows the guidance set out in the Combined Hydrocarbon Leasing Act and is designed to provide an equitable process for leasing and development of combined hydrocarbon resources.

While this final rulemaking is applicable to any combined hydrocarbon lease, it presently is specifically applicable only to the eight combined hydrocarbon leases that are in existence as a result of approval by the Secretary of the Interior under the terms of the Combined Hydrocarbon Leasing Act of 1981. Therefore, since there are fewer then ten respondents submitting information in response to the requirements in this final rulemaking in any one year, approval by the Office of Management and Budget under 44 U.S.C. 3507, as set forth in 5 CFR §§ 1320.4 and 1320.7 (c) and (d), is not required.

List of Subjects for 43 CFR Part 3140

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—mineral reserves.

Under the authority of the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070), the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3140, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

J. Steven Griles,

Assistant Secretary of the Interior.

January 22, 1986.

1. The authority citation for Part 3140 is added to read:

Authority: 30 U.S.C. 181 et seq.; 30 U.S.C. 351–359; 95 Stat. 1070; 43 U.S.C. 1701 et seq.

2. Part 3140 is amended by adding a new subpart 3142 to read:

PART 3140—[AMENDED]

Subpart 3142—Paying Quantities/Diligent Development

Sec.

3142.0–1 Purpose.
3142.0–3 Authority.
3142.0–5 Definitions.
3142.1 Diligent Development.
3142.2 Minimum production levels.
3142.2–1 Minimum production schedule.
3142.2–2 Advance royalties in lieu of production.
3142.3 Expiration.

Subpart 3142—Paying Quantities/ Diligent Development

§ 3142.0.1 Purpose.

This subpart provides definitions and procedures for meeting the production in paying quantities and the diligent development requirements for tar sand in all combined hydrocarbon leases.

§ 3142.0–3 Authority.

These regulations are issued under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and the Combined Hydrocarbon Leasing Act of 1981 (95 Stat. 1070).

§ 3142.0–5 Definitions.

As used in Part 3140 of this title, the term "production in paying quantities" means: (a) Production, in compliance with an approved plaln of operations and by nonconventional methods, of oil and gas which can be marketed; or (b) production of oil or gas by conventional methods as the term is currently used in Part 3160 of this title.

§ 3142.1 Diligent Development.

A lessee shall have met his/her diligent development obligation if:

(a) The lessee is conducting activity on the lease in accordance with an approved plan of operations; and

(b) The lessee files with the authorized officer, not later than the end of the eighth lease year, a supplement to the approved plan of operations which shall include the estimated recoverable tar sand reserves and a detailed development plan for the next stage of operations;

(c) The lessee has achieved production in paying quantities, as that term is defined in § 3142.0–5(a) of this title, by the end of the primary term; and

(d) The lessee annually produces the minimum amount of tar sand established by the authorized officer under the lease in the minimum production schedule which shall be made part of the plan of operations or pays annually advance royalty in lieu of this minimum production.

§ 3142.2 Minimum production levels.

§ 3142.2–1 Minimum production schedule.

Upon receipt of the supplement to the plan of operations described in § 3142.1(b) of this title, the authorized officer shall examine the information furnished by the lessee and determine if the estimate of the recoverable tar sand reserves is adequate and reasonable. In making this determination, the authorized officer may request, and the lessee shall furnish, any information that is the basis of the lessee's estimate of the recoverable tar sand reserves. As part of the authorized officer's determination that the estimate of the recoverable tar sand reserves is adequate and reasonable, he/she may consider, but is not limited to, the following: or grade, strip ratio, vertical and horizal continuity, extract process recoverability, and proven or unproven status of extraction technology, terrain, environmental mitigation factors, marketability of products and capital operations costs. The authorized officer shall then establish as soon as possible, but prior to the beginning of the eleventh year, based upon the estimate of the recoverable tar sand reserves, a minimum annual tar sand production schedule for the lease or unit operations which shall start in the eleventh year of the lease. This minimum production level shall escalate in equal annual increments to a maximum of 1 percent of the estimated recoverable tar sand reserves in the twentieth year of the lease and remain at 1 percent each year thereafter.

§ 3142.2–2 Advance royalties in lieu of production.

(a) Failure to meet the minimum annual tar sand production schedule level in any year shall result in the assessment of an advance royalty in lieu of production which shall be credited to future production royalty assessments applicable to the lease or unit.

(b) If there is no production during the lease year, and the lessee has reason to believe that there shall be no production during the remainder of the lease year, the lessee shall submit to the authorized officer a request for suspension of production at least 90 days prior to the end of that lease year and a payment sufficient to cover any advance royalty due and owing as a result of the failure to produce. Upon receipt of the request for suspension of production and the accompanying payment, the authorized officer shall approve a suspension of production for that lease year and the lease shall not expire during that year for lack of production.

(c) If there is production on the lease or unit during the lease year, but such production fails to meet the minimum production schedule required by the plan of operations for that lease or unit, the lessee shall pay an advance royalty within 60 days of the end of the lease year in an amount sufficient to cover the difference between such actual production and the production schedule required by the plan of operations for that lease or unit and the authorized officer shall direct a suspension of production for those periods during which no production occurred.

§ 3142.3 Expiration.

Failure of the lessee to pay advance royalty within the time prescribed by the authorized officer, or failure of the lessee to comply with any other provisions of this subpart following the end of the primary term of the lease, shall result in the automatic expiration of the lease as of the first of the month following notice to the lessee of its failure to comply. The lessee shall remain subject to the requirement of applicable laws, regulations and lease terms which have not been met at the expiration of the lease.

[FR Doc. 86–4530 File 2–28–86; 8:45 am]
BILLING CODE 4310–84–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 845

Transportation Accident/Incident Hearings and Reports; Practice Rules

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment to 49 CFR 845.13 requires parties to the Board's transportation accident hearings to select as their representatives qualified technical employees or members who do not occupy legal positions. This amendment would be similar to the condition that parties to aviation accident investigations be represented by suitable qualified technical personnel.

EFFECTIVE DATE: March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John M. Stuhldreher, General Counsel, National Transportation Safety Board, 800 Independence Avenue SW., Washington, DC 20594 (202–382–6540).

SUPPLEMENTARY INFORMATION: The Safety Board has established rules of practice in transportation accident hearings (Subparts A and B of 49 CFR Part 845). These rules permit the designation of parties to an accident hearing which is conditioned on among other things an entity's special knowledge which will contribute to the development of pertinent evidence. 49 CFR 845.13(a). This rule, however, does not specify that the party's representative at the hearing possess any specialized knowledge or expertise.

The Board's rules of procedure for aviation accident investigations require an entity as a prerequisite to being invited to participate in the investigation to provide "suitable qualified technical personnel" who will actively assist in the investigation. 49 CFR 831.9(a). Participants in nonaviation investigations are also represented by qualified technical personnel. Since the parties to a field investigation of an accident are virtually always also designated as parties to any hearing held in connection with the accident and since the hearing is an extension of the field investigation, the Board believes that ideally a person who represented a party during an earlier phase of the

investigation should serve as spokesperson for the party at the hearing. The direct ongoing participation of technical personnel will provide continuity through the accident inquiry. This amendment would require spokespersons to be employees or members of the party they represent because such personnel are most likely to possess an intimate knowledge and understanding of the functions, activities, operations or products of the party they represent and therefore would be in the best position to render assistance to the Board. The Board reserves the right to allow the Chairman of the Board of Inquiry to permit a nonemployee spokesperson in the exceptional case where due to the small size of its workforce a party is unable to provide an employee as a spokesperson. Since the Board expects that parties will rarely if ever be unable to proffer an employee as a representative, the Board will not at this time create a formal exception to the requirement that parties be represented at the hearing by an employee. An organization that the Board invites to participate in the investigation for the first time at the hearing likewise will be required to be represented by an employee possessing technical qualificlations.

Parties to the Board's field investigations are not represented by persons who occupy legal positions, but a few parties have had legal counsel serve as spokesperson at the hearing. This rule change will prevent the shifting from a technical representative during the field investigation to a legal representative at the hearing. Transportation accidents involve complex subject matter and technical issues. The Board's investigations of these accidents are conducted by the Board's staff of experts with assistance from the technical personnel of the parties. The purpose of the inquiry remains the same irrespective of the phase of the investigation, i.e., develop the facts, conditions, and circumstances of the mishap to enable the Board to determine the probable cause of the accident and to ascertain measures which will tend to prevent accidents and injuries. It is not the function of the Board's inquiries to determine the rights or liabilities of any person. The Board derives the greatest benefit from the insight and specialized knowledge of qualified technical personnel who represent parties, and the Board believes that parties invited to participate at a hearing should be represented by a person who theretofore participated in the investigation or at the very least an official who supervises such persons or an employee who possesses comparable technical qualifications and current work experience. Although the legal representatives of some parties to hearings have had transportation-related technical experience and have contributed to the hearing, the Board believes that persons who occupy technical rather than legal positions will be able to offer more to the Board and be more in keeping with the spirit and purposes of the inquiry.

Since this amendment is a rule of agency procedure and practice, the Board finds that notice and public procedure are not necessary, and the amendment can become effective less than 30 days from the date of publication in the **Federal Register**. This amendment will apply to accidents which occur after its publication.

Regulatory Flexibility

This rule is not subject to the Regulatory Flexibility Act because the notice and public comment procedure requirement of 5 U.S.C. § 553 do not apply.

List of Subjects in 49 CFR Part 845

Administrative practice and procedure, Hearing, Investigation, Safety, Transportation. Adoption of the Amendment.

Accordingly, 49 CFR Part 845 is amended as follows:

PART 845—[AMENDED]

1. The authority citation for Part 845 is revised to read as follows:

Authority: Title VII, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1441 *et seq.*; and the Independent Safety Board Act of 1974, Pub. L. 93-633, 88 Stat. 2166, 49 U.S.C 1901 *et seq.*

2. By adding the following new sentence to the end of § 845.13(a):

§ 845.13 Designation of Parties.

(a)* * * Parties shall be represented by suitable qualified technical employees or members who do not occupy legal positions.

Signed at Washington, D.C. on February 26, 1986.

Jim Burnett,

Chairman.

[FR Doc. 86-4474 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-58-M

Proposed Rules

Federal Register
Vol. 51, No. 41
Monday, March 3, 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

Agricultural Marketing Service

7 CFR Part 979

Melons Grown in South Texas; Proposed Amendment No. 5 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would exempt gift boxes of melons from the container requirements of the handling regulation. The containers currently required are too large for gift pack use. This action will permit melon shippers to serve a small but growing segment of the melon market that would not otherwise be available to them.

DATES: Comments due April 2, 1986.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U. S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250 (202) 475–3919.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajer" rule.

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

Marketing Agreement No. 156 and Order No. 979, regulate the handling of melons grown in designated counties in South Texas. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

Because requirements under this program have changed infrequently, in December 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in McAllen, Texas, on December 3, 1985, the committee recommended that the regulation continue but that gift boxes of melons be exempt from the container requirements of the handling regulation. The current handling regulation includes a requirement that all melons be packed in containers of specified dimensions. The usual cartons for cantaloups contain 40 pounds and those for honeydew melons 30 pounds, too large for gift-type packaging. Moreover, for the gift-pack market a range of sizes and configurations for containers is necessary. The packs may contain other items such as fruit, preserves or nuts; and a range of different sizes is more appropriate in order to offer consumers a wider selection. All other provisions of the handling regulation, including minimum grade requirements, will be applicable to such packages. Since gift packages must contain only the highest quality melons in order to command their price, there is little chance that this will be used as a "dumping ground" for melons of questionable grade. The committee believes this action will enable melon shippers to serve a small but developing market for gift packages.

Although the regulation proposed to be amended is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including and analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before March 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of South Texas melons would tend to effectuate the declared policy of the act.

It is hereby found and determined that providing more than 30 days notice with respect to this proposal is impractical, unnecessary and contrary to the public interest because the melon shipping season begins on May 1, and any regulatory amendment should become effective by that date.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 979 continues to read as follows:

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

2. Section 979.304 (47 FR 13118, March 29, 1982; 47 FR 24109, June 3, 1982; 48 FR 21881, May 16, 1983; 49 FR 15541, April 19, 1984; and 50 FR 10206, March 14, 1985) is hereby proposed to be further amended by adding a new paragraph (e)(4) as follows:

§ 979.304 Handling regulation

* * * * *

(e) *Special purpose shipments.* * * *

(4) The handling to any person of gift packages of melons not exceeding 25 pounds per package, individually addressed to such person and not for resale, is exempt from the container requirements of paragraph (b) of this section, but shall meet all assessment requirements of § 979.42 and the grade and inspection requirements of paragraphs (a) and (c) respectively of this section.

* * * * *

Dated: February 21, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–4463 Filed 2–28–86; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Parts 1068, 1065, and 1079

[Docket Nos. AO-178-A40, AO-86-A44, and AO-295-A37]

Milk in the Upper Midwest, Nebraska-Western Iowa, and Iowa Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: A public hearing will be held to consider proposals to amend the location adjustment provisions in each of the three orders. Such adjustments to Class I milk prices generally reflect the costs of moving milk from production areas to consuming centers. Interested persons in all Federal milk orders were invited to submit location adjustment proposals in response to the new Class I price differentials provided by the Food Security Act of 1985. Proposals for consideration at this hearing were submitted by dairy farmer cooperative associations and by milk processors.

DATE: The hearing will convene at 9:30 a.m. on April 8, 1986.

ADDRESS: The hearing will be held at The Thunderbird Motel, 2201 East 78th Street (Interstate Highway 494 and 24th Avenue South), Minneapolis (Bloomington), Minnesota 55420-1695, (612) 854-3411.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at The Thunderbird Motel, 2201 East 78th Street (Interstate Highway 494 and 24th Avenue South), Minneapolis (Bloomington), Minnesota, beginning at 9:30 a.m. on April 8, 1986, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions in each of the aforesaid specified marketing areas which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposals Nos. 1 through 15.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Parts 1068, 1065, and 1079

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Parts 1068, 1065, and 1079 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposals To Amend the Upper Midwest Order (Part 1068)

Proposed by Associated Milk Producers, Inc.

Proposal No. 1

Amend § 1068.52(a)(1) to read:

(1) Zone I shall include that territory, both inside and outside the marketing area, not included in Zones 2, 3, 4, and 5.

Proposal No. 2

Amend § 1068.52(a)(2) to read:

(2) Zone 2 shall include:

(i) The Minnesota counties of Aitkin, Becker, Benton, Big Stone, Carlton, Cass, Chippewa, Chisago, Crow Wing, Dodge, Douglas, Fillmore, Goodhue, Grant, Houston, Hubbard, Isanti, Kanabec, Kandiyohi, LeSueur, McLeod, Meeker, Mille Lacs, Morrison, Nicollet, Otter Tail, Pine, Pope, Renville, Rice, Sibley, Sherburne, Stearns, Steele, Stevens, Swift, Todd, Traverse, Wabasha, Wadena, Waseca, Wilkin, Winona, and Wright;

(ii) The Wisconsin counties of Burnett, Calumet, Columbia, Crawford, Douglas (except the city of Superior), Green Lake, Manitowoc, Pierce, Polk, Richland, St. Croix, Sauk, Vernon, and Winnebago;

(iii) The Michigan counties of Dickinson, Gogebic, Iron, and Menominee; and

(iv) The Iowa county of Allamakee.

Proposal No. 3

In § 1068.52, and a new paragraph (a)(5) as follows:

(5) Zone 5 shall include:

(i) The Minnesota counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lyon, Martin, Mower, Murry, Olmsted, Redwood, and Watonwan; and

(ii) The Iowa counties of Howard, Kossuth, Mitchell, Winnebago, Winneshiek, and Worth.

Proposal No. 4

Amend the tabular portion of § 1068.52(b) to read:

Zone	Adjustment per hundredweight
1	No adjustment.
2	Minus 6.
3	Minus 10.
4	Minus 16.
5	Plus 3.

Proposal by Mid-America Dairymen, Inc.

Proposal No. 5

Amend § 1068.52(a)(2) to read:

(2) Zone 2 shall include:

(i) The Iowa counties and Howard, Kossuth, Mitchell, Winnebago, Winneshiek, and Worth;

(ii) The Minnesota counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lyon, Martin, Mower, Murray, Olmsted, Redwood, and Watonwan.

Proposal No. 6

Amend § 1068.52(b) to read:

(b) For milk received at a plant from producers or a handler described in § 1068.9(c) and which is classified as Class I milk, the price specified in

§ 1068.50(a) shall be adjusted by the following amounts:

Zone	Adjustment per hundredweight
1	No adjustment.
2	Plus 7 cents.
3	Minus 10 cents.
4	Minus 16 cents.

Proposed by National Farmers' Organization, Inc.

Proposal No. 7

Revise § 1068.52(a)(2)(i) by adding "Lac qui Parle" County, and add a new paragraph (v) as follows:

(v) The South Dakota counties of Brown, Day, Edmunds, Grant, Marshall, McPherson, Roberts, and Walworth.

Proposals To Amend the Nebraska-Western Iowa Order (Part 1065)

Proposed by Gillette Dairy, Inc.

Proposal No. 8

In § 1065.52(a)(1), remove Boone, Madison, and Stanton counties from Zone 1.

Proposal No. 9

In § 1065.52(b)(3), eliminate Norfolk, Nebraska, as a basing point for computing location adjustments.

Proposed by Mid-America Dairymen, Inc.

Proposal No. 10

Amend § 1065.52 (a) and (b) as follows:

a. In paragraph (a)(1), delete Madison and Stanton Counties and add Washington County in Nebraska.

b. Add a new paragraph (a)(3) to establish a new Zone 3 consisting of Antelope, Burt, Cuming, Holt, Madison, Pierce, Stanton, Thurston, and Wayne Counties in Nebraska.

c. Add a new paragraphs (a)(4) to establish a new Zone 4 consisting of Dakota and Dixon counties in Nebraska and Plymouth and Woodbury counties in Iowa.

d. Revise paragraph (b) to read as follows:

(b) For producer milk received at a pool plant (or diverted to a nonpool plant) and which is classified as Class I milk without movement in bulk form to a pool plant at which a higher Class I price applies, the Class I price specified in § 1065.50(a) shall be adjusted for the location of the plant receiving the milk as follows:

(1) In Zone 1, no adjustment;

(2) In Zone 2, plus 15 cents;

(3) In Zone 3, minus 10 cents;

(4) In Zone 4, minus 20 cents; and

(5) At a plant located outside of Zones 1, 2, 3, and 4 and in the States of Nebraska, Iowa, Minnesota, North Dakota, South Dakota (east of State Highway 73 only), or Wisconsin, the price shall be reduced by 2.0 cents per 10 miles or fraction thereof (by shortest hard-surfaced highway as measured by the market administrator) that such plant is located from the city hall in Omaha, Nebraska; and

(6) At any other location, no adjustment.

Proposed by Neu Cheese Company and Orchard Dairy, Inc.

Proposal No. 11

Amend § 1065.52(a)(1) and (b) as follows:

In paragraph (a)(1), add Antelope, Pierce, Cedar, Dixon, Dakota, Thurston, Cuming, Burt, Washington, and Wayne counties in Nebraska and Plymouth and Woodbury counties in Iowa, to Zone 1; and

In paragraph (b), delete Norfolk, Nebraska, as a basing point for computing location adjustments.

Proposed by Wells Dairy, Inc.

Proposal No. 12

Amend § 1065.52(b)(3) by changing "1.5" to "2.8."

Proposals To Amend the Iowa Order (Part 1079)

Proposed by Mid-America Dairymen, Inc.

Proposal No. 13

Amend § 1079.52(b)(3) by changing "1.5" to "2.0."

Proposed by National Farmers' Organization, Inc.

Proposal No. 14

In § 1079.52, revise paragraphs (a) and (b) to read as follows:

(a) The following zones are defined for the purpose of determining location adjustments:

(1) Zone 1 shall include that terrirtory, both inside and outside the marketing area, not included in Zones 2 through 5.

(2) Zone 2 shall include:

(i) The Iowa counties of Benton, Cedar, Clinton, Iowa, Johnson, Jones, Keokuk, Linn, Louisa, Marshall, Muscatine, Poweshiek, Scott, Tama, and Washington; and

(ii) The Illinois counties of Henry, Mercer, and Rock Island.

(3) Zone 3 shall include:

The Iowa counties of Black Hawk, Brenner, Buchanan, Butler, Cerro Gordo, Chickasaw, Delaware, Dubuque, Fayette, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Jackson, Webster, and Wright.

(4) Zone 4 shall include:

The Iowa counties of Alamakee, Clay, Clayton, Dickinson, Emmet, Howard, Kossuth, O'Brien, Osceola, Palo Alto, Pocahontas, Winnebago, and Winneshiek.

(5) Zone 5 shall include:

The States of Minnesota and Wisconsin and that portion of the State of Illinois that is north of Interstate 80.

(b) For milk received at a plant from producers or from a handler described in § 1079.9(c) and which is classified as Class I milk without movement in bulk to a pool plant at which a higher Class I price applies, the price specified in § 1079.50(a) shall be adjusted as follows:

(1) In Zone 1, no adjustment;

(2) In Zone 2, minus 10 cents;

(3) In Zone 3, minus 20 cents;

(4) In Zone 4, minus 30 cents; and

(5) In Zone 5, the price shall be reduced by the greater of 30 cents or an amount equal to 2.0 cents for each 10 miles or fraction thereof (by shortest hard-surfaced highway distance as measured by the market administrator) that such plant is located from the Post Office in Des Moines, Iowa.

Proposed by the Dairy Division, Agricultural Marketing Serrvice

Proposal No. 15

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrator of each of the aforesaid specified marketing areas, or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture

Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator of each of the aforesaid specified Marketing Areas

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on: February 25, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-4462 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Loan and Grant Programs; Servicing and Collections

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Community Facilities loan and grant servicing regulations to implement Pub. L. 99-88. This proposed action is being taken to comply with Title 1 of Pub. L. 99-88 which gives certain FmHA Water and Waste Disposal (WWD) and Community facility (CF) borrowers a choice of the interest rates on their loans. The law applies to WWD and CF loans closed or approved after November 12, 1983. The intended effect of this proposed action is to establish the procedures for FmHA to service those loans closed after November 12, 1983, in which the borrower requests a change of loan interest rate.

DATES: Comments must be submitted on or before April 2, 1986.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Building, 14th and Independence Avenue SW., Washington, DC 20250. All comments received in a timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:15 a.m. and 4:45 p.m. The collection of information requirements contained in this rule have been submitted to Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980. Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Bonnie Justice, Loan Specialist, Community Facilities Division, (202) 382-1490, or William F. Hagy, Loan Specialist, Water and Waste Disposal Division, (202) 382-9636, Farmers Home Administration, USDA, South Building, 14th and Independence Avenue SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be "non-major" since the annual effect of the economy is less than $100 million and there will be no significant increase in cost or price for consumers, individual industries; Federal, State, or Local Government agencies; or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This proposed action is not expected to substantially affect budget outlay or to affect more than one agency or to be controversial. The net result is expected to provide better service to rural communities.

This program/activity is listed in the Catalog of Federal Domestic Assistance under Nos. 10.416 and 10.423 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and Local officials. (49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985)

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

This action implements FmHA's servicing of loans and grants closed since November 12, 1983, when the borrower requests a change of interest rate. These loans and grants assist in financing the development costs of community facilities and domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users.

Pub. L. 99-88 requires that effective November 12, 1983, and thereafter, upon request of the borrower, the interest rate charged by FmHA to WWD and CF borrowers shall be the lower of the rates in effect at either the time of loan approval or loan closing and any FmHA grant funds associated with such loans shall be set in the amount based on the interest rate in effect at the time of loan approval. Until Pub. L. 99-88, WWD and CF borrowers did not have a choice of the interest rate on their loans. The interest rate was established on the date of loan approval and the loan was closed at that rate.

FmHA proposes to add a provision to Subpart E of Part 1951 to service loans closed after November 12, 1983, to allow borrowers to request that their interest rate be changed and to administratively accomplish the resulting change in interest rate for WWD and CF loans. This action will bring existing FmHA Community Facility servicing regulations into compliance with Pub. L. 99-88.

FmHA amends Subpart E of Part 1951 by adding § 1951.221 to authorize that, upon request of the borrower, FmHA will change the interest rate on a closed WWD or CF loan.

List of Subjects in 7 CFR Part 1951

Account servicing; Grant programs—Housing and community development; Loan programs—Housing and community development; Reporting requirements; Rural areas.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Section 1951.221 is added and reads as follows:

§ 1951.221 Special provision for interest rate change.

(a) *General.* Pub. L. 99-88 provides that effective November 12, 1983, and thereafter, upon request of the borrower, the interest rate charged by FmHA to water and waste disposal and community facilities borrowers shall be the lower of the rates in effect at either the time of loan approval or loan closing and any FmHA grant funds associated with such loans shall be set in the amount based on the interest rate in effect at the time of loan approval.

Loans closed November 12, 1983, through October 25, 1985, were closed at the interest rate in effect at the time of loan approval and that interest rate is reflected in the borrower's debt instrument. For community facility and water and waste disposal loans closed on or after November 12, 1983, and for which the interest rate in effect at the time of loan closing is lower than the interest rate in effect at the time of loan approval, the borrower may request to be charged the lower interest rate. Loans closed after October 25, 1985, where the borrower was given a choice of interest rate in accordance with Part 1942, Subpart A of this Chapter, will not be serviced under this Subpart. Loans meeting the criteria of this section that have been paid in full are eligible for the borrower to request the lower interest rate. For loan(s) that involved multiple advances of FmHA funds using temporary debt instruments, wherein the borrower requests the interest rate in effect at loan closing, the interest rate charged shall be the rate in effect on the date when the first temporary debt instrument was issued.

(b) *Notification to borrower and borrower selection of interest rate.* (1) FmHA servicing officials will notify each borrower meeting the provisions of this section of the availability of a choice of interest rate. The notification will be made in writing at the earliest possible date and mailed by certified mail, return receipt requested. Borrowers will be advised at the time of notification that if a change of interest rate is requested, the change will be accomplished administratively by FmHA. The effect of the change on the loan account will also be fully explained to the borrower.

(2) Borrowers should notify FmHA within 90 calendar days of the date of FmHA notification indicating the borrower's election to retain the interest rate in effect at loan approval or to change the interest rate to the rate in effect at the time of loan closing. If FmHA receives no reply from the borrower within the 90 day period, FmHA will not consider a borrower's future request for a lower interest rate under the provisions of this subpart.

(c) *Processing loan interest rate change.* The State Director is authorized to approve loan interest rate changes which meet the requirements of this section. Loan interest rate changes will be accomplished as follows:

(1) All loan payments already made to the loan account(s) will be revsered and reapplied, by FmHA, utilizing the changed interest rate. The balance of loan payments after the completion of the reversal and reapplication procedures will be applied to principal.

(2) For paid-in-full accounts which meet the criteria of § 1951.221(a) of this subpart, the balance of loan payments after completion of the reversal and reapplication procedures will be returned to the paid-in-full borrower as a refund unless the borrower is delinquent on another FmHA loan of the same type, in which case the refund will be applied to the delinquent account.

(3) The FmHA Finance Office will administratively change the interest rate on a borrower's account in accordance with the notification from the FmHA servicing official. The installment schedule as set forth in each borrower's debt instrument will not change. The original principal schedule for principal-plus-interest accounts where principal *only* is stipulated will continue to be used for payment calculation by the Finance Office. Amortized accounts will adhere to the original payment schedule and amount.

(4) A borrower with an amortized account, who has requested a change of interest in accordance with this subpart and FmHA has accomplished this change by an administrative adjustment to the loan account, yet a reduction in installment amounts is needed to provide for a sound operation, may request FmHA to consider a reamortization of the account in accordance with § 1951.207(f) of this subpart.

Dated: January 10, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86-4544 Filed 3-28-86; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Inspection Service

9 CFR Parts 317, 318, and 381

[Docket No. 84-020R]

Total Plant Quality Control for Labeling; Reopening of Comment Period

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed Rule; reopening of comment period.

SUMMARY: On September 25, 1985, the Food Safety and Inspection Service (FSIS) published a proposed rule to expand the concept of generically approved labeling of meat and poultry products for those establishments operating a USDA-approved Total Quality Control system which can develop an acceptable plan for controlling the labeling of their products. FSIS received several requests to extend the comment period to allow more time for reviewing and evaluating the proposal, and therefore, on November 21, 1985, FSIS extended the comment period for an additional 60 days. The comment period closed on January 24, 1986.

FSIS has received a request from the Western States Meat Association to reopen the comment period to allow additional time to study the proposal and submit comments. The Agency has determined that it will reopen the comment period for 45 additional days.

DATE: Comments must be received on or before April 17, 1986.

ADDRESS: Written comments to: Policy Office, Attn: FSIS Hearing Clerk Room 3803, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION: On September 25, 1985, FSIS published a proposed rule in the **Federal Register** (50 FR 38824) to amend the Federal meat and poultry products inspection regulations to expand the concept of generically approved labeling of meat and poultry products for those establishments operating a USDA-approved Total Quality Control system which can develop an acceptable plan for controlling the labeling of their products. On November 21, 1985, (50 FR 48096), FSIS extended the comment period for 60 days.

FSIS has received a request from the Western States Meat Association to reopen the comment period to allow additional time to study the proposal and submit comments. FSIS is interested in receiving additional data on this proposal and has, therefore, determined that there is sufficient justification for reopening the comment period for 45 days.

Done at Washington, DC, on February 25, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-4464 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWP-3]

Proposed Alteration of VOR Federal Airway V-5 and Establishment of V-1, Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Federal Airway V-5 and establish V-1 located in the vicinity of Kona, HI. This action would support FAA's agreement with the International Civil Aviation Organization (ICAO) to revoke all alternate airways from the National Airspace System (NAS). This action would also simplify flight planning between Kahului and Keahole Airports.

DATES: Comments must be received on or before April 18, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWP-3, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

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-AWP-3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter Federal Airway V-5 located in the vicinity of Kona, HI, by revoking alternate airway V-5W and renaming that segment V-1. This action would support our agreement with ICAO to eliminate all alternate airways in our NAS. Section 71.127 of Part 71 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 71

Aviation safety, VOR Federal Airways.

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

2. § 71.127 is amended as follows:

V-5 [Revised]

From Kona, HI, to INT Kona 338°T(327°M) and Maui, HI, 179°T(168°M) radials; to Maui.

V-1 [New]

From Kona, HI, via INT Kona 323°T(312°M) and Maui, HI, 179°T(168°M) radials; INT Maui 179°T(168°M) and Upolu Point, HI, 305°T(294°M) radials; INT Maui 197°T(186°M) and Upolu Point 305°T(294°M) radials; to Maui.

Issued in Washington, DC, on February 24, 1986.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-4442 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 73

[Airspace Docket No. 85-ASO-16]

Proposed Revocation, Realignment and Establishment of Restricted Area, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM); extension of comment period.

SUMMARY: This notice announces extension of the comment period on an NPRM which proposes to revoke, realign, establish and increase the size of three Restricted Areas in eastern

North Carolina. This second extension is at the request of the state of North Carolina.

DATES: Comments must be received on or before March 18, 1986.

ADDRESS: Direct comments to: Director, FAA Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85–ASO–16, Federal Aviation Agency, P.O. Box 20636, Atlanta, Georgia 30320.

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

SUPPLEMENTARY INFORMATION:

Background

Airspace Docket No. 85–ASO–16, published on December 16, 1985, (50 FR 51260) proposed to redesignate and realign R–5301, Albemarle Sound, NC, and R–5302, Harvey Point, NC. Additionally, an increase in the size of R–5313 is proposed. The Continental Control Area would be adjusted according to these actions and the Stumpy Point Military Operations Area would no longer be required and would be cancelled. A previous extension of comment period was published in the **Federal Register** on January 31, 1986 (51 FR 3992). In response to a second request from the state of North Carolina, this action extends the comment period closing date to allow for a 90-day comment period instead of the existing 75-day comment period on Airspace Docket No. 85–ASO–16.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area and restricted area.

Extension of Comment Period

The comment period for Airspace Docket No. 85–ASO–16 is extended to close on March 18, 1986.

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, 1985); 14 CFR 11.69.)

Issued in Washington, DC, on February 24, 1986.

Shelomo Wugalter,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–4440 Filed 2–28–86; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Minimum Financial and Related Requirements for Futures Commission Merchants and Introducing Brokers; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Extension of the comment period.

SUMMARY: On August 5, 1985, the Commodity Futures Trading Commission ("Commission") published proposed amendments to the minimum financial and related requirements for futures commission merchants ("FCMs") and introducing brokers ("IBs") (50 FR 31612), and allowed sixty days for public comment thereon, until October 4, 1985. By letters dated August 28 and 29, 1985, two exchanges requested a sixty-day extension of the comment period. The Commission subsequently extended the comment period for thirty days, to November 4, 1985. 50 FR 39133 (September 27, 1985). By letters dated September 26 and October 10, 1985, an exchange requested a further extension of the comment period, noting that in conjunction with other exchanges, it was in the process of analyzing data essential to responding to the issues raised in the Commission's proposals. The Commission subsequently extended the comment period for an additional four months, until March 5, 1986, with respect only to the proposal to require FCMs to calculate a concentration charge in computing their adjusted net capital. 50 FR 45831 (November 4, 1985).

The Commission has reviewed approximately ninety comments already received on its financial rule proposals. Based upon that review, and before proceeding further, the Commission subsequently determined to reopen the comment period on the other August 5 financial rule proposals until March 5, 1986 in order to permit commenters to address among other things certain other commenters' suggested alternatives. 50 FR 49859 (December 5, 1985). The Commission noted, however, that its reopening of the comment period did not foreclose the Commission either from electing to treat each of the various financial rule proposals separately, as it had previously indicated, or from determining based upon all comments submitted that two or more of the items may be considered together.

By letter dated February 24, 1986, an industry trade association requested an additional thirty-day extension of the comment period, until April 4, 1986. The trade association stated that it is diligently exploring an alternative approach to the Commission's concentration charge proposal but does not anticipate that with work will be completed by March 5, 1986. Since the Commission remains interested in exploring reasonble alternatives to its proposals and recognizes the complexity of this undertaking, the Commission has determined that an additional extension of the comment period is warranted.

DATES: Notice is hereby given that all comments on the proposed amendments to the minimum financial and related requirements for FCMs and IBs published on August 5, 1985 must be submitted by April 4, 1986.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Gary C. Miller, Assistant Chief Accountant, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Telephone (202) 254–8955.

Issued in Washington, DC on February 25, 1986 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4432 Filed 2–28–86; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 134

Country-of-Origin Marking Requirement on Orange Juice Containers; Request for Comment and Notice of Hearing

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Solicitation of public comments and notice of public hearing.

SUMMARY: Customs is soliciting the view of the public regarding an implementation date for a requirement that labels on frozen concentrated and reconstituted orange juice products which contain imported concentrate be marked to show the foreign country-of-origin of the products. The requirement for marking the products was recently upheld by the Court of International Trade, but Customs was directed by the

Court to seek comments from all interested parties before reaching a decision on an effective date for the requirement.

DATE: Comments (preferably in triplicate) must be received on or before April 2, 1986.

ADDRESS: Comments may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, Room 2426, 1301 Constitution Avenue NW., Washington, DC 20229 (202–566–8237).

FOR FURTHER INFORMATION CONTACT: Lorrie Rodbart, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202–566–5765).

SUPPLEMENTARY INFORMATION:

Background

Customs is requesting the views of the public in regard to the earliest practicable implementation date for a requirement that containers of orange juice in frozen concentrated or reconstituted forms, which contain imported concentrate, must be labeled to comply with the country-of-origin marking requirements of section 304, Tariff Act of 1930, as amended (19 U.S.C. 1304).

In response to a formal request, Customs published a ruling dated September 4, 1985, in the Customs Bulletin of September 25, 1985 (C.S.D. 85–47, 19 Cust. Bull. No. 39 at 21), stating that retail packages of orange juice containing imported concentrate must be marked. The rationale for that decision is discussed in detail in the cited decision. That ruling was to be implemented for affected products entered for consumption or withdrawn from warehouse on or after January 1, 1986.

That implementation date was extended to March 1, 1986, by a notice published in the December 11, 1985, Customs Bulletin (19 Cust. Bull. No. 50). The extension decision took into account the ruling's perceived economic impact on the manufacturing public, as well as the right of ultimate purchasers of affected juice products to be fully informed about the origin of those products. The March 1, 1986, date was nearly 6 months after the initial ruling had been issued, and was considered reasonable.

In a recent case brought by the National Juice Products Association, *et al.* challenging C.S.D. 85–47, *National Juice Products Association* v. *United States*, ___CIT___, Slip Op. 86–13 (January 30, 1986), the Court of International Trade held that C.S.D. 85–47 was substantively valid. The Court, however, remanded the case to Customs for reconsideration of the effective date. The Court directed Customs to adhere to the notice and comment provisions of § 177.10(c)(2), Customs Regulations (19 CFR 177.10(c)(2)), and to carefully consider all possible issues relating to a reasonable time to implement the new ruling.

Accordingly, Customs is soliciting comments related to the implementation date. Of particular interest is any information concerning the time it generally takes suppliers to provide new or changed labels and cans to the packagers of orange juice products, as well as the quantity of labels and printed retail containers usually kept in inventory. We also seek information as to whether the industry has already taken steps to procure new labels which satisfy the requirements of C.S.D. 85–47.

Public Hearing

A public hearing will be held on this matter on March 28, 1986, commencing at 9:30 a.m. in Room 3428, Customs Service Headquarters.

Comments

Before making a determination on this matter, Customs will consider any written comments timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9 a.m. and 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved:

William von Raab,

Commissioner of Customs.

David D. Queen,

Assistant Secretary of the Treasury.

February 21, 1986.

[FR Doc. 86–4592 Filed 2–28–86; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–86–01]

Special Local Regulations for Norfolk Harborfest

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule making.

SUMMARY: The Coast Guard is considering proposal that would establish special local regulations for the City of Norfolk Harborfest, an annual weekend event held between the third weekend in May and the third weekend in June. Annual notice of the precise dates and times of these regulations will be published in the Local Notice to Mariners. These special local regulations are considered necessary to control vessel traffic due to the confined nature of the waterway and the expected congestion at the time of the events. The intended effect will be to restrict general navigation in the Port Norfolk and Town Point Reach sections of the Elizabeth River for the safety of spectators and participants in the events.

DATES: Comments must be received on or before April 17, 1986.

ADDRESSES: Comments should be hand delivered, or mailed to Commander (bb), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. The comments will also be available for inspection and copying at Room 209 of this address. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Billy J. Stephenson, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, 431 Crawford Street, Portmouth, Virginia 23704–5004 (804–398–6204).

SUPPLEMENTARY INFORMATION: Interested persons are invited to particpate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 05–86–01) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be

considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Boating Safety Division, Fifth Coast Guard District, and LCDR Walter J. Brudzinski, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Proposed Regulation

These regulations are necessary due to the confined nature of the waterway and the expected congestion at the time of the various events. The area subject to the special local regulations is identifical to that area which has been subject to the regulations for previous Norfolk Harborfests. The special regulations are also substantially the same as those established in the past. Norfolk Harborfest is an annual, weekend event designed to promote and enhance the city of Norfolk's nautical heritage. The events held are a combination of land and water events centered about the downtown portion of Norfolk and typically include speedboat races, air-sea rescue demonstrations by the Coast Guard, demonstrations of military vessels and riverine warfare craft, and fireworks displays. The celebrations have also included a parade of sailing ships into the Harborfest area and subsequent open house periods for public viewing of the ships. The events have drawn large numbers of boats to the Town Point Reach area creating congestion.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Its economic impact is expected to be minimal since, as in the past, closure of the waterway for any extended period is not anticipated and thus commercial traffic should not be severely disrupted at any given time. Comments received concerning past Harborfests indicate that commercial interests normally using the waterways can adapt to the minor restrictions they may encounter. Therefore, a full regulatory evaluation is unnecessary. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 USC 1233; 49 CFR 1.46 and 33 CFR 100. 35).

2. A new Section 100.501 is added to part 100 to read as follows:

§ 100.501. Norfolk Harborfest, Elizabeth River, Norfolk, Virginia.

(a) *Effective Dates of Regulations:* These regulations will be effective for one weekend, Friday through Sunday, during a period between the third weekend in May and the third weekend in June. Annual notice of the precise dates and times will be published in the Local Notice to Mariners.

(b) *Regulated Area:* Except those waters designated as spectator vessel areas in paragraph (c), the waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn over the Midtown Tunnel, located in the Port Norfolk Reach section of the Elizabeth River between Pinners Point at latitude 36°51'26.0" N., longitude 76°18'59.0" W. and the northeast shore of the Elizabeth River at latitude 36°51'39.5" N., longitude 76°18'36.5" W., to the south by a line drawn over the Downtown Tunnel, located in the Lower Reach section of the Elizabeth River, between the western shore of the Southern Branch of the Elizabeth River in Portsmouth, Virginia at latitude 36°49'57.0" N., longitude 76°17'46.0" W., and the eastern shore at latitude 36°49'56.5" N., longitude 76°17'34.5" W., and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50'21.5" N. longitude 76°,17'14.5" W. and Norfolk at latitute 36°50'35.0" N., longitude 76°17'10.0" W.

(c) *Specator Vessel Areas:*

(1) The waters adjacent to the Town Point Reach section of the Elizabeth River, bounded by the shore and line drawn between Hospital Point located at latitude 36'50'50.5" N., longitude 76'18'09" W., and the tip of the channelside pier at the Holiday Inn Marina, located at latitude 36'50'29" N., longitude 76'17' 52.5" W.

(2) The waters adjacent to the Port Norfolk Reach section of the Elizabeth River, bounded by the shore and a line drawn between Hospital Point located at latitude 36'50'55" N., longitude 76'18' 14.5" W. and the tip of the southern most railroad pier at Port Norfolk located at latitude 36'51'14.5" N., longitude 76'18'44" W.

(d) *Coast Guard Patrol Commander:* The Coast Guard Patrol Commander is a commissioned officer of the Coast Guard, who has been designated by Commander, Fifth Coast Guard District. The Coast Guard Patrol Commander will be stationed at the Town Point reviewing platform.

(e) *Special Local Regulations:*

(1) Except for participants in the Norfolk Harborfest and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The Coast Guard Patrol Commander may stop a Norfolk Harborfest event to allow vessels to transmit the regulated area via the main channel.

(3) The operator of any vessel in the regulated areas shall:

(i) stop his vessel immediately when directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard ensign; or

(ii) proceed as directed by any Coast Guard officer or petty officer.

(4) Spectator vessels may anchor in the two designated anchorage areas.

Dated: February 20, 1986.

James C. Irwin,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 86-4552 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 110

[CGD3 85-56]

Anchorage Grounds, New London Harbor, CT

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish two additional anchorage grounds at the mouth of the Thames River, New London, CT. The two anchorages are to the east of major shipping tracklines, approximately one mile southeast of New London Ledge Light. Anchorage E is being proposed for general use, while

Anchorage F will be exclusively for naval vessels. These anchorages are deemed necessary because of the need for a deeper anchorage for large vessels using the Thames River. A separate naval anchorage will safeguard both naval vessels and commercial vessels from unnecessary risk of collision.

DATES: Comments must be received on or before April 17, 1986.

ADDRESSES: Comments should be mailed to Captain of the Port, New London, Fort Trumbull, New London, CT 06320. The comments and other materials referenced in this notice will be available for inspection and copying at Coast Guard Station New London, CT. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ensign Jon Hammond, (203) 442–4471.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CDG3 85–56) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard to envelope is enclosed. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Ensign Jon Hammond, Port Operations Officer, Captain of the Port New London CT, and Ms. M.A. Arisman, project attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The New London Pilots Association, New England Pilots Association and other interests requested that an additional anchorage by established at the mouth of the Thames River. The consensus of these groups was that the existing anchorages were suitable for smaller vessels and should be kept for their use. However, it was felt that these anchorages do not provide the depths required for large freighters and tankers which use the Thames River. An additional concern was that Anchorage D, located between Bartlett Reef and Rapid Rock, was a hazardous area in which to maneuver and anchor a large vessel, particularly in a southerly and onshore wind. Proposed Anchorage E is in deeper water and to the east of shipping and ferry track-lines.

The U.S. Navy, COMSUBGRU TWO, is also concerned with the safety of anchoring a large vessel in the existing anchorages and feels that an anchorage should be establishd for general use as well as one for sole naval use. The majority of vessels using this anchorage would be submarines, which have different tending characteristics at anchor than surface ships and are difficult to see due to dark color and a minimal amount of surface area. It is for the safety of both civilian and naval vessels alike that Anchorage F would be established south of Anchorage E with a buffer beteen them.

This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of Part 110.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will provide defined anchorage areas for vessels awaiting berthing on the Thames River and for naval vessels. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in Section 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. In § 110.147 paragraphs (a) (5) and (6) are added to read as follows and paragraph (b)(2) is redesignated as (b)(3) and new (b)(2) is added to read as follows:

§ 110.147 New London Harbor, Conn.

(a) * * *

(5) *Anchorage E.* The waters at the mouth of New London Harbor one mile southeast of New London Ledge Light beginning at latitude 41°17′26″ N., longitude 72°04′21″ W.; thence northeasterly to latitude 41°17′38″ N., longitude 72°03′54″ W.; thence southeasterly to latitude 41°16′50″ N., longitude 72°03′16″ W.; thence southwesterly to latitude 41°16′38″ N., longitude 72°03′43″ W.; and thence northwesterly to the point of beginning.

(6) *Anchorage F.* The waters off the mouth of New London Harbor two miles southeast of New London Ledge Light beginning at latitude 41°16′00″ N., longitude 72°03′13″ W.; thence westerly to latitude 41°16′00″ N., longitude 72°03′38″ W.; thence northerly to latitude 41°16′35″ N., longitude 72°03′38″ W.; thence easterly to latitude 41°16′35″ N., longitude 72°03′13″ W.; and thence southerly to the point of beginning.

(b) * * *

(2) Anchorage F is reserved for the use of naval vessels and, except in cases of emergency, no other vessel may anchor in Anchorage F without permission from the Captain of the Port, New London CT.

* * * * * *

Dated: February 18, 1986.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86–4553 Filed 2–28–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 110

[CGD3 85–67]

Special Anchorage Area; Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rule making.

SUMMARY: The Coast Guard is considering a proposal to establish an additional special anchorage area on the Thames River, New London CT, 125 yards north of the Gold Star Highway bridge, adjacent to the western shore. Because of the crowded conditions in the other special anchorages on the Thames River, consideration is being given to creating an additional area to ease the burden of securing a safe anchorage.

DATES: Comments will be received on or before April 17, 1986.

ADDRESSES: Comments should be mailed to Captain of the Port, New London, Fort Trumbull, New London, CT

06320. The comments and other materials referenced in this notice will be available for inspection and copying at Coast Guard Station, New London, CT. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ensign Jon Hammond, (203) 442–4471.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 85–67) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The regulations may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Ensign Jon Hammond, Port Operations Officer, Captain of the Port, New London, CT, and Ms. M.A. Arisman, project attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations

The City of New London, CT, has asket that an additional special anchorage be created to relieve crowded conditions in the other special anchorages in the area. These areas become especially hazardous during the numerous waterborne events that are sponsored by the City each summer. Abutting property owners, shell fishing interests, the Harbor Master and the U.S. Navy COMSUBGRU TWO, have been consulted and have no objections to this proposal. The Superintendent of the U.S. Coast Guard Academy was concerned that the anchorage would interfere with Academy sailing activities in the northeast section of the proposed anchorage. The northeast section is the furthest part of the area from public launch ramps, and the utilization of that area for anchorages is expected to be light, with the impact on Academy sailing to be minimal. It is expected that the majority of vessels using the special anchorage will be recreational boats. Both state and municipal launch ramps are convenient to the site.

This regulation is issued pursuant to 33 U.S.C. 2030, 2035, and 2070 as set out in the authority citation for all of Part 110.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will provide a defined special anchorage area for local mariners as well as for mariners traveling upriver. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 110 of Title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46; and 33 CFR 1.05–1(g). Section 110.1a and each section listed in § 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. In § 110.52 paragraph (d) is added to read as follows:

§ 110.52 Thames River, New London, CT

* * * * *

(d) *Area No. 4.* An area in the western part of the Thames River, north of the highway bridge, bounded as follows: Beginning at a point 125 yards north of the highway bridge at latitude 41°21'56", longitude 72°05'32"; thence easterly to latitude 41°21'56", longitude 72°05'27"; thence northerly to latitude 41°22'12", longitude 72°05'27"; thence westerly to latitude 41°22'12", longitude 72°05'47"; thence southeasterly to latitude 41°22'02", longitude 72°05'40"; thence downriver along the charted foul grounds to the point of beginning.

Dated: February 18, 1986.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86–4554 Filed 2–28–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–2960–7]

Standards of Performance for New Stationary Sources; Addition of Alternative Procedure (Critical Orifices as Calibration Standards) to Method 5, Appendix A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this proposed rule is to add an alternative procedure to Method 5. The alternative is a calibration procedure using critical orifices as calibration standards instead of a wet test meter. The intended effect of these revisions is to reduce the cost of calibration without sacrificing accuracy. This alternative would apply to all sources where regulations specify the use of Method 5 equipment for determining particulate matter or other pollutants.

A public hearing, if requested, will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule

DATES: *Comments.* Comments must be received on or before May 16, 1986.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by March 21, 1986, a public hearing will be held on April 23, 1986, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Candace Sorrell at (919) 541–2237 to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by March 21, 1986.

ADDRESSES: *Comments.* Comments should be submitted (n duplicate if possible) to: Central Docket Section (LE–131), Attention Docket Number A–

85-25, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at the Emission Measurement Lab, Research Triangle Park. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Candace Sorrell, Emission Measurement Branch (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

Docket. Docket No. A-85-25, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Sorrell or Mr. Roger Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-2237.

Miscellaneous

This rulemaking does not impose any additional emission measurement requirements on facilities affected by this rulemaking. Rather, this rulemaking revises the test method to which the affected facilities are already subject.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have any economic impact on small entities because this rule does not impose any additional requirements.

Dated: February 24, 1986.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

It is proposed that Method 5 of Appendix A of 40 CFR Part 60 be amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sec. 101, 111, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

Appendix A—[Amended]

2. By adding a new section 7.2 to Method 5 as follows:

7. *Alternative Procedures.*

* * * * *

7.2 Critical Orifices As Calibration Standards. The critical orifices may be used as calibration standards in place of the wet test meter specified in Section 5.3, provided that they are selected, calibrated, and used as follows:

7.2.1 Selection of Critical Orifices.

7.2.1.1 Hypodermic needle or stainless steel needles tubings are suitable for use as critical orifices. Select five critical orifices that are appropriately sized to cover the range of flow rates between 10 and 34 liters/min or the expected operating range. Two of the critical orifices should bracket the range. A minimum of three critical orifices will be needed to calibrate a Method 5 dry gas meter (DGM); the other two critical orifices can serve as spares and provide better selection for bracketing the range of operating flow rates. The needle sizes and tubing lengths shown below give the following approximate flow rates:

Gauge/cm	Flow rate (liters/min)	Gauge/cm	Flow rate (liters/min.)
12/7.6	32.56	14/2.5	19.54
12/10.2	30.02	14/5.1	17.27
13/2.5	25.77	14/7.6	16.14
13/5.1	23.50	15/3.2	14.16
13/7.6	22.37	15/7.6	11.61
13/10.2	20.67	15/10.2	10.48

7.2.1.2 These needles can be adapted to a Method 5 type sampling train as follows: Insert a serum bottle stopper, 13-by 20-mm sleeve type, into a ½-inch Swagelock quick connect. Insert the needle into the stopper as shown in Figure 5-9.

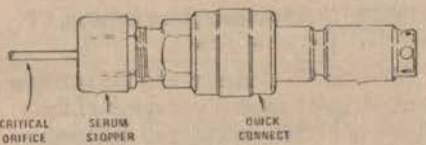


FIGURE 5-9. Critical orifice adaptation to Method 5 metering system.

7.2.2 Critical Orifice Calibration.

7.2.2.1 Calibration of meter box. The critical orifices must be calibrated in the same configuration as they will be used, i. e., there should be no connections to the inlet of the orifice.

7.2.2.1.1 Before calibrating the meter box, leak check the system as follows: fully open the coarse adjust valve, and completely close the by-pass valve. Plug the inlet. Then turn on the pump, and determine whether there is any leakage. The leakage rate shall be zero, i.e., no detectable movement of the DGM dial shall be seen for 1 minute.

7.2.2.1.2 Check also for leakages in that portion of the sampling train between the pump and the orifice meter. See Section 5.6 for the procedure; make any corrections, if necessary. If leakage is detected, check for cracked gaskets, loose fittings, worn O-rings, etc., and make the necessary repairs.

7.2.2.1.3 After determining that the meter box is leakless, calibrate, the meter box according to the procedure given in Section 5.3. Make sure that the wet test meter meets the requirements stated in Section 7.1.1.1. Check the water level in the wet test meter. Record the DGM calibration factor Y.

7.2.2.2 Calibration of critical orifices. Set up the apparatus as shown in Figure 5-10.

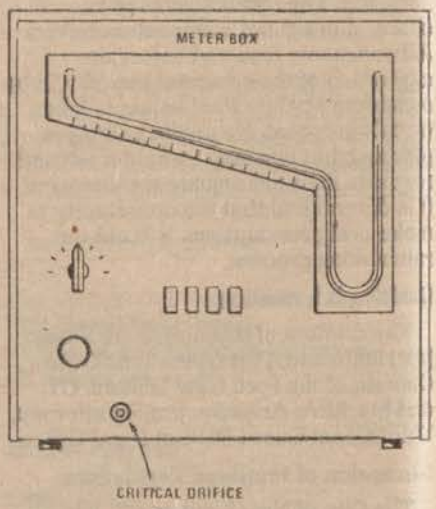


FIGURE 5-10. Apparatus setup.

7.2.2.2.1 Allow a warm-up time of 15 minutes. This step is important to equilibrate the temperature conditions through the DGM.

7.2.2.2.2 Leak check the system as in section 7.2.2.1.1. The leakage rate shall be zero.

7.2.2.2.3 Before calibrating the critical orifice, determine its suitability and the appropriate operating vacuum as follows: Turn on the pump, fully open the coarse adjust valve, and adjust the by-pass valve to give a vacuum reading corresponding to about half of atmospheric pressure. Observe the meter box orifice manometer reading, ΔH. Slowly increase the vacuum reading until a stable reading is obtained on the meter box orifice manometer. Record the critical vacuum for each orifice.

Orifices that do not reach a critical value shall not be used.

7.2.2.2.4 Obtain the barometric pressure using a barometer as described in Section

2.1.9. Record the barometric pressure Pbar, in MM Hg. (in Hg).

7.2.2.2.5 Conduct duplicate runs at a vacuum of 25 to 50 mm Hg (1 to 2 in. Hg) above the critical vacuum. The runs shall be at least 5 minutes each. The DGM volume readings shall be in increments of 0.00283 m^3 (0.1 ft^3) or in increments of complete revolutions of the DGM. As a guideline, the times should not differ by more than 3.0 seconds (this includes allowance for changes in the DGM temperatures) to achieve ±0.5 percent in K'. Record the information listed in Figure 5–11.

7.2.2.2.6 Calculate K' using Equation 5–9.

$$K' = \frac{17.64\ V_m\ Y\ (P_{bar} + \Delta H/13.6)\ \sqrt{T_{amb}}}{P_{bar}\ T_m\ \theta} \qquad \text{Eq. 5-9}$$

where:

K' = Critical orifice coefficient, $\frac{(m^3)(°K)^{1/2}}{(mm.\ Hg)(min)}\left[\frac{(ft^3)(°R)^{1/2}}{(in.\ Hg)(min)}\right]$.

T_{amb} = Absolute ambient temperature, °K (°R).

Average the K' values. The individual K' values should not differ by more than 0.5 percent from the average.

7.2.3 Using the critical Orifices as Calibration standards.

7.2.3.1 Record the barometric pressure.

7.2.3.2 Calibrate the metering system according to the procedure outlined in Sections 7.2.2.2.1 to 7.2.2.2.5. Record the information listed in Figure 5–12.

Date _____
Train ID _____
DGM cal. factor _____
Critical orifice ID _____

	Run No.	1	2
Dry gas meter:			
Final reading	m^3 (ft^3)		
Initial reading	m^3 (ft^3)		
Difference, V_m	m^3 (ft^3)		
Inlet/Outlet temperatures:			
Initial	°C (°F)	/	/
Final	°C (°F)	/	/
Avg. temperature, T_m	°C (°F)		
Time, θ	min/sec	/	/
	min		

	Run No.	1	2
Orifice man. rdg., ΔH	mm (in.) H_2O		
Bar. pressure, P_{bar}	mm (in.) Hg		
Ambient temperature, T_{amb}	°C (°F)		
Pump vacuum	(in.) Hg		
K' factor			
Average			

Figure 5–11. Data sheet for determining K' factor.

Date _____
Train ID _____
Critical orifice ID _____
Critical orifice K' factor _____

	Run No.	1	2
Dry gas meter:			
Final reading	m^3 (ft^3)		
Initial reading	m^3 (ft^3)		
Difference, V_m	m^3 (ft^3)		
Inlet/Outlet temperatures:			
Initial	°C (°F)	/	/
Final	°C (°F)	/	/
Avg. temperature, T_m	°C (°F)		
Time, θ	min/sec	/	/
	min		
Orifice man. rdg., ΔH	mm (in.) H_2O		
Bar. pressure, Pbar	mm (in.)Hg		
Ambient temperature, T_{amb}	°C (°F)		
Pump vacuum	(in.) Hg		
$V_{m(std)}$	m^3 (ft^3)		
$V_{cr(std)}$	m^3 (ft^3)		
DGM cal. factor, Y			

Figure 5–12. Data sheet for determining DGM Y factor.

7.2.3.3 Calculate the standard volumes of air passed through the DGM and the critical orifices, and calculate the DGM calibration factor, Y, using the equations below:

$$V_{m(std)} = 17.64\ V_m\ \frac{P_{bar} + (\Delta H/13.6)}{T_m} \qquad \text{Eq. 5-10}$$

$$V_{cr(std)} = K'\ \frac{P_{bar}\ \theta}{\sqrt{T_{amb}}} \qquad \text{Eq. 5-11}$$

$$Y = \frac{V_{cr(std)}}{V_{m(std)}} \qquad \text{Eq. 5-12}$$

where:

$V_{cr(std)}$ = Volume of gas sample passed through the critical orifice, corrected to standard conditions, dsm ^{3} (dscf).

7.2.3.4 Average the DGM calibration values for each of the flow rates. The calibration factor at each of the flow rates should not differ by more than ±2 percent from the average.

7.2.3.5 Compare the dry gas meter Y factors obtained from two adjacent orifices, for example, when checking 13/2.5, use orifices 12/10.2 and 13/5.1. If any critical orifice yields a Y factor differing by more

than 2 percent from the others, recalibrate the critical orifice according to Section 7.2.2.2.

By adding a new Citation 12 to section 8, Bibliography, as follows:

8. *Bibliography.*

* * * * *

12. Lodge, J.P., Jr., J.B. Pate, B.E. Ammons, and G.A. Swanson. The Use of Hypodermic Needles as Critical Orifices in Air Sampling. J. Air Pollution Control Association. *16*:197–200. 1966.

[FR Doc. 86-4478 Filed 2-28-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 86

[AMS-FRL-2976-5]

Gasoline Volatility and Hydrocarbon Emissions From Motor Vehicles; Public Workshop and Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: On February 4 and 5, 1985, EPA held public hearings on a technical study on gasoline volatility and hydrocarbon emissions from motor vehicles (November 21, 1985, 50 FR 48100). Another notice specifying the time and place of the public hearing and the close of the comment period was published on December 18, 1985 (50 FR 51559). By this notice, EPA is announcing a public workshop on this issue and an extension of the comment period until after the workshop.

DATES: A public workshop on this issue will be held on March 12, 1986, convening at 1:00 p.m. The workshop will continue through March 13, 1986. The comment period for the study is extended until March 27, 1986.

ADDRESSES: The workshop will be held in the conference room of the Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105.

FOR FURTHER INFORMATION CONTACT: Phil Carlson, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4278.

Dated: February 25, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-4488 Filed 2-28-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 418

[BERC-301-P]

Medicare Program; Hospice "Core" Services; Nursing

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

ACTION: Proposed rule.

SUMMARY: These proposed regulations would permit certain hospices located in areas that are not urbanized to receive from HCFA a waiver of the requirement to provide nursing services directly. The regulations would implement section 2343 of the Deficit Reduction Act of 1984 (Pub. L. 98-369).

DATE: To assure consideration, comments must be received by May 2, 1986.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, ATTN: BERC-301-P, P.O. Box 26676, Baltimore, Maryland 21207.

In commenting, please refer to file code BERC-301-P.

If you prefer, you may deliver your comments to Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection as they are received, beginning approximately three weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

FOR FURTHER INFORMATION CONTACT: Thomas Hoyer, (301) 594-9446.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction of Hospice Care

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in focus from curative care to palliative care.

The goal of hospice care is to help terminally ill individuals continue life with minimal disruption in normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through the use of a broad spectrum of professional and other care-givers with the goal of making the individual as physically and emotionally comfortable as possible.

The hospice experience in the United States has placed emphasis on home care. It offers physician services, specialized nursing services, and other forms of care in the home in order to enable the terminally ill individual to remain at home in the company of family and friends as long as possible. Inpatient hospice settings have been used when the individual's pain and symptoms must be closely monitored in order to be controlled, when medical intervention is required to control pain or palliate symptoms, or when the family needs a rest from the tedium and stress involved in caring for the individual (respite care).

B. Legislative History

Section 122 of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982 (Pub. L. 97-248, enacted on September 3, 1982) enacted section 1861(dd) of the Social Security Act (Act) to expand the scope of Medicare benefits by authorizing coverage for hospice care for terminally ill beneficiaries with a life expectancy of six months or less. Section 1861(dd)(2)(A)(ii)(I) of the Act specifies that a hospice must routinely provide directly substantially all of the following "core services": Nursing care, medical social services, physician's services and counseling services. The remaining "non-core services" may be provided either directly by the hospice or under arrangements with others, in which case the hospice must maintain professional management responsibility for all such services furnished to an individual, regardless of the location of or type of facility in which such services are furnished. Congress enacted this benefit with a "sunset" provision so that the hospice benefit is currently available only from November 1, 1983 through September 30, 1986.

On July 18, 1984, section 2343 of the Deficit Reduction Act of 1984 (DRA), Pub. L. 98-369, amended section 1861(dd) of the Act by adding a new paragraph (5), to permit the Secretary to waive, to a greater or lesser extent, for certain hospices, the requirement to routinely provide directly substantially all nursing services. Section 1861(dd)(5)(A) of the Act specifies that to obtain a waiver a hospice must be located in an area which is not an urbanized area (as defined by the Bureau of the Census), must have been

in operation on or before January 1, 1983, and must demonstrate a good faith effort (as determined by the Secretary) to hire a sufficient number of nurses to provide nursing care directly. Section 1861(dd)(5)(B) of the Act specifies that if a waiver is requested by an organization that meets the statutory requirements, and if it is submitted in the form and contains the information required by the Secretary, the waiver will be deemed granted unless the request is denied by the Secretary within 60 days after the request is received by the Secretary. Further, that paragraph states that the granting of a waiver will not preclude the favorable consideration of a subsequent waiver request should such a request be necessary.

Section 2343 of DRA specifies that the Secretary must study the necessity and appropriateness of the "core services" requirement and submit the findings to Congress prior to January 1, 1986. (This date corresponds to the date that the Secretary must submit a report concerning the hospice program's reimbursement method and benefit structure.) The study must include not only an analysis of Medicare-approved hospices but also a review of non-Medicare hospices.

C. Current Regulations

We published a final rule on December 16, 1983 (48 FR 56008) to implement the hospice program under Medicare (42 CFR Part 418). The final rule defines a hospice as a public agency or private organization or subdivision of either of these that is primarily engaged in providing care to terminally ill individuals, meets the conditions specified in the regulations and has a valid provider agreement.

The final rule requires that a hospice provide nursing care and services by or under the supervision of a registered nurse (42 CFR 418.82) and that these services be routinely provided directly by hospice employees (42 CFR 418.80). Under these regulations, a hospice may use contracted staff to meet the "core service" needs of its patients, but only when necessary to supplement hospice employees during periods of peak patient loads or under extraordinary circumstances.

II. Provisions of the Proposed Regulations

As evidenced by the amendment to the statute, Congress was concerned that the original law and current regulations may have placed an unreasonable burden on hospices located in rural areas by requiring them to provide nursing care services directly. Rural hospices have reported problems in hiring enough nurses to provide hospice care, and they have also questioned the cost-effectiveness of directly employing nurses in rural areas where hospice utilization is relatively low.

The proposed regulations would implement the statutory provision that permits the Secretary to waive the requirement that an agency or organization must routinely provide directly substantially all of the nursing "core services" for certain agencies or organizations with respect to all or part of the nursing care. Hospices which are located in non-urbanized areas (as identified by the Bureau of the Census for the 1980 Census) and were operational on or before January 1, 1983, may be given a waiver of the requirement that nursing services be provided directly if they can demonstrate that they made a good faith effort to hire nurses. This waiver may involve nursing services throughout the hospice's service area or, for a hospice which functions in a large non-urban area where availability of nurses differs from one location to another, may be granted only for a part of the hospice's service area. Waivers granted under this authority would remain effective for one year.

The statute permits the Secretary to set forth the form and information required in order to determine whether to grant the waiver. The statute and our criteria require that the hospice demonstrate an effort at recruitment which failed.

As required by the statute, HCFA would make determinations as to urbanized and non-urbanized areas based on the 1980 Census Bureau designations. For a hospice which operates in several areas, the location of the hospice would be considered the location of its central office. HCFA would determine whether a hospice was operational on or before January 1, 1983 based on:

1. Proof that the organization was established to provide hospice services on or before January 1, 1983 (e.g., newspaper advertisements, dated correspondence on hospice letterhead, dated invoices, articles of incorporation, governing body minutes, etc.)

2. Evidence that hospice-type services were actually furnished to patients on or before January 1, 1983 (e.g., dated copies of medical records, nursing notes, pharmaceutical orders, etc.); and

3. Evidence that the hospice care was a discrete activity rather than an aspect of another type of provider's patient care program on or before January 1, 1983 (i.e., evidence of a distinct program in an existing provider or articles of incorporation that show it to be a discrete and separate organization).

We have adopted these criteria because we recognize that most of these hospices will not have been able to meet the full range of requirements set forth in section 1861(dd)(2), the statutory definition of "hospice program", since the definition did not exist until the enactment of the provision. Nonetheless, it is clear that the basic statutory concept of a hospice is of a discrete activity providing hospice care and that, therefore, these waivers should be restricted to such hospices.

HCFA would make determinations of good faith efforts to hire nurses based on the following:

1. Proof of recruitment efforts through advertisements in professional journals or local newspapers;

2. Copies of job descriptions for nurse employees;

3. Evidence that salary and benefits are competitive for the area (e.g., evidence of salary and benefit offers in connection with recruitment advertisements); and

4. Any other contributing activities (e.g., recruiting efforts at health fairs, etc.)

We are expecially interested in comments concerning the appropriateness of the above criteria and any suggestions for other items we could consider. We will consider and discuss comments we received in the publication of the final rule.

A hospice would submit a request for waiver of the nursing core services requirement directly to HCFA, Office of Coverage Policy, BERC, 409 East High Rise, 6325 Security Boulevard, Baltimore Maryland 21207. We propose to respond to all requests within 60 days; however, any waiver request will, under the law, be deemed to be granted unless it is denied within 60 days after it is received. The granting of a waiver would not preclude the favorable consideration of a subsequent waiver request should such a request be necessary.

We will be publishing interim instructions for the Hospice Manual (HCFA Pub. 21), the State Operations Manual, the Part A Intermediary Manual, and the Regional Office Manual. These instructions will provide details relating to submission of waiver requests.

III. Impact Analysis

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for regulations that are likely to have an annual effect on the economy of $100 million or more, cause a major

increase in costs or prices, or meet other threshold criteria that are specified in the Executive Order. In addition, the Regulatory Flexibility Act, Pub. L. 96-354, requires us to prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. (For purposes of the Regulatory Flexibility Act, small entities include all nonprofit and most for-profit providers.) Under both the Executive Order and the Regulatory Flexibility Act, such analyses must, when prepared, show that the agency issuing the regulations has examined alternatives that might minimize an unnecessary burden or otherwise ensure that the regulations are cost-effective.

As noted elsewhere in this preamble, section 2343 of the Deficit Reduction Act of 1984 (Pub. L. 98-369), seeks to correct an unreasonable burden that may have been created by the original law and the current regulations. Specifically, Congress concluded that rural hospices were encountering problems in hiring enough nurses to provide hospice care directly. These hospices had questioned the cost-effectiveness of directly employing nurses in rural areas where hospice utilization is relatively low. We believe that this burden may have resulted in some delay in obtaining a Medicare provider agreement as well as unnecessary expenditures (e.g., advertising costs for continued recruitment efforts) and could have made it difficult for the hospice to assure that nursing services would always be available as required by 42 CFR 418.82 (condition of participation—nursing services).

This proposed rule would continue to require that hospices provide nursing services, but as specified in the amendment, for certain rural hospices we are proposing that they may request a waiver that would provide administrative flexibility in securing nursing services. Instead of directly employing nurses, and incurring the on-going expense of salary and benefits, rural hospices could choose, for example, to make contractual arrangements with organizations like Visiting Nurse Associations to provide nursing services to hospice patients.

Since the main test for obtaining a waiver is the demonstrated inability to recruit nurse employees, we expect that virtually no existing hospices (which have already been approved for Medicare participation) would be applying successfully for a waiver. Rather, the main group of candidates should be organizations that, because of an inability to recruit nurses, have been unable to participate. To the extent that these organizations have been unseccessfully trying to recruit nurses, this provision would enable them to discontinue unsuccessful efforts and thus save advertising costs. For hospices which have not yet begun to recruit nursing staff, this provision will enable recruitment efforts to be ended when it can be determined that they will not be effective. We believe that the incremental difference between the incurred costs of current hiring practices and hiring practices of hospices receiving a waiver under this provision would not be significant. Therefore, we have determined, and the Secretary certifies, that this proposed rule would not result in an annual economic impact that meets the threshold criteria of the Executive Order 12291 and the Regulatory Flexibility Act of 1980.

IV. Information Collection Requirements

Section 418.83 of the proposed rule contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Executive Office of Management and Budget (EOMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, EOMB, New Executive Office Building (Room 3208), Washington, DC 20503, ATTN: Desk Officer for HCFA.

V. Response to Comments

Because of the large number of comments we receive on proposed regulations, we cannot acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments and respond to them in the preamble to that rule.

List of Subjects in 42 CFR Part 418.

Coinsurance, Hospice, Medicare, Respite care, Volunteers.

42 CFR Part 418, Subpart C would be amended as set forth below:

PART 418—HOSPICE CARE

Subpart C—Conditions of Participation

The authority citation for Part 418 continues to read as follows:

Authority: Secs. 1102, 1811-1814, 1861-1866 and 1871 of the Social Security Act (42 U.S.C. 1302, 1395c-1395f, 1395x-1395cc and 1395hh).

1. Section 418.80 is revised to read as follows:

§ 418.80 Condition of participation—Core services.

Except as permitted in § 418.83, a hospice must ensure that substantially all the core services described in §§ 418.82 through 418.88 are routinely provided directly by hospice employees. A hospice may use contracted staff if necessary to supplement hospice employees in order to meet the needs of patients during periods of peak patient loads or under extraordinary circumstances. If contracting is used, the hospice must maintain professional, financial, and administrative responsibility for the services and must assure that the qualifications of staff and services provided meet the requirements specified in §§ 418.82 through 418.88.

2. A new § 418.83 is added to read as follows:

§ 418.83 Nursing services—Waiver of requirement for substantially all nursing services to be routinely provided directly by a hospice.

(a) HCFA may approve a waiver of the requirement in § 418.80 for nursing services provided by a hospice which is located in a non-urbanized area. The location of a hospice which operates in several areas is considered to be the location of its central office. The hospice must also demonstrate that it was operational on or before January 1, 1983, and that it made a good faith effort to hire a sufficient number of nurses to provide services directly. In making the decision to approve a waiver, HCFA will use the following criteria in making a determination:

(1) The 1980 Bureau of the Census designations for determining non-urbanized areas.

(2) Evidence regarding whether a hospice was operational on or before January 1, 1983 based on—

(i) Proof that the organization was established to provide hospice services on or before January 1, 1983;

(ii) Evidence that hospice-type services were actually furnished to patients on or before January 1, 1983; and

(iii) Evidence that the hospice was a discrete activity rather than an aspect of another type of provider's patient care program on or before January 1, 1983.

(3) Evidence regarding whether or not a hospice demonstrated a good faith effort to hire nurses based on the

following that must be submitted by the hospice—

(i) Copies of advertisements in professional journals or local newspapers that demonstrate recruitment efforts;

(ii) Job descriptions for nurse employees;

(iii) Evidence that salary and benefits are competitive for the area; and

(iv) Evidence of any other contributing activities (e.g., recruiting efforts at health fairs).

(b) Any waiver request is deemed to be granted unless it is denied within 60 days after it is received.

(c) Waivers will remain effective for one year at a time.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare Hospital Insurance)

Dated: November 11, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: November 25, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 86-4391 Filed 2-28-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3160

Oil and Gas Leasing Onshore Operations Site Security; Noncompliance Provisions, etc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of public comment period and listing of public hearings on the proposed rulemaking.

SUMMARY: A proposed rulemaking that would revise the existing regulations implementing the Federal Oil and Gas Royalty Management Act of 1982 was published in the **Federal Register** on January 30, 1986 (51 FR 3882). That proposed rulemaking provided a 60-day comment period. The publication also listed a schedule of public hearings which gave the locations, dates and times for the hearings. After careful review of the regulations and the hearing schedule, the Bureau of Land Management has decided to provide an additional 15 days for public comment and to hold additional public hearings. The public comment period is hereby extended for an additional 15 days. In addition, the locations, dates and times of the public hearings are set out in the **SUPPLEMENTARY INFORMATION** portion of this notice.

DATE: Comments should be submitted by April 15, 1986. Comments received or postmarked after this date may not be considered in the decisionmaking process on issuance of a final rulemaking. For dates of the public hearings see the **SUPPLEMENTARY INFORMATION** portion of this document. In addition, the Bureau of Land Management will hold public hearings on the proposed rulemaking that would revise the existing regulations implementing the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.) at the locations, dates and times set out in the address portion of this notice. Transcripts will be made of the public hearings and will be considered in the decisionmaking process on issuance of a final rulemaking.

ADDRESS: For the locations of the public hearings see the **SUPPLEMENTARY INFORMATION** portion of this document.

FOR FURTHER INFORMATION CONTACT:

Frank Salwerowicz, (303) 294-7136

or

Stephen Spector, (202) 653-2147

or

Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION:

Addresses and Dates of Public Hearings

The locations, dates and times of the public hearings are as follows:

Washington, DC, Department of the Interior Auditorium, 1800 C Street NW., Washington, DC 20240, March 12, 1986, 9:30 a.m.

Denver, Colorado, Executive Towers, 1405 Curtis, Denver, Colorado 80202, (303) 571-0300, March 18, 1986, 9:00 a.m.

Albuquerque, New Mexico, Albuquerque Hilton Inn, 1901 University Blvd. NW., Albuquerque, New Mexico 87102, (505) 884-2500, March 19, 1986, 9:30 a.m.

Bakersfield, California, Hilton Inn, Sycamore Room, Sutter Street Bar & Grill, 3535 Rosedale Highway, Bakersfield, California 93308, (805) 327-0681, March 20, 1986, 9:00 a.m.

Casper, Wyoming, Holiday Inn, 300 West F Street, Casper, Wyoming 82601, (307) 235-2531, March 19, 1986, 9:00 a.m.

Billings Montana, Northern Hotel, Broadway & First Avenue North, Billings, Montana 59101, (406) 245-5121, March 20, 1986, 1:00 p.m.

Salt Lake City, Utah, BLM State Office, 4th Floor Conference Room, 342 South State Street, Salt Lake City, Utah 84111, (801) 524-3000, March 19, 1986, 10:00 a.m.

Liberal, Kansas, Holiday Inn, 603 East Pancake Blvd., Liberal, Kansas 67901, (918) 581-6480, April 1, 1986, 10:00 a.m.

Tulsa, Oklahoma, BLM District Office, 9522-H East 47th Place, Tulsa, Oklahoma 74145 (918) 581-6480 April 3, 1986, 10:00 a.m.

Oklahoma City, Oklahoma, Alfred P. Murray Building, Room 911, Federal Building, 200 N.W. Fifth Street, Oklahoma City, Oklahoma 73102, (918) 581-6480, April 4, 1986, 10:00 a.m.

Dallas, Texas, Holiday Inn, 1955 Market Center Blvd., Dallas, Texas 75207, (918) 581-6480, April 8, 1986, 10:00 a.m.

Dated: February 26, 1986.

James E. Cason,

Acting Assistant Secretary of the Interior.

[FR Doc. 86-4531 Filed 2-28-86; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580 and 581

[Docket No. 86-6]

Service Contracts

Correction

In FR Doc. 86-3410 beginning on page 5734 in the issue of Tuesday, February 18, 1986, make the following correction on page 5745:

In the second column, in § 581.8(d), in the second line, "3-day" should read "30-day".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

48 CFR 207, 215, 234, 244 and 252

Department of Defense, Federal Acquisition Regulation Supplement

AGENCY: Department of Defense (DoD).

ACTION: Notice of intent to develop a proposed rule to promote competition at the subcontract level.

SUMMARY: Because of continued emphasis within the Department of Defense on fostering competition in acquisition, the Defense Acquisition Regulatory (DAR) Council is considering the possibility of revising certain parts of the DoD FAR Supplement.

DATE: Comments should be submitted in writing to the DAR Council at the address shown below no later than April 17, 1986, to be considered in the formulation of a proposed rule. Please cite DAR Case 86-55 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202)697-7268.

SUPPLEMENTARY INFORMATION: Consistent with continued emphasis within the Department of Defense on fostering competition in the acquisition of weapon systems, supplies and services, the Defense Acquisition Regulatory (DAR) Council is presently considering whether and to what extent current procedures and contract clauses specified within the Department of Defense FAR Supplement (DFARS) should be revised so as to promote completition at the subcontract level. Prior to drafting a proposed rule on this subject, the DAR Council seeks the insight and recommendations of the public and industry regarding procedures which would enhance subcontract competition in a cost effective manner, without imposing undue paperwork burdens or adversely affecting small entities. Although comments are solicited concerning the topic of subcontract competition generally, comments are especially invited regarding the following proposals which have been submitted for the DAR Council's consideration:

1. Add DFARS 207.105(b)(2) to require contracting officers to address in acquisition plans how subcontract competition will be sought, promoted and sustained throughout an acquisition.

2. Add DFARS 215.605(b) to require that contracting officers evaluate the extent of subcontract competition in the source selection process.

3. Add DFARS 234.005-1(a) to require that program managers prepare plans which address subcontract competition barriers and specific action/milestones for improving competition.

4. Add DFARS 244.303(b), 244.7001 and 252.244-7000 to require prime contractors subject to Contractor Purchasing System Review (CPSR) requirements, which are not small businesses and which accept a negotiated contract above $500,000, to submit a quarterly statistical report on all first-tier competitive and noncompetitive subcontract awards, on a plant-wide basis. (Variations of this proposal have been suggested which would require reporting on an individual contract basis, apply the requirement only to contracts awarded without full and open competition, and extend application to small businesses.)

5. In lieu of the reporting system in 4 above, revise the DFARS to require large business prime contractors, in contracts awarded without full and open competition of over $3 million, to report quarterly concerning the dollar value of noncompetitive subcontracts and to identify within proposals those items above $25,000 which will be obtained through noncompetitive subcontracts.

In assessing the reporting requirements above, comments are requested concerning potential implementation costs, both start-up and recurring, and whether systems currently exist which could be readily adapted to collect subcontract competition data. Suggestions are requested concerning alternative dollar thresholds for applicability and data reporting format.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

[FR Doc. 86-4472 Filed 2-28-86; 8:45 am]

BILLING CODE 3810-01-M

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48 CFR Parts 215 and 252

Department of Defense Federal Acquisition Regulation Supplement Cost and Price Management

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering the promulgation of a new rule in the DoD FAR Supplement, § 215.873, Cost and Price Management. The purpose of the proposed rule is to implement section 917 of the DoD Authorization Act of 1986 (Pub. L. 99-145).

DATE: Comments on the proposed rule should be submitted in writing to the DAR Council at the address shown below no later than April 29, 1986, to be considered in the final rule. Please cite DAR Case 85-215 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquistion Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697-7268.

SUPPLEMENTARY INFORMATION:

A. Background

Section 917 of the DoD Authorization Act of 1986 (Pub. L. 99-145) requires (1) the documentation of (a) the contractor's proposal, (b) the negotiated settlement, and (c) the incurred costs by cost element, including the breakout of recurring and nonrecurring costs; and (2) the creation and maintenance of a bill of labor and a bill of material. The Department of Defense is required to report to the Congress by March 31, 1986, on the status of its implementation of section 917, "Cost and Management", of Pub. L. 99-145. This proposed rule is DoD's interpretation and proposed regulation based upon the law.

It was the intent of Congress that this provision of law be at no cost to the contractor. Therefore, it is requested that public comments specifically address, in detail, any difficulties that are envisioned and any costs (either direct or indirect, including estimates thereof,) that would be incurred to implement the law.

Finally, in order to ensure that the maximum number of public comments can be addressed in the report to the Congress, it is requested that public comments be submitted by March 14, 1986. If after an initial submission, further or more detailed comments are necessary, such comments will be considered in drafting a final rule, as long as they are submitted by April 29, 1986.

B. Regulatory Flexibility Act

This rule does not appear to have a significant impact on an substantial number of small entities because this rule applies to the award of contracts requiring the submission of cost or pricing data and most awards to small entities are made on a price competitive basis not requiring such data.

C. Paperwork Reduction Act

The proposed rule does not contain information collection requirements that exceed the information collection requirements resulting from the statute. Therefore, OMB approval under 44 U.S.C. 3501, et seq. is not required.

List of Subjects in 48 CFR Parts 215 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Parts 215 and 252 be amended as follows:

PART 215—CONTRACTING BY NEGOTIATION

1. The authority citation for 48 CFR Part 215 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Sections 215.873, 215.873–1, 215.873–2, 215.873–3, and 215.873–4 are added to read as follows:

§ 215.873 Cost and price management.

§ 215.873–1 Policy.

(a) Effective cost and price management is critically important to assure that fair and reasonable prices are paid for the goods and services acquired by DoD. Contractor submission and maintenance, as well as Government review, of the cost and price management information, required by 10 U.S.C. 2406, will assist the contracting officer in determining fair and reasonable prices because historical data will be more readily available as an aid in projecting future costs of performance. However, neither the statute nor the clauses at 252.215–7002 and 252.215–7003 require any new systems on the part of contractors.

(b) Cost and price management data for a contract being negotiated and from all previous contracts for the same or similar items meet the definition of cost or pricing data.

§ 215.873–2 Definitions.

(a) "Covered contract" means any contract awarded, using the procedures of 10 U.S.C. Chapter 137, by the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Defense Logistics Agency, where certified cost or pricing data are required.

(b) "Major manufactured end item" is an item of supply which is of significant value, is ready for its intended use and performs an autonomous function as a major weapons system subject to selected acquisition reporting or a major segregable portion of such a system. Examples of such major segregable portions are radars, fire control systems, countermeasures devices and engines.

(c) "Touch labor" is production labor which can be reasonably and consistently related directly to a unit of work being manufactured, processed, or tested. It involves work affecting the composition, condition, or production of a product; it may also be referred to as "hands-on labor" or "factory labor". Touch labor includes such functions as machining, welding, fabricating, setup, cleaning, painting, assembling, functional testing of production articles and that labor required to complete the manually-controlled process portion of the work cycle.

§ 215.873–3 Maintenance and review.

(a) *Contractor responsibilities.* The data for cost and price management required by the clauses at 252.215–7002 and 252.215–7003 are maintained by the contractor throughout the life of the contract. The clauses require the contractor to maintain this data in the same manner in which they were proposed.

(b) *Government uses.* The contracting officer may use the information provided by the clauses at 252.215–7002 and 252.215–7003 to assist in performing functions such as:

(1) Analyzing proposals for follow-on contracts, modifications, or change orders;

(2) Evaluating make-or-buy decision changes;

(3) Evaluating proposals for IMIP programs or other plant rearrangement activities;

(4) Evaluating progress under a contract; or

(5) Evaluating contractor management systems.

§ 215.873–4 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the provision at 252.215–7001, Certificate for Cost and Price Management Data, in solicitations which are subject to the requirements of this paragraph.

(b) The contracting officer shall insert the clause at 252.215–7002, Cost and Price Management, in solicitations and contracts when it is contemplated that a covered contract, as defined above, will be awarded.

(c) In addition to the clause at 252.215–7002, the contracting officer shall insert the clause at 252.215–7003, Cost and Price Management (Bill of Labor and Bill of Material), in solicitations and contracts when it is contemplated that a covered contract will be awarded for the supply of a major manufactured end item as defined in section 215.873–2 above.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority for Part 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

4. Sections 252.215–7001, 252.215–7002 and 252.215–7003 are added to read as follows:

§ 252.215–7001 Certificate for Cost and Price Management Data.

As prescribed in 215.873–4(a), insert the following provision:

Certificate for Cost and Price Management Data (Feb. 1986)

The Offeror hereby certifies that on 8 November 1985 the Offeror—

(1) ——— did ——— did not maintain the information required by the clause at 252.215–7002 of the DoD FAR Supplement;

(2) ——— did ——— did not maintain the information required by the clause at 252.215.7003 of the DoD FAR Supplement.

(End of provision)

§ 252.215–7002 Cost and Price Management

As prescribed in 215.873–4(b), insert the following clause:

Cost and Price Management (Feb. 1986)

(a) Nothing in this clause shall require the submission of the information to be submitted under this clause, if the Contractor has certified that it did not maintain such information on 8 November 1985.

(b) As a part of the cost or pricing data submitted on the Standard Form 1411 (SF 1411), the Contractor shall submit a breakout by element of proposed cost with recurring and nonrecurring cost and profit or fee separately identified. Nonrecurring cost includes such costs as preproduction engineering, special plant rearrangement, initial rework, spoilage, pilot runs, etc.

(c) The Contractor shall record, at a minimum, the proposed, negotiated and incurred costs and profit or fee under the contract in the same manner as proposed in paragraph (b) above. All such recorded amounts shall be available for review by the Contracting Officer of representatives of the Contracting Officer until three (3) years after final payment under this contract.

(End of clause)

§ 252.215–7003 Cost and Price Management (Bill of Labor and Bill of Material).

As prescribed in 215.873–4(c), insert the following clause:

Cost and Price Management (Bill of Labor and Bill of Material) (Feb. 1986)

(a) Nothing in this clause shall require the submission of the information to be submitted under this clause, if the Contractor has certified that it did not maintain such information on 8 November 1985.

(b) *Bill of labor.*

(1) *Proposal.*

As part of the cost or pricing data submitted on the Standard Form 1411 (SF 1411), the Contractor shall include a separate bill of labor which shows (i) each labor category required by the Contractor for the manufacturing and routine testing of major manufactured end items to be supplied to the government and (ii) the number of hours of each labor category. This bill of labor shall reflect only the touch labor to produce and test the end item and shall not include labor

to support, manage or assist in the performance of this work. The bill of labor shall show the standard hours of work calculated for each labor category, where standards have been developed, using a labor time standard system which yields time standards comparable to standards derived using a commercially available predetermined time standard system widely used in the United States. the proposal shall show the factors which convert these standard hours to the proposed labor hours.

(2) *Recording.*

The Contractor shall record the proposed and negotiated bills of labor for labor used by the Contractor in manufacturing the item and for labor used by the Contractor in performing routine testing relating to the item.

(3) *Maintenance.*

The Contractor shall maintain bill of labor records which show the standard labor hour content of the touch labor necessary for manufacturing and routine testing of the major manufactured end items to be provided to the Government under this contract. As work progresses, these records shall show any changes in the type or quantity of standard labor hour content.

(c) *Bill of Material.*

(1) *Proposal.*

In addition, the Contractor shall include a separate bill of material, as defined in Table 15-2 of FAR 15.805-6, which shows the items, quantities and unit prices of the material required by the Contractor for the manufacturing and routine testing of major manufactured end items to be supplied to the Government.

(2) Recording.

The Contractor shall record the proposed and negotiated bills of material used by the Contractor under the contract in manufacturing the item and of material used by the Contractor in performing routine testing relating to the item.

(3) *Maintenance.*

The Contractor shall maintain bill of material records which show the material necessary for manufacturing and routine testing of the major manufactured end items to be provided to the Government under this contract. As work progresses, these records shall show any changes in the items, quantities and unit prices on the bill of material. The costs set out in the bill of material shall be expressed in current dollars (this is, in amounts which have been paid or which are expected to be paid).

(d) The above records shall be available for review by the Contracting Officer or representatives of the Contracting Officer until three (3) years after final payment under this contract.

(End of clause)

[FR Doc. 86-4471 Filed 2-28-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking on Rear Identification Lamps on Trailers

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies the petition for rulemaking submitted by Truck Trailer Manufacturers Association to amend the Federal motor vehicle safety standard on lighting to eliminate rear identification lamps on trailers, and to allow clearance lamps to be mounted at the trailer frame height. The petition is denied because the petitioner provided no substantive support for the requested changes.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, (202-426-2153).

SUPPLEMENTARY INFORMATION: On August 2, 1985, Truck Trailer Manufacturers Association of Alexandria, Va. (TTMA) petitioned the agency for rulemaking to amend 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment.* Standard No. 108 currently requires trailers whose overall width is 80 or more inches to be equipped with identification lamps on the rear, and with clearance lamps to indicate the overall width of the vehicle and to be mounted as close to the top as practicable. TTMA wishes to eliminate the rear identification lamps and to allow the clearance lamps to be mounted at the trailer frame height. It further proposed that reflective devices such as reflex reflectors be located on the rear and near the top of van and tank trailers to aid motorists in seeing a trailer in hilly terrain and in estimating distance to the trailer and closing speed.

In support, TTMA cited a Vector Enterprises report furnished to the agency on "Improved Commercial Vehicle Conspicuity and Signalling Systems" which concluded that identification lamps serve no purpose and should be replaced by reflective devices. In addition, TTMA submitted that flashing lamps may now be used to indicate slow moving trucks (a previous purpose of identification lamps), and that the limited data that exist show no significant difference between rear end accidents involving platform trailers as compared with van trailers.

NHTSA has carefully reviewed this petition. While it is true that the initial version of the Vector report reached the conclusion ascribed to it, NHTSA is awaiting the final version of the Vector report and has not yet concluded that reflective devices are a superior or equivalent replacement. As for flashing lamps, their use only to indicate slow-moving vehicles is irrelevant to the need for an indicator of the presence of a wide vehicle in the roadway ahead. Their use is in most instances optional, and an inactive hazard warning system at night would fail to serve the purpose of identification lamps. In essence, TTMA has provided no substantive support for the changes it recommended, and its petition is denied.

The program official and attorney principally responsible for this notice are Kevin Cavey and Taylor Vinson, respectively.

(Sections 103, 119, and 124, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1410); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 25, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-4500 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 1-18; Notice 28]

Federal Motor Vehicle Safety Standards Controls and Displays

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Response to petition for reconsideration.

SUMMARY: This notice responds to a petition for reconsideration concerning two aspects of the final rule on Standard No. 101, *Controls and Displays*, published on June 4, 1985 (50 FR 23426). The first part of the petition concerns the use of the symbol for the horn control, which Mercedes seeks to omit for horn controls located in the center of the steering column. The second part concerns the use of the International Standards Organization's (ISO) brake warning symbol, which Mercedes seeks as an alternative to the word "brake" presently required by the standard. The agency is denying both parts of the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 426–2153.

SUPPLEMENTARY INFORMATION: On June 4, 1985, NHTSA published in the **Federal Register** a final rule responding to a number of petitions for reconsideration and for rulemaking on Standard No. 101, *Controls and Displays*. The notice denied Mercedes-Benz's prior petition for reconsideration regarding the identification of passenger car horn controls located on the steering column, and its petition regarding the use of the ISO brake symbol as a substitute for the word "brake." Mercedes has petitioned for reconsideration of these issues. For the reasons set forth below, the agency again denies these petitions.

Horn Controls on the Steering Column

In support of its claim that passenger car horn controls mounted on the steering column hub need not be identified by the horn symbol (a picture of a horn or bugle), Mercedes stated that the use of this symbol will not produce a shorter reaction time for drivers in emergency situations. In Mercedes' view, the most intuitive action for a driver facing an emergency is to press the steering hub, an action taken because of the hub's prominent location, not because of any symbol on it. Mercedes further stressed the need for any driver to use the owner's manual, if necessary, to verify the location and functions of controls and displays.

As the agency stated in response to Mercedes-Benz's prior petition, the need to identify the horn control has increased as the manufacturers have elected to locate the horn control elsewhere than on the steering hub. Drivers have come to expect the horn control in various locations, such as control stalks or steering wheel spokes, and not just in the traditional steering hub location. The absence of the symbol from the hub could lead the driver to believe that the horn was located elsewhere, thereby impeding the driver from taking the correct action in an emergency. As long as the horn control may be located in other places, the agency believes that affirmative marking of the control is necessary. The owner's manual would not be an adequate alternative to marking the control, in that most drivers other than the original owner may not refer to the manual routinely before operating the vehicle.

The ISO Brake Symbol

The agency addressed Mercedes-Benz's earlier petition for the use of the ISO brake failure symbol (an exclamation point enclosed by parentheses representing brake shoes) in the notice of June 4, 1985. As stated in the notice, the agency relied on a study sponsored by the Society of Automotive Engineers which found that the ISO symbol was recognized by a very low percentage of motorists (28 per cent) compared with the percentage who recognized the term "brake" (87 per cent). In the agency's view, this low percentage argued strongly against the adoption of the ISO symbol.

In resubmitting its petition, Mercedes argued that the study must have reflected the fact that the ISO symbol has not been permitted in the United States and would therefore not have been familiar to American motorists. In fact, the study ("Investigation into the Identification and Interpretation of Automotive Indicators and Controls," SAE Technical Paper No. 780340) was conducted not in the United States but in Germany. The participants were drawn at random from visitors to the BMW Museum in Munich, and represented a cross-section of European and American motorists. In view of the exposure of many in the group to the ISO symbol in European vehicles, the conclusion seems well founded that the term "Brake" is more recognized by motorists and should be retained as the exclusive indication of brake failure. The agency accordingly affirms its prior denial of the Mercedes-Benz petition for use of the ISO symbol.

For the foregoing reasons, the Mercedes-Benz petition is denied in its entirety.

(Secs. 103, 119, and 124, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1410a); delegation of authority at 49 CFR 1.50)

Issued on February 24, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–4421 Filed 2–28–86; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 51, No. 41
Monday, March 3, 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

Commodity Credit Corporation

Dairy Export Incentive Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: This notice announces the establishment of the Commodity Credit Corporation's export incentive program for dairy products. Section 153(a) of the Food Security Act of 1985 (Act) provides that during the period beginning 60 days after the date of enactment of the Act (December 23, 1985) and ending on September 30, 1989, the Commodity Credit Corporation (CCC) shall establish and operate such an export incentive program.

ADDRESS: Comments and proposed alternative systems should be submitted to the General Sales Manager, Foreign Agricultural Service, USDA, Washington, DC 20250. Arrangements to receive copies of the announcement and invitations to submit bids issued under the program may be made by writing to the CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington D.C. 20250 (Phone (202) 382–9240) or by writing the Kansas City Commodity Office, P.O. Box 205, Kansas City, Missouri 64141 (Phone (913) 236–3057).

FOR FURTHER INFORMATION CONTACT: William R. Randolph, Direct Sales Staff, CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, DC 20250, (Phone (202) 382–9254) for information on submission of bids and requirements for participation and Indulis Kancitis, Director, Dairy Division, Agricultural Stabilization and Conservation Service, USDA, Washington, DC 20250 (Phone (202) 447–3385) for information on the kinds of dairy products available as a CCC bonus and the method of delivery of the diary products to exporters.

Dairy Export Incentive Program: CCC will issue an announcement containing the terms and conditions of the program and an invitation inviting U.S. exporters to submit competitive bids for an CCC bonus needed to make a competitive sale of U.S. commercial dairy products to an eligible country. The invitation will specify (a) the eligible dairy products that may be sold to a foreign buyer, (b) the eligible dairy destinations, (c) the kinds of CCC-owned dairy products that will be made available to exporters as a bonus and (d) the method used to determine the value of the CCC bonus dairy products.

The CCC bonus would apply only to that quantity of dairy products sold by a U.S. exporter in any year which is in addition to, and not in place of, any export sales the exporter would otherwise make in the absence of the program.

The dairy products delivered to the exporter as the CCC bonus must be sold for export. The sale of the CCC bonus dairy products by the exporter must be in addition to, and not in place of, export sales of dairy products that the exporter would otherwise make under the program or in the absence of the program. To the extent practicable, the sale of the CCC bonus dairy products is not to displace commercial export sales of U.S. dairy products by other exporters.

In general, the program will work as follows:

(1) To participate under the program, interested parties must qualify prior to submitting a competitive bid to CCC.

(2) Exporters would be required to provide CCC with various financial securities in connection with participation in the program.

(3) A U.S. exporter makes an export sale of an eligible dairy product to a buyer in an eligible country. The exporter would then submit a competitive bid to CCC for the CCC bonus needed to make the sale of the eligible dairy product competitive in the eligible country. The bid would include certain terms of the sale to the foreign buyer and the per unit value of the CCC bonus requested by the exporter.

(4) CCC would examine the bid for (a) the competitiveness of the sale to the foreign buyer with bids and sales from other U.S. exporters and from competitor countries, (b) the competitiveness of the CCC bonus requested for that sale and (c) compliance with any criteria established for export sales under the program. CCC will reserve the right to reject any or all bids.

(5) If the bid is accepted, the exporter would make export against the sale and would furnish evidence of export to CCC.

(6) Within 30 days after the date of export of eligible dairy products from commercial sources, the exporter must request delivery of the CCC bonus in the form of dairy products from the inventory of CCC. The CCC bonus due the exporter would be the net quantity of eligible dairy products exported times the approved bonus value established by the acceptance of the exporter's bid. The bonus commodity will be delivered to the exporter instore at the storing warehouse.

(7) Within 60 days after the delivery of the CCC bonus, the exporter must furnish evidence of export of the CCC bonus to an eligible destination.

(8) Failure to export the required quantity of commercial dairy products against an accepted bid, or the failure to export the CCC bonus, could result in liquidated damages being charged the exporter.

CCC invites the public to comment on this system and to propose alternative systems at any time during the course of the program.

Signed at Washington, DC on February 26, 1986.

Daniel G. Amstutz,
President, CCC.

[FR Doc. 86–4601 Filed 2–27–86; 10:16 am]

BILLING CODE 3410–10–M

Federal Grain Inspection Service

Designation Renewal of Quincy Grain Inspection & Weighing Service (IL)

AGENCY: Federal Grain Inspection Service (FGIS) USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Quincy Grain Inspection & Weighing Service (Quincy), as an official agency responsible for providing official services under the Grain Standards Act, as Amended (Act).

EFFECTIVE DATE: April 1, 1986.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS announced that Quincy's designation terminates on March 31, 1986, and requested applications for official agency designation to provide official services within specified geographic areas in the September 20, 1985, **Federal Register** (50 FR 38146). Applications were to be postmarked by October 21, 1985. We received two applications for the Quincy area. Quincy applied for designation renewal in the area currently assigned to that agency. Southern Illinois Grain Inspection Service, Inc., Fairview Heights, Illinois, applied for designation in a portion of the geographic area presently assigned to Quincy.

FGIS announced the applicant names and requested comments on the same in the December 2, 1985, **Federal Register** (50 FR 49434). Comments were to be postmarked by January 16, 1986. No comments were received regarding designation in the Quincy, Illinois, geographic area.

FGIS evaluated all available information regarding the designation criteria in section 7(f)1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that Quincy is better able than any other applicant to provide official services in the geographic area for which FGIS is renewing its designation. Effective April 1, 1986, and terminating March 31, 1989, Quincy will provide official inspection services in its specified geographic area, which is the entire area previously described in the September 20 **Federal Register**.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Review Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address: Quincy Grain Inspection & Weighing Service, 401 South 9th Street, P.O. Box 755, Quincy, IL 62301.

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

Dated: February 12, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86-4345 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicant in the Geographic Area Currently Assigned to D.L. Boltenhouse Grain Inspection Service (OH)

AGENCY: Federal Grain Inspection Service (FGIS) USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to D.L. Boltenhouse Grain Inspection Service (Boltenhouse).

DATE: Comments to be postmarked on or before April 17, 1986.

ADDRESS: Comments must be submitted, in writing, to Lewis Labakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Labakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been received and determined not to be a rule or regulation as defined in executive Order 12291 and Departmental Regulations 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within a specified geographic area in the December 27, 1985, **Federal Register** (50 FR 52975), and as corrected, January 6, 1986 (51 FR 421). Applications were to be postmarked by January 27, 1986. Boltenhouse was the only applicant for its designation and applied for designation renewal in the area currently assigned to that agency. Boltenhouse is changing its name to Erie Grain Inspection Service and applied for designation renewal under that name.

This notice provides interested persons the opportunity to present their comments concerning the designation applicant. All comments must be submitted to the Information Resources Staff, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

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

Date: February 12, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86-4347 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to Fremont Grain Inspection Department, Inc., (NE) and Titus Grain Inspection, Inc. (IN)

AGENCY: Federal Grain Inspection Service (FGIS) USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of two agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specificed agency. The Official agencies are Fremont Grain Inspection Department, Inc., and Titus Grain Inspection, Inc.

DATE: Applications to be postmarked on or before April 2, 1986.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400

Independence avenue, SW., Room 1647, South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifices that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Fremont Grain Inspection Department, Inc. (Fremont), 603 East Dodge Street, Fremont, NE 68025, and Titus Grain Inspection, Inc. (Titus), 1111 East 800 North, West Lafayette, IN 47906, were each designated under the Act as an official agency to provide inspection functions on September 1, 1983.

Each official agency's designation terminates on August 31, 1986. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Fremont, in the States of Iowa and Nebraska, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

In Iowa, Carroll (west of U.S. Route 71); Crawford; Harrison (east of State Route 183); and Shelby Counties. Also in Iowa, Clay (west of U.S. Route 71); Dickinson (west of U.S. Route 71); O'Brien (north of B24 and east of U.S. Route 59); and Osceola (east of U.S. Route 59) Counties.

In Nebraska, the area is:

Bounded on the North by U.S. Route 20 east to the Pierce County line; the eastern Pierce County line; the northern Wayne, Cuming, and Burt County lines east to the Missouri River;

Bounded on the East by the Missouri River south-southeast to State Route 91; State Route 91 west to the Dodge County line; the eastern and southern Dodge County lines west to U.S. Route 77; U.S. Route 77 south to the Saunders County line;

Bounded on the South by the southern Saunders, Butler, and Polk County lines; and

Bounded on the west by the western Polk County line north to the Platte River; the Platte River northeast to the western Platte County line; the western and northern Platte County lines east to U.S. Route 81; U.S. Route 81 north to U.S. Route 20.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Fremont and are part of this geographic area assignment:

1. Farmers Cooperative and Krumel Grain and Storage, both in Wahoo, Saunders County, Nebraska;

2. Juergens Produce and Seed and Farmers Grain and Lumber Company, both in Carroll, Carroll County, Iowa.

The following locations outside of the foregoing contiguous geographic area, are presently assigned to Titus and are part of this geographic area assignment:

1. Boswell Grain Company, Boswell, Benton County;

2. Dunn Grain, Dunn, Benton County;

3. York Richland Grain Elevator, Inc., Earl Park, Benton County;

4. Raub Grain Company, Raub, Benton County;

5. The Andersons, Delphi, Carroll County;

6. Buckeye Feed and Supply Company, Leiters Ford, Fulton County;

7. Cargill, Inc., Linden, Montgomery County.

Exceptions to the described geographic area are the following locations situated inside Titus' area which have been and will continue to be serviced by Schneider Inspection Service, Inc.: Central Soya and Farmers Grain, both in Winamac, Pulaski County.

Interested parties, including Fremont and Titus, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning September 1, 1986, and ending August 31, 1989. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Exceptions to the described geographic area are the following locations situated inside Fremont's area which have been and will continue to be serviced by the following official agencies:

1. Hastings Grain Inspection, Inc., to service Farmers Cooperative Grain Company and Wagner Mills, Inc., both in Columbus, Platte County, Nebraska;

2. Omaha Grain Inspection Service, Inc., to service Farmers Coop Business Assn., Rising City, Butler County, Nebraska, and Farmers Coop Business Assn., Shelby, Polk County, Nebraska;

3. Sioux City Inspection & Weighing Agency, Inc., to service Charter Oak Grain & Seed and Delanty Grain Company, both in Charter Oak, Crawford County, Iowa.

The geographic area presently assigned to Titus, in the State of Indiana, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by the northern Pulaski County line;

Bounded on the East by the eastern and southern Pulaski County lines; the eastern White County line; the eastern Carroll County line south to State Route 25; State Route 25 southwest to Tippecanoe County; the eastern Tippecanoe County line;

Bounded on the Soute by the southern Tippecanoe County line; the eastern and southern Fountain County lines west to U.S. Route 41; and

Bounded on the West by U.S. Route 41 north to the northern Benton County line; the northern Benton County line east to State Route 55; State Route 55 north to U.S. Route 24; U.S. Route 24 east to the White County line; the western White and Pulaski County lines.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

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

Date: February 12, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86–4346 Filed 2–28–86; 8:45 am]

BILLING CODE 3410–EN–M

Request for Comments on Designation Applicant in the Enid, OK, Geographic Area

AGENCY: Federal Grain Inspection Service (FGIS) USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the Enid, Oklahoma, geographic area.

DATE: Comments to be postmarked on or before April 17, 1986.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule of regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS announced the cancellation of designation of Enid Grain Inspection Co., Inc., and requested applications for official agency designation to provide official services within a specified geographic area in the December 27, 1985, **Federal Register** (50 FR 52975), and as corrected, January 6, 1986 (51 FR 421). Applications were to be postmarked by January 27, 1986. Barry Hibbets, Enid, Oklahoma, who proposes to continue the business as Enid Grain Inspection Co., Inc. (Hibbets), was the only applicant for designation and applied for the entire area available for assignment. Hibbets began providing official inspection services in the specified geographic area on an interim basis, starting January 1, 1986, until June 30, 1986.

This notice provides interested persons the opportunity to present their comments concerning the designation applicant. All comments must be submitted to the Information Resources Staff, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicant will be informed of the decision in writing.

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

Date: February 12, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86–4348 Filed 2–28–86; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Provide Official Services in the State of Florida

AGENCY: Federal Grain Inspection Service (FGIS) USDA.

ACTION: Notice.

SUMMARY: This notice announces that there were no applicants for designation for the State of Florida geographic area, pursuant to the October 25 **Federal Register** notice requesting such applicants. FGIS is again requesting applications from parties interested in being designated as the official agency to provide official services in the State of Florida geographic area. FGIS has been providing and will continue to provide official services in the entire State of Florida until a decision can be made in this matter.

DATE: Applications to be postmarked on or before March 18, 1986.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447–8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the U.S. Grain Standards Act, as amended (Act), specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

FGIS requested applications for official agency designation to provide official services within a specified geographic area in the October 25, 1985, **Federal Register** (50 FR 43429). Applications were to be postmarked by November 25, 1985; we received no applications for the Florida designation. As a result, FGIS again is requesting applications for designation in the State of Florida geographic area. A 15-day application period is deemed adequate in view of the prior request for applicants. FGIS has been providing and will continue to provide official services in the entire State of Florida until a decision can be made in this matter.

Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. Accordingly, the designation in the specified geographic area will not exceed a 3-year period.

The geographic area available for assignment is the entire State of Florida except those export port locations within the State.

Interested parties are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

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

Dated: February 24, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86–4344 Filed 2–28–86; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Cleveland Peninsula Area Analysis; Tongass National Forest, Ketchikan Area; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the Cleveland Peninsula Analysis Area. The Analysis will set standards and guidelines for management activities, provide a detailed schedule of activities, and determine the level of development to take place through the year 2000. Alternative locations of timber harvest units, roads, and timber harvest facilities will be identified and evaluated.

Overall guidance for the analysis will be provided by the Alaska Regional Guide, The Tongass Land Management Plan and The LPK Timber Sale Plan for the 1984–89 Operating Period.

A range of alternatives will be examined to determine which combination of activities best balances resource needs in meeting public needs. One alternative will be the no action alternative.

Scoping for the project was done in January and February 1984. The issues identified at that time which are associated with the project include:

1. Level of Development That Will Take Place
2. Effect the Construction And Occupation of a Logging Camp May Have on King Salmon Stocks of West Behm Canal
3. Road Management
4. Economics
5. Impact on the Community of Meyers Chuck
6. Protection and Enhancement of Recreation Opportunities
7. Effects on Fish and Wildlife Values.

This notice is being prepared to provide time for additional comments.

The Fish and Wildlife Service of the Department of the Interior and the National Marine Fisheries Service of the Department of Commerce will be asked to participate as cooperating agencies to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist within the project.

The Army Corp of Engineers will be asked to participate as a cooperating agency to evaluate potential impacts of terminal transfer facilities on marine habitat and to evaluate potential impacts on wetlands and floodplains.

Win Green, Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901 is the Responsible Official.

The analysis is expected to take about one year to complete. The Draft Environmental Impact Statement should be available for public review by August 1986. The Final Environmental Impact Statement is scheduled to be completed in December, 1986.

Written comments and suggestions concerning the analysis should be sent to Win Green, Forest Supervisor, Tongass National Forest, Ketchikan, Alaska 99901 by April 15, 1986.

Questions about the proposed action and Environmental Impact Statement should be directed to Dale J. Thompson, Team Leader, Federal Building, Tongass National Forest, Ketchikan, Alaska 99901, Phone (907) 225-3101.

Win Green,

Forest Supervisor.

Dated: February 14, 1986.

[FR Doc. 86-3972 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-11-M

Food Safety and Inspection Service

[Docket No. 86-006N]

Elimination of Import Inspection Activities at Other Than Approved Locations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Policy Statement.

SUMMARY: This notice announces the Food Safety and Inspection Service's policy concerning the inspection of imported products at other than approved locations. Effective March 1, 1986, all import inspection activities, including staging of lots of product and sample selection, will be permitted only at establishments officially approved for import inspection activities.

FOR FURTHER INFORMATION CONTACT: Patricia Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-3473.

SUPPLEMENTARY INFORMATION: The Food Safety and Inspection Service conducts a reinspection of imported meat and poultry products to assure that they are wholesome, not adulterated, and properly labeled and packaged as required under the Federal Meat Inspection Act and the Poultry Products Inspection Act. The Federal meat inspection regulations permit this reinspection only at establishments specifically approved to handle import inspection activities for specific types of products (9 CFR 327.6).

In the past, inspection of imported products has been provided at piers, warehouses and other nonofficial facilities. This has occurred because imported products may be stripped (removed from large cargo shipping containers) at these locations, and it is convenient for importers to present imported products there for inspection. In practice, to accommodate inspection at such sites, FSIS personnel must drive to the location, visually check paperwork and product labeling, take samples if required, and return with samples to an official establishment for further inspection. The inspectors then must return to the location to release the product or to refuse it entry.

These are unofficial locations and FSIS does not enforce requirements relating to facility sanitation, insect and rodent control, control over chemical compounds and potential contaminants, acceptable methods of product handling, and other facility standards, as required for official establishments. In addition, FSIS incurs additional, nonreimbursed personnel and mileage costs as a result of performing import inspection at these locations.

Therefore, effective March 1, 1986, FSIS will permit import inspection activities, including staging of lots of product and sample selection, only at establishments officially approved for import inspection activities. This policy will ensure acceptable standards for inspecting imported meat and poultry products; will eliminate unreimbursable personnel costs and mileage costs; and will conform to existing FSIS regulations.

Done at Washington, DC on February 26, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-4573 Filed 2-28-86; 8:45 am]

BILLING CODE 3410-DN-M

CIVIL RIGHTS COMMISSION

Vermont Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:00 p.m. on March 12, 1986, at the Holiday Inn, VIP Room, Blush Hill Road, Waterbury, Vermont. The purpose of the meeting is to discuss a briefing memorandum summarizing the November community forum on "Civil Rights Concerns and Issues in Vermont" and the Committee's planned study of Vermont's human rights laws and methods of enforcement.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Kenneth Holland or Jacob Schlitt, Director of the New England Regional Office at (617)223-4671, (TDD 617/223-0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 25, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-4450 Filed 2-28-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposls for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Report on Condition of Survey Mark
Form Number: Agency—NOAA—76–91; OMB 0648–0006
Type of Request: On occasion
Burden: 2,500 respondents; 500 reporting hours
Needs and Uses: The National Horizontal and Vertical Control Network consists of approximately 800,000 survey points distributed throughout the United States. Surveyors provide information on geodetic control marks they use. The information is used to maintain the national geodetic control network.
Affected Public: State or local governments, businesses or other for-profit institutions, federal agencies or employees, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Sebsequent Purchaser Reports
Form Number: Agency—N/A; OMB—0648–0079
Type of Request: Extension of the expiration date
Burden: 150 respondents; 150 reporting hours
Needs and Uses: The information provided allows members of the public to engage in certain trade involving fish and wildlife that would otherwise be prohibited under the Endangered Species Act.
Affected Public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Permit/Letter of Agreement Reports
Form Number: Agency—N/A; OMB—0648–085
Type of Request: Extension of the expiration date
Burden: 300 respondents; 900 reporting hours
Needs and Uses: The Marine Mammal Protection Act, the Endangered Species Act,and the Fur Seal Act provide for the granting of permits by the National Oceanic and Atmospheric Administration for actions which would otherwise be prohibited under these Acts. The Permit/Letter of Agreement Reports are used to track actions under specific permits and the overall effects of the permits granted.
Affected Public: Individuals, state or local governments, businesses or other for-profit institutions, federal agencies or employees, non-profit institutions, small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Mandatory
OMB Desk Officer: Sheri Fox, 395–3785

Agency: National Oceanic and Atmospheric Administration
Title: Federal Fisheries Permit—Amendment J
Form Number: Agency—88–156; OMB—0648–0097
Type of Request: Revision of a currently approved collection
Burden: 444 respondents; 222 new reporting hours
Needs and Uses: Amendment J establishes a procedure for issuing permits to user groups fishing for king mackerel. Permits enable monitoring of catch levels and help identify closure dates
Affected Public: Businesses or other for-profit institutions, small businesses or organizations
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox, 395–3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: February 24, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–4512 Filed 2–28–86 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: June 1986 Immigration and Fertility Supplement
Form Number: Agency—CPS—1; OMB—0607–0460
Type of Request: Reinstatement of a previously approved collection
Burden: 58,000 respondents; 2,378 reporting hours
Needs and Uses: This survey will provide data to be used by the Immigration and Naturalization Service to evaluate policies concerning immigration and naturalization. The survey will also provide information on the lifetime fertility of women, native and foreign-born, by various demographic characteristics.
Affected Public: Individuals or households
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: February 25, 1986.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 86–4513 Filed 2–28–86; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis
Title: Defense RDT&E Price Index Study Data Requirement
Form Number: Agency—131500; OMB—0608—0033
Type of Request: Extension of a currently approved collection
Burden: 25 respondents; 700 reporting hours
Needs and Uses: Collected data are needed to develop deflators for

defense purchases of contractual research, development, test, and evaluating (RDT&E). Results are used in the National Income and Product accounts and in analysis of RDT&E costs relative to costs of other defense purchases.

Affected Public: Businesses or other for-profit institutions and non-profit institutions

Frequency: Quarterly

Respondent's Obligation: Voluntary

OMB Desk Officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Buiding, Washington, DC 20503.

Dated: February 25, 1986.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 86–4514 Filed 2–28–86; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket No. 6–86]

Foreign-Trade Zone 46; Cincinnati, OH; Application for Subzone Honda Auto and Motorcycle Engine Plant, Shelby County, OH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 46, requesting foreign-trade subzone status for the motorcycle and automobile engine manufacturing plant of Honda of America Manufacturing, Inc., located in Shelby County, Ohio, some 45 miles north of the Dayton Customs port of entry. The application was submitted pursuant ot the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 6, 1986.

On January 12, 1979, the Board authorized subzone status for the Honda of American motorcycle manufacturing plant in Union County, Ohio (Board Order 141, 44 FR 4003). The subzone was expanded in May 1982 to include an auto manufacturing facility (Board Order 191, 47 FR 24760).

The proposed subzone is located at Meranda and Wenger Roads, Franklin Township in Shelby County, some 45 miles north of Dayton. The 505-acre facility is used to produce motorcycle engines, employing 83 persons. By late summer, auto engines will be added to the plant's product line, increasing employment to 160.

For the motorcycle engine line, plant operations involve manufacturing crankshafts and final assembly. For auto engines, operations include manufacturing cylinder blocks and final assembly. Most of the parts used in both operations are sourced aboard. The finished engines are to be shipped to Honda's motorcycle and auto plants in Union County (Subzone 46B), replacing engines now imported.

Zone procedures will exempt Honda from duty payments on the foreign parts used in engines that are exported. On domestic shipments, the company will be able to take advantage of the same duty rate on engine parts that is already applicable to the foreign engines used in the subzone. The savings will encourage Honda to make maximum use of U.S. production facilities to produce parts that otherwise would be imported.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 6th Floor, Plaza Nine Bldg., 55 Erieview Plaza, Cleveland, OH 44114; and Colonel Dwayne G. Lee, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before March 31, 1986.

A copy of the application in available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, Dayton Int'l Airport, Vandalia, OH 45377

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, DC 20230.

Dated: February 24, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86–4504 Filed 2–28–86; 8:45 am]

BILLING CODE 3510-DS-M

Bureau of the Census

Motor Freight Transportation and Warehousing Survey; Determination

In accordance with Title 13, United States Code, section 182, 224, and 225, and due Notice of Consideration having been published January 21, 1986, (51 FR 2746), I have determined that data covering 1984 and 1985 revenues and expenses for the trucking and warehousing industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also apply to a variety of public and business needs. This survey will yield 1984 and 1985 data on annual operating revenues and expenses for the trucking and warehousing industries.

The Census Bureau will require a selected sample of trucking and warehousing firms in the United States (with payroll size determining the probability of selection) to report on the 1985 Motor Freight Transportation and Warehousing Survey. The sample will provide, with measurable reliability, national level statistics on operating revenues and expenses for these industries.

We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: February 26, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86–4492 Filed 2–28–86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-412-501]

Anhydrous Sodium Metasilicate From the United Kingdom; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that anhydrous sodium metasilicate (ASM) from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value, and have notified the U.S.

International Trade Commission (ITC) of our determination. We have also preliminarily determined that critical circumstances do not exist in this case. If this investigation proceeds normally, we will make a final determination by May 10, 1986.

EFFECTIVE DATE: March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur J. Simonetti or John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–4929, or (202) 377–5404.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that ASM from the United Kingdom is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). We made fair value comparisons on one company representing virtually all of the sale of the class or kind of merchandise to the United States during the period of investigation. Comparisons were based on the United States price and the home market price. We have preliminarily found that the margin for the company investigated is 3.93 percent, *ad valorem*.

Case History

On September 16, 1985, we received a petition filed in proper form from the P.Q. Corporation on behalf of the U.S. industry producing ASM. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on October 10, 1985 (50 FR 41920), and notified the ITC of our action.

On October 30, 1985, a questionnaire was presented to counsel for the respondent.

On October 31, 1985, the ITC found that there is a reasonable indication that imports of ASM from the United Kingdom are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1773, October 1985).

On December 2, 1985, the respondent filed a response to our questionnaire. We investigated Joseph Crosfield & Sons, Ltd., the manufacturer who accounts for virtually all British exports of the merchandise to the United States. We examined 100 percent of the sales made by this company.

Scope of Investigation

The product covered by this investigation is anhydrous sodium metasilicate, currently classified under item number 421.34 of the *Tariff Schedules of the United States*. Anhydrous sodium metasilicate is a definite crystalline chemical compound having the chemical formula Na_2SiO_3

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold prior to the date of importation to unrelated purchasers in the United States. We calculated the purchase price based on the C.I.F. delivered, packed price. We made deductions for U.K. handling, U.S. handling, foreign inland freight, ocean freight, marine insurance, and U.S. freight.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on delivered home market prices. From the home market price, deductions were made for inland freight and insurance, various discounts and rebates. In accordance with § 353.15 (19 CFR 353.15) of the U.S. Department of Commerce Regulations, adjustments were made for technical services, where appropriate, and warranty expenses. Also, a small lot surcharge was added to the home market selling price, where appropriate. Where U.S. sales involved commissions, indirect selling expenses were granted as an offset for the costs of the U.S. commission expenses. Home market packing expenses were allowed up to the amount of the packing expense of U.S. sales.

Pursuant to § 353.56 of the Regulations, we made currency conversions at the rates certified by the Federal Reserve Bank.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Preliminary Negative Determination of Critical Circumstances

Counsel for petitioner alleged that imports of ASM from the United Kingdom present "critical circumstances." Under section 733(e) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and, (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there is a history of dumping of the product under investigation, we ascertain whether there have been any prior investigations of this product in any other country. We found no evidence of any other country having found sales at less than fair value of this product from the United Kingdom. Neither the Department nor Treasury has investigated this product before. Therefore, we find that there is no history of dumping.

The second criterion is whether the importers knew, or should have known that the exporter was dumping the merchandise. We normally consider margins of 25 percent or more to constitute constructive knowledge or dumping. Since the margins in this case do not meet or exceed this level, we find that knowledge of dumping cannot be imputed to the importers.

Because we do not have either a history of dumping or knowledge on the part of the importers that the merchandise was being dumped, we, therefore, do not have to consider whether there are massive imports over a relatively short period.

For the reasons described above, we have preliminarily determined that critical circumstances do not exist with respect to imports of ASM from the United Kingdom.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of ASM from the United Kingdom that are entered, or

withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Joseph Crosfield & Sons, Ltd.	3.93
All others	3.93

ITC Notification

In accordance with section 773(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 A.M., on April 18, 1986, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by April 15, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

February 24, 1986.

[FR Doc. 86-4506 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-601, A-583-601, A-351-601]

Termination of Antidumping Duty Investigations; Certain Finished Carbon Steel Butt-Weld Pipe Fittings From Brazil, Japan and Taiwan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In a letter dated February 10, 1986, the U.S. Butt-Weld Pipe Fittings Committee withdrew its antidumping duty petitions filed on January 13, 1986, with respect to certain finished carbon steel butt-weld pipe fittings from Brazil, Japan and Taiwan. Based on the withdrawal, we are terminating our investigations.

EFFECTIVE DATE: March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Patrick O'Mara or Mary S. Clapp of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377-3798, or 377-1769.

Case History

On January 13, 1986, we received antidumping duty petitions filed with respect to certain finished carbon steel butt-weld pipe fittings from Brazil, Japan and Taiwan. In compliance with the filing requirements of § 353.36 of our antidumping duty regulations (19 CFR § 353.36), the antidumping duty petitions alleged that imports of certain finished carbon steel butt-weld pipe fittings from Brazil, Japan and Taiwan are being, or are likely to be, sold at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

After reviewing the petitions, we determined that they contained sufficient grounds upon which to initiate antidumping duty investigations. We notified the U.S. International Trade Administration Commission (ITC) of our actions and initiated the investigations on February 3, 1986 (50 FR 4948 and 50 FR 4949).

Scope of Investigations

The products covered by these investigations are finished, beveled, carbon steel butt-weld pipe fittings, other than couplings, under 14 inches in inside diameter, as currently provided for in item 610.88 of the *Tariff Schedules of the United States* (TSUS).

Withdrawal of Petitions

On February 10, 1986, we received a letter from the U.S. Butt-Weld Pipe Fittings Committee, withdrawing its antidumping duty petitions. Under Section 734(a) of the Act, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. We have consulted with the ITC. We have determined that termination is in the public interest.

We have notified all parties to the investigations and the ITC of petitioner's withdrawal of the antidumping duty petitions and our intention to terminate. For these reasons, we are terminating our antidumping duty investigations of certain finished carbon steel butt-weld pipe fittings from Brazil, Japan and Taiwan.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

February 24, 1986.

[FR Doc. 86-4507 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-505 and C-583-504]

Postponement of Antidumping Duty Determination and Extension of the Deadline for Final Countervailing Duty Determination; Oil Country Tubular Goods from Taiwan

ACTION: Notice.

SUMMARY: The final antidumping duty determination involving oil country tubular goods from Taiwan is being postponed until not later than May 21, 1986, as permitted in section 735(a)(2) of the Tariff Act of 1930, as amended.

Pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573), the deadline for the final countervailing duty determination is also extended until May 21, 1986, to coincide with the

revised date of the final antidumping duty determination.

EFFECTIVE DATE: March 3, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Charles Wilson, regarding the antidumping investigation at (202) 377–5404 or (202) 377–5288; or, Laurel LaCivita or Mary Martin regarding the countervailing duty investigation at (202) 377–0189 or (202) 377–2830. Written inquiries should be addressed to Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, Attn: Room B–099.

SUPPLEMENTARY INFORMATION: On July 22, 1985, we received antidumping duty and countervailing duty petitions filed in proper form by the Lone Star Steel Company and CF&I Steel Corporation, producers of oil country tubular goods. The Department found that the petitions contained sufficient grounds on which to initiate investigations, and on August 12, 1985, the Department initiated countervailing duty and antidumping duty investigations (50 FR 33384 and 50 FR 33388).

On September 26, 1985, the Department granted a timely request for an extension of the deadline date for the preliminary determination in the countervailing duty investigation. On November 29, 1985, we issued a preliminary negative countervailing duty determination (50 FR 49977). The notice stated that we expected to issue our final determination by February 13, 1986.

On December 30, 1985, the Department preliminarily determined that oil country tubular goods from Taiwan are being, or are likely to be sold in the United States at less than fair value (51 FR 663). The notice stated that we would issue our final determination by March 17, 1986. On January 16, 1986, counsel for respondent requested that the Department extend the period for the final determination until not later than 135 days after the date of publication of the preliminary determination in accordance with section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). The respondent is qualified to make this request because he is the exporter who accounts for all of the exports to the U.S. of the merchandise under investigation. Accordingly, the period for the final determination in this case is hereby extended. We intend to issue the final determination no later than May 21, 1986.

On January 27, 1986, pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98–573), the Department extended the deadline for the final countervailing duty determination to coincide with the final determination in the antidumping investigation (51 FR 3377) at petitioners' request. Therefore, the final countervailing duty determination is due by May 21, 1986.

Scope of Investigation

The products under investigation are "oil country tubular goods," which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API standards as currently provided for in the *Tariff Schedules of the United States, Annotated* items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4868, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

The United States International Trade Commission is being advised of the postponements in accordance with section 735(d) and section 705(d) of the Act.

In accordance with 19 U.S.C. 1671d(a)(1), the final countervailing duty determination will also be made by May 21, 1986.

Comments

In order to have any comments considered for our final antidumping duty determination, parties must submit them by March 30, 1986. All written views should be filed at the U.S. Department of Commerce, Room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230, in at least 10 copies.

This notice is published pursuant to section 735(d) and 705(d) of the Act.

Dated: February 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc 86–4505 Filed 2–28–86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Western Pacific Spiny Lobster Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of control date for entry into the northwestern Hawaiian Islands spiny lobster fishery.

SUMMARY: This notice announces that anyone entering the commercial spiny lobster fishery in the northwestern Hawaiian Islands (NWHI) after August 8, 1985 (control date) will not be assured of future access to the spiny lobster resource if a management regime is developed and implemented that limits the number of participants in the fishery. This announcement is necessary for public awareness of a potential eligibility criterion for access to the NWHI spiny lobster resource. This announcement does not prevent any other date for eligibility in the fishery or another method of controlling fishing effort from being proposed and implemented. The intended effect of this announcement is to discourage new entry to the fishery based on speculation while discussions continue on whether and how access to the spiny lobster resource should be controlled.

FOR FURTHER INFORMATION CONTACT: Peter Milone (Fisheries Development Specialists, NMFS), 808–955–8831.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Spiny Lobster Fisheries of the Western Pacific Region (FMP) was developed by the Western Pacific Fishery management Council (Council) and implemented under the Magnuson Fishery Conservation and Management Act by regulations appearing at 50 CFR Part 661. The Council in August 1985 adopted an emergency amendment (50 FR 40558, October 4, 1985) to the FMP to place a moratorium on new entry to the spiny lobster fishery in the NWHI. The Council acted in response to the increasing numbers of boats in the fishery while catch rates in the NWHI suggested decline of the stocks. The Council concluded that vessels active in the fishery at the time of the decision (August 8, 1985) had sufficient capacity to harvest the available yield of spiny lobster in the NWHI and that alternative ways to establish an access limitation program for the fishery should be considered. The emergency moratorium was intended to provide time in which to evaluate such alternatives. Knowing that it can take substantial time to develop and implement such a program,

however, the Council specified August 8, 1985, as the initial cutoff date for the purpose of establishing "historic participation" in the fishery in the event that this criterion is ultimately selected to limit access. Persons who entered the fishery after August 8, 1985, or who enter the fishery after publication of this notice are not assured of future participation should the Council develop and the Secretary of Commerce implement an access management regime that limits the number of participants in the fishery.

NMFS and the Council intend, in making this announcement, to discourage speculative entry into the NWHI spiny lobster fishery while potential management regimes to control access to the fishery are discussed by the Council and possibly developed. If the Council decides to develop such a regime, some fishermen who do not currently fish for spiny lobster in the NWHI and never have done so may enter the fishery for the sole purpose of establishing a record of making commercial landings of spiny lobster. Such a record often is considered indicative of economic dependence on the fishery. On this basis, a fisherman may successfully claim access to a fishery that is otherwise limited to traditional participants. Future entrants may have to buy their fishing rights or a permit from a participant. Hence, initial access to the fishery at little or no cost may result in a windfall gain upon selling an access right to a new entrant. This speculation often is responsible for a rapid increase in fishing effort in fisheries already fully or over developed when management authorities being to consider use of a limited access regime. The original problems become exacerbated by those who seek possible windfall gain from the solutions being discussed. To help distinguish *bona fide*, established fishermen from the speculative entrants to a fishery, the management authority may set a control date before discussions and planning of controlled access regimes begin. Fishermen are notified that entering the fishery after that date will not necessarily assure them of future access to the fishery resource on grounds of previous participation. Other qualifying criteria may be applied for entry.

This announcment establishes August 8, 1985, as such a control date for potential use in determining historical or traditional participation in the NWHI spiny lobster fishery. This action does not commit the Council or the Secretary to any particular management regime or criterion for entry to the spiny lobster fishery. Fishermen are not guaranteed future participation in the spiny lobster fishery regardless of their date of entry or intensity of participation in the fishery before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not make use of such a date. The Council may choose to give variably weighted consideration to fishermen in the fishery before and after the control date. The Council may choose also to take no further action to control entry or access to the fishery.

(16 U.S.C. 1801 *et seq.*)

Dated: February 26, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resources Management, National Marine Fisheries Service.

[FR Doc. 86-4502 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-22-M

Foreign Fishing Permits; Summary of Applications

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*) Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, DC 20235, or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302/674-2331

Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-4366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00918, 809/753-4926

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, Metro Building, 2000 S.W. First Avenue, Portland, OR 97201, 503/221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907/274-4563

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523-1368

For further information contact John D. Kelly or Shirley Whitted (Fees, Permits, and Regulations Division, 202-634-7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register**. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issues the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1986 have been received from the Governments shown below.

Dated: February 26, 1986.

Richard B. Roe,

Director, Office of Resource Management.

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Regional fishery management councils

Code and fishery:	
ABS Atlantic Billfishes and Sharks.	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA Bering Sea and Aleutian Islands Groundfish.	North Pacific.
GOA Gulf of Alaska	North Pacific.
NWA Northwest Atlantic Ocean.	New England, Mid-Atlantic.
SNA Snails (Bering Sea)	North Pacific.
WOC Pacific Groundfish (Washington, Oregon and California).	Pacific.
PBS Pacific Billfishes and Sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Fishing operations

Activity code:	
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
*	Vessel(s) in support of U.S. vessels (Joint Venture).

Nation, vessel name and type	Application No.	Fishery	Activity
Government of the People's Republic of China			
Hai Feng 2021, cargo/transport vessel.	CH-86-0005	BSA, GOA	3
Government of Denmark			
Icebert, cargo/transport vessel.	DA-86-0001	ABS	3
Iceblink, cargo/transport vessel.	DA-86-0002	NWA, ABS	3
Ice Flower, cargo/transport vessel.	DA-86-0003	ABS	3
Iceport, cargo/transport vessel.	DA-86-0004	ABS	3
Nordlandia, cargo/transport vessel.	DA-86-0006	NWA, ABS	3
Snowdrop, cargo/transport vessel.	DA-86-0007	ABS	3
Vestlandia, cargo/transport vessel.	DA-86-0008	ABS	3
Government of Italy			
Cosetta, medium stern trawler.	IT-86-0005	NWA	1*
Gabriella C., medium stern trawler.	IT-86-0010	NWA	1*
Government of Japan			
Aniyo Maru No. 15, medium stern trawler.	JA-86-0104	BSA	1
Akishio Maru M/V, cargo/transport vessel.	JA-86-0096	NWA, GOA, BSA	3
Chosei Maru No. 78, pot fishing vessel.	JA-86-0838	SNA	1
Eiwa Maru No. 38, pot fishing vessel.	JA-86-1568	SNA	1
Eikyo Maru No. 12, longline vessel.	JA-86-0124	BSA, GOA	1
Eikyu Maru No. 35, medium stern trawler.	JA-86-0511	BSA	1
Ebisu Maru No. 88, longline/gillnet vessel.	JA-86-0118	BSA, GOA	1
Hamayoshi Maru No. 63, medium stern trawler.	JA-86-1187	BSA	1
Hatsue Maru No. 68, longline vessel.	JA-86-0562	BSA, GOA	1
Hoyo Maru No. 63, pot fishing vessel.	JA-86-0862	SNA	1
Kaiyo Maru No. 8, pot fishing vessel.	JA-86-1137	SNA	1
Kyowa Maru No. 8, pot fishing vessel.	JA-86-0901	SNA	1
Mito Maru No. 32, small stern trawler.	JA-86-1197	BSA	1
Ryoan Maru No. 21, medium stern trawler.	JA-86-1172	BSA	1
Ryoun Maru No. 2, pot fishing vessel.	JA-86-0877	SNA	1
Sankichi Maru No. 23, pot fishing vessel.	JA-86-0848	SNA	1
Shinko Maru No. 11, longline vessel.	JA-86-0119	BSA, GOA	1
Ryuho Maru No. 38, longline vessel.	JA-86-0557	BSA, GOA	1
Tsune Maru No. 31, longline vessel.	JA-86-0601	BSA, GOA	1
Kiyo Maru No. 55, longline vessel.	JA-86-0602	BSA, GOA	1
Fukuyoshi Maru No. 85, longline vessel.	JA-86-0603	BSA, GOA	1
Hatsue Maru No. 38, longline vessel.	JA-86-0605	BSA, GOA	1
Sumiyoshi Maru No. 53, longline vessel.	JA-86-0608	BSA, GOA	1
Matsuei Maru No. 88, longline vessel.	JA-86-0609	BSA, GOA	1
Mito Maru No. 82, longline vessel.	JA-86-0611	BSA, GOA	1
Tomi Maru No. 88, longline vessel.	JA-86-0612	BSA, GOA	1
Shintoku Maru No. 25, longline vessel.	JA-86-0613	BSA, GOA	1
Choyo Maru No. 81, longline vessel.	JA-86-0615	BSA, GOA	1
Tenyo Maru No. 37, longline vessel.	JA-86-0616	BSA, GOA	1
Tenyo Maru No. 25, longline vessel.	JA-86-0618	BSA, GOA	1
Ryusho Maru No. 18, longline vessel.	JA-86-0620	BSA, GOA	1
Anyo Maru No. 21, longline vessel.	JA-86-0621	BSA, GOA	1
Anyo Maru No. 22, longline vessel.	JA-86-0622	BSA, GOA	1
Shinei Maru No. 63, small stern trawler.	JA-86-1196	BSA, GOA	1
Akashi Maru No. 11, pair trawler.	JA-86-1530	BSA	1
Akashi Maru No. 12, pair trawler.	JA-86-1531	BSA	1
Daitoku Maru No. 31, reefer/cargo vessel.	JA-86-1092	BSA, GOA	3
Fukuyoshi Maru No. 58, small stern trawler.	JA-86-1536	BSA	1
Fukucho Maru No. 11, small stern trawler.	JA-86-1537	BSA	1
Otawa Maru, cargo/transport vessel.	JA-86-1538	BSA, GOA, SNA, NWA	3
Fukushio Maru, cargo/transport vessel.	JA-86-1539	BSA, GOA, NWA	3
Shinwa Maru, reefer/cargo vessel.	JA-86-0904	BSA, GOA, NWA, SNA	3
The Government of the Kingdom of the Netherlands			
Alida, large stern trawler.	NL-86-0006	NWA	1*
Prins Bernhard, large stern trawler.	NL-86-0007	NWA	1*
Ariadne, medium stern trawler.	NL-86-0009	NWA	1*
Johanna Maria, medium stern trawler.	NL-86-0011	NWA	1*
Cornelis Vrolijk Fzn, medium stern trawler.	NL-86-0014	NWA	1*
Zeeland, large stern trawler.	NL-86-0022	NWA	1*
Holland, large stern trawler.	NL-86-0023	NWA	1*
Peer Sluis, medium stern trawler.	NL-86-0024	NWA	1*
Hendrika Johanna, medium stern trawler.	NL-86-0025	NWA	1*
Dirk Dirk, medium stern trawler.	NL-86-0026	NWA	1*
Annie Hillina, medium stern trawler.	NL-86-0027	NWA	1*
Astrid, large stern trawler.	NL-86-0028	NWA	1*
Government of the Polish People's Republic			
Buran, cargo/transport vessel.	PL-86-0033	BSA, GOA, WOC	3
Lewanter, cargo/transport vessel.	PL-86-0030	BSA, GOA, WOC	3
Pieniny 2, tanker fuel/water.	PL-86-0110	BSA, GOA, WOC	3
Talry, tanker fuel/water.	PL-86-0108	BSA, GOA, WOC, NWA	3
Zonda, cargo/transport vessel.	PL-86-0102	BSA, GOA, WOC, NWA	3
The Government of Spain			
Kantxope, medium stern trawler.	SP-86-0056	NWA	1
Mirador Del Fito, medium stern trawler.	SP-86-0171	NWA	1
Taiwan			
Hai Hsiung No. 12, Longline Fishing Vessel.	TW-86-3086	PBS	1
Koa Ya No. 1, longline fishing vessel.	TW-86-0057	PBS	1
Kao Ya No. 2, longline fishing vessel.	TW-86-0058	PBS	1
Kao Ya No. 3, longline fishing vessel.	TW-86-00659	PBS	1
Kao Ya No. 6, longline fishing vessel.	TW-86-0025	PBS	1
Kao Ya No. 36, longline fishing vessel.	TW-86-0063	PBS	1
Kao Ya No. 101, longline fishing vessel.	TW-86-0064	PBS	1
Lih Shaing No. 1, longline fishing vessel.	TW-86-0065	PBS	1
Ming Kuo No. 32, longline fishing vessel.	TW-86-0021	PBS	1
Shiuh Jinn No. 1, longline fishing vessel.	TW-86-0067	PBS	1
Shiuh Long No. 1, longline fishing vessel.	TW-86-0068	PBS	1
Tai Shang No. 1, longline fishing vessel.	TW-86-0066	PBS	1
Kuo Li No. 1, longline fishing vessel.	TW-86-3069	PBS	1
Government of the Union of the Socialist Republics			
Dalniy Vostok, factory ship.	UR-86-0783	BSA, GOA	2*
Skalat, cargo/transport vessel.	UR-86-0784	BSA, GOA	3
Valdaysk, cargo/transport vessel.	UR-86-0785	BSA, GOA	3
Vladivostok, factory ship.	UR-86-0786	BSA, GOA	2*
Nadezhdinsk, large stern trawler.	UR-86-0002	BSA, GOA, WOC	1*
Svetlaja, large stern trawler.	UR-86-0080	BSA, GOA, WOC	1*
Tretjakovo, large stern trawler.	UR-86-0111	BSA, GOA, WOC	1*
Lotos, large stern trawler.	UR-86-0200	BSA, GOA, WOC	1*
Ternei, large stern trawler.	UR-86-0202	BSA, GOA, WOC	1*
Fyodor Krainov, large stern trawler.	UR-86-0206	BSA, GOA, WOC	1*

Nation, vessel name and type	Application No.	Fishery	Activity
Ozyornye Klyuchi, large stern trawler.	UR-86-0223	BSA, GOA, WOC	1*
Pogranichnik Strelnikov, large stern trawler.	UR-86-0225	BSA, GOAdeHaviland	1*
Oktant, large stern trawler.	UR-86-0564	BSA, GOA, WOC	1*
Polevod, large stern trawler.	UR-86-0626	BSA, GOA, WOC	1*
Planerist, large stern trawler.	UR-86-0715	BSA, GOA, WOC	1*
Kirevka, medium stern trawler.	UR-86-0787	BSA, GOA, WOC	1*
Marshal Meretskov, factory ship.	UR-86-0788	BSA, GOA, WOC	1*
Salomatinsk, medium stern trawler.	UR-86-0789	BSA, GOA, WOC	1*
Jablonovskiy, medium stern trawler.	UR-86-0790	BSA, GOA, WOC	1*

Joint Venture

Japan

The Government of Japan has submitted permit applications for the KASHIMA MARU and the TAKACHIHO MARU to engage in joint venture activities with the American partner Northern Deep Sea Fisheries, Inc., Seattle WA. The species requested is yellowfin sole, Pacific cod and other species in the Bering Sea and Aleutian Islands fisheries. Notice of Receipt of the Permit Applications for these vessels was published November 21, 1985, 50 FR 48111.

Two Japanese vessels published in this Notice will participate in joint venture operations that were published on November 21, 1985, 50 FR 48112: the KOYO MARU NO. 3 with Northern Deep Sea Fisheries, Inc. and the TENYO MARU NO. 2 with Westward Trawlers, Inc. Both American partners are located in Seattle, WA.

The vessels TOMI MARU NO. 83 and TOMI MARU NO. 85 were to have participated in a joint venture with Westward Trawlers Inc. and notice was published on November 21, 1985. The application is now amended and identifies Alaska Contact, Ltd. as the new American partner. The tonnage amounts requested for these vessels were published November 21, 1985, 50 FR 48111 and are not changed.

Italy

The Italian vessel COSETTA, will participate in a joint venture with the IST Corporation, Cape May, N.J. Notice of receipt of the permit application for the joint venture was published December 6, 1985, 50 FR 50150.

Netherlands

The Government of the Kingdom of the Netherlands has submitted permit applications for joint venture activities in the Northwest Atlantic Ocean fishery. The species requested is Atlantic Mackerel in the amount of 1,000 mt. The designated American partner is Scan Ocean, Inc., Gloucester, MA.

[FR Doc. 86-4529 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

The invention listed below was developed at the National Cancer Institute of the National Institutes of Health and is owned by the U.S. Government. It is available for licensing in the U.S. in accordance with 35 U.S.C. 207. Corresponding foreign patent applications, also available for licensing, have been filed to provide extended protection for licensees.

SN 6-643,729

Method of Continuous Production of Retroviruses (HTLV-III) from Patients with AIDS and Pre-AIDS Using Permissive Cells

Technical and licensing information may be obtained by writing to: Robert P. Auber, Director, Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 86-4469 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-04-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Thursday, March 13, 1986 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC February 21, 1986.

Charles H. Atherton,

Secretary.

[FR Doc. 86-4470 Filed 2-28-86; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

February 26, 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 Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On February 19 and 24, 1986, the Governments of the United States and the People's Republic of Bangladesh exchanged letters on a new Bilateral Cotton and Man-Made Fiber Textile Agreement beginning on February 1, 1986 and extending through January 31, 1988. The agreement establishes specific limits for cotton and man-made fiber textile products in Categories 331, 334, 335, 340/640, 341, and 347/348, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1986 and extends through January 31, 1987. In the letter which follows this notice the Chairman of the Committee for the Implementation of Textile Agreement directs the Commissioner of Customs to control imports in these categories at the designated limits.

The Chairman of CITA also directs the Commissioner of Customs to permit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 340 which were exported during the restraint period which began March 1, 1985 and extended through January 31, 1986 in amounts of 80,000 dozens on March 3, 1986 and 80,000 dozens on March 28, 1986. Both quantitlies will be charged to the limit being established for Category 340/640.

The letter and the actions taken pursuant to it are not designed to

implement all of the provisions of the new bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

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.

February 26, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive cancels and supersedes the directive of January 23, 1986 concerning cotton textile products in Category 334, produced or manufactured in Bangladesh.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of February 19 and 24, 1986 between the Governments of the United States and the People's Republic of Bangladesh; and accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 3, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 331, 334, 335/340/640, 341, and 347/348, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1986 and extends through January 31, 1987, in excess of the following limits:

Category	Twelve-month restraint limit [1]
331	505,000 dozen pairs.
334	60,000 dozen.
335	110,000 dozen.
340/640	1,300,000 dozen of which not more than 300,000 dozen shall be in yarn-dyed shirts in Cat 340/640 pt.[2]
41	1,100,000 dozen.
47/348	990,000 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1986.

[2] In Categories 340 and 640, only T.S.U.S.A. numbers 381.5500, 381.5610, 381.5625, 381.5660, 381.9535, 381.9550, 381.0520, 381.3130, 381.3140, 381.3150, 381.5635 and 381.9545

In carrying out this directive entries of textile products in Category 340, produced or manufactured in Bangladesh, which have been exported to the United States during the twelve-month period which began on March 1, 1985 and extended through January 31, 1986, shall be permitted entry into the United States for consumption, or withdrawal from warehouse for consumption, in amounts of 80,000 dozen on March 3, 1986 and 80,000 dozen on March 28, 1986. These amounts will be charged to the restraint limits established in this directive for Category 340/640. Cotton and man-made fiber textile products in Categories 331, 334, 335, 341, 347/348 and 640 which have been exported to the United States prior to February 1, 1986 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The foregoing limits are subject to adjustment in the future according to the terms of the bilateral agreement of February 19 and 24, 1986 which provide, in part, that: specific limits may be adjusted by designated percentages; carryforward is applicable to specific limit categories during the first agreement year and carryover during subsequent agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in teh **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).

In carrrying out the above directions, the Commissioner to Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within he 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. 86-4508 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-DR-M

New Limit for Certain Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

February 26, 1968.

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 Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 30, 1985, a notice was published in the **Federal Register** (50 FR 53182) announcing the import restraint limits for certain cotton, wool, and man-made fiber textile products, produced or manufactured in China and exported to the United States during the agreement year which began on January 1, 1986 and extended through December 31, 1986.

During consultations held under the terms of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, the Governments of the United States and the People's Republic of China have agreed to establish specific limits for the following products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986: Men's and boys' other wool coats in Category 434, man-made fiber thread in Category 605 pt. (only TSUSA number 310.9500), man-made fiber pajamas and blanket sleepers in Category 651, and man-made fiber underwear in Category 652.

The United States Government has decided to control imports in these categories at the agreed limits. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to prohibit entry, or withdrawal from warehouse, for consumption in the United States of textile products in the foregoing categories in excess of the designated restraint limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983, (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff

Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 26, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 3, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Categories 434, 603 pt. [1], 651 and 652, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, in excess of the following limits:

Category	Twelve-month restraint limits [2]
434	11,817 dozen.
605 pt. [1]	450,000 pounds.
651	520,000 dozen of which not more than 93,000 dozen shall be in TSUSA numbers 384.2222 and 384.8632.
652	1,800,000 dozen.

[1] In Category 605, only TSUSA number 310.9500.
[2] The limits have not been adjusted to account for any imports exported after December 31, 1985. Imports amounting to 50,164 dozen should be charged to the limit for Category 651.

In carrying out this directive textile products in the foregoing categories except Category 605pt.[1], which have been exported to the United States during the agreement period which began on January 1, 1985 and extended through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the restraint limits established for such goods during that twelve-month period. In the event the restraint limits established for such goods during that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this letter. Textile products in Category 605pt.[1], which have been exported on and after August 15, 1985 and extending through December 31, 1985, shall be permitted entry for consumption in the United States in amounts not to exceed 90,000 pounds per month beginning in March 1986 and extending through July 1986. These amounts plus goods exported on and after January 1, 1986, shall not together be permitted to exceed the newly established 1986 limit.

[1] In Category 605, only TSUSA number 310.9500.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19. U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of August 19, 1983, as amended, which provide in part, that: (1) specific limits may be exceeded by not more than 5 percent of their square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard decrease in one or more other specific limits in that agreement year; (2) except for certain exceptions specified in the agreement, specific limits may be increased for carryover and carryforward up to 10 percent of the applicable category limit in any agreement year, subject to consultations, according to the terms specified in the agreement; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-4509 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-DR-M

New Limit for Certain Cotton and Wool Textile Products Produced or Manufactured in the People's Republic of China; Correction

February 26, 1986.

On January 27, 1986 a notice was published in the **Federal Register** (51 FR 3392) which announced newly agreed specific limits for certain specified categories of cotton and wool textile products, including cotton luggage in part of Category 369, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. The TSUSA numbers identifying the cotton luggage covered by the newly agreed limit for Category 369pt. should be corrected to read as follows in both the notice document and in footnote 2 of the letter to the Commissioner of Customs which followed that notice: 706.3210, 706.3650, and 706.4111.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreement.

[FR Doc. 86-4510 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Sri Lanka To Review Trade in Category 342

February 26, 1986.

On January 31, 1986, the Government of the United States requested consultations with the Government of Sri Lanka with respect to Category 342 (cotton skirts). This request was made on the basis of the agreement between the Governments of the United States and Sri Lanka of May 10, 1983, as amended, relating to trade in cotton, wool and man-made fiber textile products. The agreement provides for consultations when imports cause market disruption, or the threat thereof.

According to the terms of the bilateral agreement, if no mutually satisfactory solution is reached during consultations, the United States may establish a prorated specific limit for the period which began January 31, 1986 and extends through May 31, 1986 at a level of 50,349 dozen.

The Government of the United States has decided, pending a mutually satisfactory solution, to control imports in Category 342 exported during the 90-day consultation period which began on January 31, 1986 and extends through April 30, 1986 at the prescribed limit of 44,298 dozen.

In the event the limit established for the ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the limits established during the subsequent agrement year.

The United States remains committee to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Sri Lanka, further notice will be published in the **Federal Register.**

A summary market statement for this category follows this notice.

A description of the textile categories in terms of T.S.U.S.A. numbers was publishd 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).

Anyone wishing to comment or provide data or information regarding the treatment of Category 342 under the agreement with the Government of Sri Lanka, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Ronald I. Levin, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Sri Lanka—Market Statement

Category 342—Cotton Skirts

January 1986.

Summary and Conclusions

U.S. imports of cotton skirts from Sri Lanka were 133,072 dozens during the year ending November 1985, a 58 percent increase over the 84,218 dozens imported through year ending November 1984. Full year 1984 imports from Sri Lanka were 90,102, compared with 13,373 in 1983.

The sharp and substantial increase of low-valued imports of Category 342 from Sri Lanka is disrupting the U.S. market for cotton skirts.

Production and Market

Domestic production of cotton skirts has been relatively stable sicne 1982. In 1984, production was 2,027,000 dozens, 3.0 percent below the 1982 level of 2,090,000 dozens.

The market for domestically produced and imported cotton skirts grew by approximately 25 percent between 1982 and 1984, however U.S. producers did not share in the growth. Their share of the market fell from 63 percent in 1982 to 49 percent in 1984.

Imports and Import Penetration

Imports from all sources increased 75 percent, from 1,226,000 dozens in 1982 to 2,146,000 dozens in 1984. The import production ratio correspondingly rose from 58.7 percent in 1982 to 105.9 percent in 1984.

Import Values vs. Domestic Prices

Approximately 90 percent of the Category 342 imports from Sri Lanka entered under TSUSA No. 384.5251 (previously 383.5051)—womens' other cotton skirts, kint, not ornamented. These garments enter the U.S. at landed duty-paid values below U.S. producers's prices for comparable items. February 26, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, between the Governments of the United States and Sri Lanka; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 4, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 342 produced or manufactured in Sri Lanka and exported during the ninety-day period which began on January 31, 1986 and extends through April 30, 1986, in excess of the following level:

Category	Ninety-day level [1]
342	44,298 dozen.

[1] The limit has not been adjusted to account for any imports exported after January 30, 1986.

Textile products in Category 342 which have been exported to the United States prior to January 31, 1986 shall not be subject to this directive.

Textile products in Category 342 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-4511 Filed 2-28-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

1986 Procurement List; Addition

SUMMARY: This action adds to Procurement List 1986 a commodity to be produced by workshops for other severely handicapped.

EFFECTIVE DATE: March 3, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Addition to the Procurement List of the commodity listed below was published in the **Federal Register** on April 12, 1985 (50 FR 14411). As the result of the public notice, the current contractor for the poncho liner and its counsel submitted comments both in writing and orally before the Committee. These comments questioned the workshop's capability to produce the poncho liner, the fair market price, the impact on the current contractor, and the workshop's qualification.

The workshop's capability to produce the poncho liner as verified by a Government on-site inspection. The times required for the workshop's manufacturing operations involved in the production of the poncho liner have been confirmed by technical personnel who have extensive background and experience in manufacturing sewing items employing blind labor. The workshop has the financial capability to produce the poncho liner.

The price for the poncho liner is a fair market price based on the bids submitted on the most recent solicitation for which an award has been made for this item.

In the Government's fiscal year 1985, the value of the current contractor's award for the portion of the poncho liner being added to the Procurement List represented not more han 6% of the total value of all contracts awarded to that contractor by the Government. The most recent contract for the poncho liner which was awarded to the current contractor in October 1985, less the quantity being added to the Procurement List, exceeds the total quantity of the poncho liner awarded to that firm in fiscal year 1985 and also exceeds the total value of that firm's fiscal year 1985 contract for this item. The potential loss to that firm of the portion of the poncho liner being added to the Procurement List represents 8.1% of the value of all Government contracts awarded to that firm in only the first four months of fiscal year 1986.

The workshop proposing to produce the poncho liner meets the definition of a qualified nonprofit agency for the blind contained in Pub. L. 92-28, as amended.

Based on all of the information provided, the workshop is capable of producing the requirements for the Memphis depot for the poncho liner at the fair market price and the addition of that portion of the poncho liner to the Procurement List would not have a serious adverse impact on the current contract for this item.

Addition

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity listed.

c. The action will result in authorizing small entities to produce the commodity procured by the Government.

Accordingly, the following commodity is hereby added to Procurement List 1986: Liner, Poncho, Wet Weather, 8405-00-889-3683 (Requirements for Memphis, Tennessee Depot only).

C.W. Fletcher,

Executive Director.

[FR Doc. 86-4503 Filed 2-28-86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

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

Counselor and Test Specialist Training for ASVAB-14.

The effectiveness of ASVAB-14 Counselor Training Workshops and self-instructional materials for increasing counselors' knowledge, understanding, and utilization of the ASVAB will be investigated through administering a survey to samples of workshop participants, counselors receiving self-instructional materials, and a control group.

Responses, 1,900

Burden hours, 400

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 26, 1986.

[FR Doc. 86-4450 Filed 2-28-86; 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

Long-Term Effects of Military Experience on Low-Aptitude Youth

The effects of military service on low-aptitude youth will be investigated through administering a survey to samples drawn from two low-aptitude veteran populations accessed at different time periods. Survey data will be contrasted with information on

caparable civilian youth available through the Department of Labor's National Longitudinal Surveys.

Responses, 1,450
Burden hours, 725.

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 26, 1986.

[FR Doc. 86-4451 Filed 2-28-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; New Record Systems

AGENCY: Department of the Air Force (DAF), DoD.

ACTION: Notices of three new record systems subject to the Privacy Act.

SUMMARY: The Air Force is adding three new record systems to its existing inventory of record systems subject to the Privacy Act of 1974, as amended.

DATE: This action will be effective without further notice April 2, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to Mr. Jon Updike, HQ USAF/DAQD, The Pentagon, Washington, D.C. 20330-5024. Telephone: 202/694-3431, Autovon: 224-3431.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 522a) have been published in the Federal Register as follows:

FR Doc. 85-10237 (50 FR 22332) May 29, 1985
FR Doc. 85-14122 (50 FR 24672) June 12, 1985
FR Doc. 85-15062 (50 FR 25737) June 21, 1985
FR Doc. 85-26775 (50 FR 46477) November 8, 1985
FR Doc. 85-29261 (50 FR 50337) December 10, 1985
FR Doc. 86-2527 (51 FR 4531) February 5, 1986

A new systems report as required by 5 U.S.C. 552a(o) of the Privacy Act and under guidelines established by paragraph 4b of Appendix I to OMB Circular No. A-130—Federal Agency Responsibilities for Maintaining Records About Individuals, dated December 12, 1985, was submitted on February 3, 1986.

February 26, 1986.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.

F050 AF A

SYSTEM NAME:

050 AF A Professional Military Education (PME) Student Records.

SYSTEM LOCATION:

Professional Military Education Centers, NCO Academies and schools at Air Force Major Commands and bases.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel assigned to the centers or schools as students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student records including academic standing, evaluations, training and testing results, counseling, locators information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by as implemented by Air Force Regulations (AFR) 5.-39, Noncommissioned Officer Professional Military Education and Civilian Initial Supervisory Training.

PURPOSE(S)

Used as a record of attendance and training, class standing, completion or elimination, as locator, and as a source of statistical information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper files, and on computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are stored in security file containers/cabinets or rooms. Records are accessed by custodian of the system or persons responsible for maintenance of the records in course of their official duties.

RETENTION AND DISPOSAL:

Retained for 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Superintendent for PME at each Major Command, commandant at each academy or leadship school or director of personnel at each base where a school is located. Addresses are in the address directory which follows the sytems notices.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from students and staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT.

None.

F050 AFOSI A

SYSTEM NAME:

050 AFOSI A Air Force Office of Special Investigations Academy Individual Academic Records.

SYSTEM LOCATION.

HQ Air Force Office of Special Investigations (AFOSI), Bolling Air Force Base, DC 20332-6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USAF, US Coast Guard enlisted, Defense Investigative Service and foreign national students.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of individual training and education of each student indicating final grade or rating of proficiency obtained in each subject and/or the reason for noncompletion of the course of study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by, and Air Force Regulation 23–18, Air Force Office of Special Investigations.

PURPOSE(S):

Verification of attendance and completion or noncompletion of training; develop historical data for analysis by personnel responsible for maintaining effectiveness of and developing training; and maintain a data base for long term studies involving graduate performance, career patterns, and possible selection for faculty duty.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form, and on computer and computer output products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Automated records are maintained until no longer needed. Individual student file folders are held for 25 years after course is completed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, information Release Division, Directorate of Administration, HQ Air Force Office of Special Investigations, Bolling Air Force Base, DC 20332–6001.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation (AFR) 12–35.

RECORD SOURCE CATEGORIES:

Data is obtained from student exercises, testing and performance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFSC A

SYSTEM NAME:

050 AFSC A Systems Acquisition School Student Records.

SYSTEM LOCATION:

Air Force Systems Command (AFSC), Systems Acquisition School, 6575th School Squadron, Brooks AFB, TX 78235–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel, DOD civilian employees, contractor personnel, Air National Guard and Air Force and Army Reserve personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Student record includes personnel locator information, individual academic standings, subjects studied, hours, final grades, graduation data and related training data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by, as implemented by Air Force Regulation (AFR) 50–5, USAF Formal Schools (Policy, Responsibilities, General Procedures, and Course Announcements).

PURPOSE(S):

Record individual attendance, grades and locator information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form, on computer and computer output products, and microfilm.

RETRIEVABILITY:

Filed by name and Social Security Number.

SAFEGUARDS:

Records are accessed by the custodian of the record system and by persons responsible for servicing the records in performance of their official duties. Records are stored in locked cabinets and rooms.

RETENTION AND DISPOSAL:

All records are retained for five years, then retired to the Washington National Records Center for an additional 25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, 6575th School Squadron, Brooks AFB, TX 78235–5000.

NOTIFICATION PROCEDURE:

Contact the system manager. Name, SSN or course number are required to identify files.

RECORD ACCESS PROCEDURE:

Individuals can obtain assistance in gaining access from the system manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Data is obtained from the individual, existing personnel records, testing and performance at the school.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–4546 Filed 2–28–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Army Science Board; Open 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, March 24, 1986.

Times of Meeting: 1300–1500 hours.

Place: The Pentagon, Room 2D731, Washington, DC.

Agenda: The Army Science Board 1985 Summer Study on Manpower Implications of Logistic Support for Army 21 will meet for an In-Process Review. This meeting will be open to the public. 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. 86-4517 Filed 2-28-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday & Thursday, March 26-27, 1986.

Times of Meeting: 0800-1700, Wednesday; 0800-1200, Thursday.

Place: Combined Arms Center, Ft. Leavenworth, Kansas.

Agenda: The Army Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Battle will meet to receive briefings on the background, doctrinal implications and operational considerations of C³I. 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. 86-4518 Filed 2-28-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Thursday, April 10, 1986.

Times of Meeting: 0800-1700 hours.

Place: The Pentagon, Room 3E385, Washington, DC.

Agenda: The Army Science Board 1986 Summer Study on Technology Forecast for the Key Operational Capabilities will meet for information briefings and planning for the conduct of the Summer Study. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d).The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-4519 Filed 2-28-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Agency Information Collection Activities Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 2, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW, Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burdens; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 26, 1986.

George P. Sotos,

Director, Information Resources Management Service

Office of Postsecondary Education

Type of Review: New

Title: Pel Grant Electronic Data Transmission Pilot Project Institution Survey

Agency Form Number: E40-17P

Frequency: Annually

Affected Public: Businesses or other for-profit, and non-profit institutions

Reporting Burden:

Responses: 800

Burden Hours: 336

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: The information to be obtained from this survey will be used to estimate the participation rates of institutions; determine the factors which influence institution participation; and estimate total costs and cost-effectiveness of the electronic transmission of Pell Grant information.

Office of Undersecretary

Type of Review: New

Title: Survey of Volunteer Literacy Activities

Agency Form Number: NA

Frequency: Annually

Affected Public: Non-profit institutions

Reporting Burden:

Responses: 80

Burden Hours: 20

Recordkeeping Burden:

Recordkeepers: 0

Burden Hours: 0

Abstract: The Survey of Adult Literacy Activities of religious organizations is necessary as part of President Reagan's Adult Literacy Initiative announced on September 7, 1983 to address the problem of functional illiteracy in the United States. The research will help in the understanding and the documentation of religious organizations' scope of involvement in adult literacy activities.

[FR Doc. 86-4576 Filed 2-28-86; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Adult Education; Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. 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.

DATES: March 18, 1986, 1:00 p.m. to 5:00 p.m., Executive Committee Meeting (Closed); March 19–21, 1986, 9:00 a.m. to 5:00 p.m., Full Council Meeting (Open).

ADDRESS: 2000 L Street, NW., Room 555, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Helen Banks, National Advisory Council on Adult Education, 2000 L Street, NW., Washington, DC 20036, 202/634–6300.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under section 312 of the Adult Education Act (20 U.S.C. 1201). The Council is established to advise the Secretary on policy matters concerning the management of the Act, review program and administration effectiveness, and make reports and submit recommendations to the President and Congress relating to Federal adult education activities and services.

The Executive Committee meeting on March 18, 1986, will be closed to the public to discuss staff performance and other related personnel matters. This review and subsequent discussions will touch upon matters that would disclose information of personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemtion (2) and (6) of section 552b(c) of Title 5 U.S.C., and under the authority of section 10(d) of the Federal Advisory Committee Act.

A summary of the activities of the closed meeting and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting.

The meeting of the full Council on March 19–21, 1986, is open to the public. The proposed agenda includes:

Oath of Office Ceremonies
Meeting with Secretary of Education
Department of Education Report
Adult Literacy Initiative
ABC/PBS Project Literacy U.S. (PLUS)
Annual Report
Standing Committee Meetings and Reports

Records are kept of all Council proceeding, and are available for public inspection at the office of the National Advisory Council on Adult Education, 2000 L Street, NW., Suite 570, Washington, DC 20036, from the hours of 8:00 a.m. to 4:30 p.m.

Signed at Washington, DC on February 25, 1986.

Lynn Ross Wood,

Executive Director, National Advisory Council on Adult Education.

[FR Doc. 86–4459 Filed 2–28–86; 8:45 am]

BILLING 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER86–300–000, et al.]

Electric Rate and Corporate Regulation Filings; Utah Power & Light Co., et al.

Take notice that the following filings have been made with the Commission:

1. Utah Power & Light Company

[Docket No. ER86–300–000]

February 24, 1986

Take notice that on February 14, 1986, Utah Power & Light Company (UP&L) submitted for filing with the Commission three contracts covering transactions with other electric systems, principally relating to the transfer of power and energy through UP&L's Mona Substation in Central Utah. The three contracts are as follows:

1. Bonanza Project Interconnection Agreement between Deseret Generation & Transmission Cooperative (Deseret) and UP&L, dated November 19, 1985.

2. Transmission Service Agreement between UP&L, Intermountain Consumer Power Association and Deseret, dated December 26, 1980.

3. Preliminary Mona Substation Interconnection Agreement among Intermountain Power Agency (IPA), Deseret, and UP&L, dated December 22, 1982.

The Bonanza Project Interconnection Agreement provides that Deseret will transmit power and energy from the Bonanza generating plant in Northeastern Utah over Deseret's 345 kV line to UP&L's Mona Substation in Central Utah. From that point, UP&L will wheel power and energy to the respective systems of the entities comprising Deseret (the agreement was entered into by Deseret for itself and as agent for 27 power purchasers—21 municipal and 6 cooperative systems). In addition, UP&L and Deseret are interconnected at UP&L's UMPALCO Substation in Northeastern Utah at 138 kV.

An additional agreement between UP&L and IPA is expected to be signed and filed with the Commission in the near future. That contract will relate primarily to power and energy to be generated at the IPP generating plant in West-Central Utah which is expected to go into commercial operation in mid-1986.

UP&L requests that the notice requirements of 18 CFR § 35.3 be waived and that the agreements be made effective upon acceptance for filing as provided in the contracts. Copies have been served upon Deseret, IPA, the Utah Public Service Commission, and all others required to be served.

Comment date: March 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Northern California Power Agency

[Docket No. EL86–23–000]

February 25, 1986.

Take notice that on January 24, 1986 Northern California Power Agency (NCPA) tendered for filing a Motion for leave to intervene and a request for clarification in Docket No. ER86–232–000. The Commission, by letter dated February 13, 1986, assigned NCPA's filing to Docket No. EL86–23–000, insofar as it deemed the filing to be essentially a petition for declaratory order.

NCPA asks that the Commisson clarify to what extent changes to interconnection agreements are required to be filed under part 35 of the Commission's Regulations. NCPA requests this clarification because it said Pacific Gas & Electric's (PG&E) position, that implementation of their agreement requires such filings, hampers NCPA's efforts to obtain the full benefit of the agreement. NCPA further states that, while the instant filing has not caused any problems to NCPA, it is appropriate for the Commission to address this question so that future disputes may be avoided.

Comment date: March 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas City Power & Light Company

[Docket No. EC86–15–000]

February 24, 1986.

Take notice that on February 18, 1986, Kansas City Power & Light Company (Applicant) filed an Application for authority to sell a substation and associated facilities and for approval of an interim lease of those facilities to the City of Salisbury, Chariton County,

Missouri. The Application is filed pursuant to section 203 of the Federal Power Act and involves property in excess of $50,000.00.

Applicant is incorporated under the laws of the State of Missouri with its principal place of business in Kansas City, Missouri.

The sale will facilitate the eligibility of the City of Salisbury to receive service under a Municipal Participation Agreement, approved December 23, 1985, by the Federal Energy Regulatory Commission in Docket No. ER-86-172-000. The property involved in the proposed sale and interim lease will be needed solely by the City of Salisbury and will not be used or necessary in serving other wholesale or retail customers of Kansas City Power & Light Company.

Comment date: March 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER86-309-000]

February 24, 1986.

Take notice that ARIZONA PUBLIC SERVICE COMPANY (APS) on February 19, 1986, tendered for filing Amendment Number 1 to the Wholesale Power Supply Agreement between ARIZONA PUBLIC SERVICE COMPANY and the BUREAU OF INDIAN AFFAIRS on Behalf of the Colorado River Indian Irrigation Project (CRIIP), FPC Rate Schedule No. 65.

The current rate of service to CRIIP contains provisions for the application of a sales tax charge. This charge is to cover the "Arizona Transaction Privilege (Sales Tax)". The Sales Tax law has been amended which now exempts the collection of this tax from CRIIP which is anticipated to be $35,000.00 for calendar 1986 billings.

Arizona Public Service Company requests this Amendment to become effective on the date it is accepted for filing by FERC.

Copies of this filing have been served upon the Arizona Corporation Commission and CRIIP.

Comment date: March 10, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER86-310-000]

February 24, 1986.

TAKE NOTICE that ARIZONA PUBLIC SERVICE COMPANY (APS), on February 19, 1986, tendered for filing Amendment Number 1 to the Wholesale Power Supply Agreement between ARIZONA PUBLIC SERVICE COMPANY and the BUREAU OF INDIAN AFFAIRS on Behalf of the San Carlos Indian Irrigation Project (SCIIP), FPC Rate Schedule No. 66.

The current rate for service to SCIIP contains provisions for the application of a sales tax. This charge is to cover the "Arizona Transaction Privilege (Sales Tax)". The Sales Tax law has been amended which now exempts the collection of this tax from SCIIP which is anticipated to be $340,000.00 for calendar 1986 billings.

Arizona Public Service Company requests this Amendment to become effective on the date it is accepted for filing by FERC.

Copies of this filing have been served upon the Arizona Corporation Commission and SCIIP.

Comment date: March 10, 1986, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4557 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9587-000, et al.]

Hydroelectric Applications (Patterson Creek Associates, et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: 9587-000.

c. Date Filed: November 1, 1985.

d. Applicant: Patterson Creek Associates.

e. Name of Project: Patterson Creek.

f. Location: In Challis National Forest, on Patterson Creek in Lemhi County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-285(r).

h. Contact Person: Mike Graham, 484 East 300 North Manti, UT 84842.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) An 8-foot-high diversion dam on Patterson Creek at elevation 6,800 feet; (2) a 5,280-foot-long, 34-inch diameter penstock to the bifucation; (3) an 8-foot-high diversion dam on the East Fork of Patterson Creek at elevation 6,800 feet; (4) a 3,300-foot-long, 24-inch-diameter penstock to the bifurcation; (5) an 8,715-foot-long, 42-inch-diameter penstock from the bifurcation to; (6) the powerhouse containing two generating units with a combined capacity of 3,000 kW and an average annual generation of 15 GWh; and (7) a 660-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $85,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

2 a. Type of Application: Preliminary Permit.

b. Project No.: 9642-000.

c. Date Filed: November 25, 1985.

d. Applicant: Hydrodynamics, Inc.

e. Name of Project: East Bench.

f. Location: On Rock Creek Clear Creek Ditch in Carbon County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-285(r).

h. Contact Person: Susan Young, POB 413, Red Lodge, MT 59068.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high diversion dam at elevation 5,820 feet; (2) a 3,500-foot-long, 32-inch-diameter penstock; (3) a powerhouse containing a single generating unit with a capacity of 350 kW and an average annual generation of 1.4 GWh; and (4) a 4,000-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC

license application at a cost of $12,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

3 a. Type of Application: Preliminary Permit.

b. Project No.: 9644–000.

c. Date Filed: November 25, 1985.

d. Applicant: Hydrodynamic, Inc.

e. Name of Project: Scotch Coulee.

f. Location: On Rock Creek Clear Creek Ditch in Carbon County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–285(r).

h. Contact Person: Susan Young, POB 413, Red Lodge, MT 59068.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high diversion dam at elevation 5,860 feet; (2) a 6,600-foot-long, 18-inch-diameter penstock; (3) a powerhouse containing a single generating unit with a capacity of 500 kW and an average annual generation of 2.0 GWh; and (4) a 6,400-foot-long transmission line.

A preliminary does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $15,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

4 a. Type of Application: Preliminary Permit.

b. Project No.: 9645–000.

c. Date Filed: November 25, 1985.

d. Applicant: Hydrodynamics, Inc.

e. Name of Project: Lower South Fork.

f. Location: On the South Fork Dry Creek in Carbon County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–285(r).

h. Contact Person: Susan Young, POB 413, Red Lodge, MT 59068.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high diversion dam at elevation 4,615 feet; (2) a 8,400-foot-long, 28-inch-diameter penstock; (3) a powerhouse containing a single generating unit with a capacity of 500 kW and an average annual generation of 2.4 GWh; and (4) a 300-foot-long transmission line.

A preliminary does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $9,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 9643–000.

c. Date Filed: November 25, 1985.

d. Applicant: Richard L. Hamm.

e. Name of Project: Tony Creek.

f. Location: On Tony Creek in Sanders County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–285(r).

h. Contact Person: Susan Young, POB 413, Red Lodge, MT 59068.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4-foot-high diversion dam at elevation 2,880 feet; (2) a 2,700-foot-long, 6-inch-diameter penstock; (3) a powerhouse containing a single generating unit with a capacity of 100 kW and an average annual generation of 0.5 GWh; and (4) a 100-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $5,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

6. a. Type of Application: Preliminary Permit.

b. Project No.: 9680–000.

c. Date Filed: December 13, 1985.

d. Applicant: The Burlington Energy Development Associates.

e. Name of Project: Wynantskill.

f. Location: On Wynantskill Creek in Rensselaer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John R. Anderson and Mr. Joseph D. Brostmeyer, Burlington Energy Development Associates, 64 Blanchard Road, Burlington, Massachusetts 01803.

i. Comment Date: April 4, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 13-foot-high, 110-foot-long concrete gravity dam; (2) a reservoir with a surface area of 10 acres, a storage capacity of 44 acre-feet, and a normal water surface elevation of 251 feet m.s.l.; (3) a new concrete intake structure; (4) a new 42-inch-diameter, 1,225-foot-long steel penstock; (5) an existing 13-foot-wide, 10-foot-hight concrete surge tank; (6) a new concrete powerhouse containing six generating units with a capacity of 94.5 kW each for a total installed capacity of 567 kW; (7) a new transmission line, 500 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 1,170,000 kWh. The existing dam is owned by Campbell's 9 Acres, Inc., Wynantskill, New York.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 18 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

7. a. Type of Application: Preliminary Permit.

b. Project No.: 9486–001.

c. Date Filed: October 2, 1985.

d. Applicant: Waltham Hydro Conservationists.

e. Name of Project: Moody Street.

f. Location: On the Charles River, In Middlesex County, in the city of Waltham, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Waltham Hydro Conservationists, Mr. Louis Rosenman 1350 New York Avenue, NW #600, Washington, DC 20005.

i. Comment Date: April 4, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing stone block masonry dam, 10 feet high and 150 feet long with 3-foot flashboards; (2) an existing reservoir with a storage capacity of 750 acre-feet and water surface area of 260 acres at normal water surface elevation of 34.8 feet m.s.l.; (3) an existing fish passage

facility: (4) a new intake structure; (5) a new 6-foot-diameter penstock, 425 feet long; (6) a new powerhouse, approximately 30 feet square, housing a turbine/generator with an installed capacity of 364 kW; (7) a new 20-foot-long tailrace; (8) a proposed 64.5-kV transmission line, approximately 150 feet long; and (9) appurtenant facilities. Applicant estimates that the average annual generation would be 1.8 GWh. The owner of the dam is the Metropolitan District Commission of Massachusetts.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Boston Edison Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, the Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $145,000.

8. a. Type of Application: Preliminary Permit.

b. Project No.: 9501–000.

c. Date Filed: October 1, 1985.

d. Applicant: Sheridan Hydro Associates.

e. Name of Project: North Piney Creek.

f. Location: On North Piney Creek in Sheridan County, Wyoming within the Bighorn National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, Attorney at Law, 1350 New York Avenue, NW #600 Washington, D.C. 20005 (202) 783–2100..

i. Comment Date: April 4, 1986.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high, 80-foot-long, concrete diversion structure at elevation 6,200 feet; (2) a 36-inch-diameter, 6,000-foot-long steel penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 8,000 kW, 8producing an estimated average annual energy output of 10.5 GWh; (4) a 20-foot-long, 10-foot-wide concrete tailrace; and (5) a 3,500-foot-long, 12.5 kV transmission line tying into an existing Montana-Dakota line.

A preliminary permit, if issued, does not authorize construction. The Applicant seeks a permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $145,000.

k. Purpose of Project: Project power would be sold to Montana-Dakota Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

9 a. Type of Application: Preliminary Permit.

b. Project: No.: 9542–000

c. Dated Filed: October 11, 1985.

d. Applicant: City of Gilbert, Arizona.

e. Name of Project: Roosevelt Turnout.

f. Location: On the Granite Reef Turnout to Roosevelt Canal, near Mesa, partially within lands administered by the Bureau of Land Management, in Maricopa County, Arizona (Sections 1, 2, 3, & 4 of TIN, R6E and Section 6 of TIN, R7E, S.R.M.&B.)

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Kent Cooper, City Manager, City of Gilbert, Gilbert, AZ 85234, (602) 892–0800.

i. Comment Date: April 4, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A diversion structure at elevation 1,570 feet msl; (2) a 54-inch-diameter, 18,840-foot-long concrete and steel penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 1,600 kW and operating under a head of 168 feet; and (4) a 69-kV, 300-foot-long transmission line interconnecting the project to an existing Salt River Power District line. The project's estimated average annual generation of 10.368 GWh would be sold to a utility yet to be determined.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $53,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B,. C, and D2.

10 a. Type of Application: Preliminary Permit.

b.Project: No.: 9713–000.

c. Dated Filed: December 23, 1985.

d. Applicant: Alpine Hydroelectric Company.

e. Name of Project: Alpine Water.

f. Location: On the Cascade Alpine Brook in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Harold Turner, P.O. Box 7191, Concord, NH 03301.

i. Comment Date: April 4, 1986.

j. Decription of Project: The proposed project would consist of: (1) An existing 21-foot-high and 125-foot-long concrete dam with a spillway crest elevation of 1,220 feet msl; (2) an existing 1-acre reservoir with a storage capacity of 5 acre-feet at 1,220 feet msl; (3) a proposed 12-inch-diameter steel penstock 1,200 feet long; (4) a proposed powerhouse to contain one turbine/generator for an installed capacity of 100 kW; (5) a proposed tailrace 5 feet wide and 15 feet long; (6) a new transmission line 50 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 475,000 kWh under a hydraulic head of 305 feet. The dam is owned by the James River Corporation.

k. Purpose of Project: Project power will be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B,. C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Application estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

11 a. Type of Application: Preliminary Permit.

b. Project: No.: 9492–000.

c. Dated Filed: October 1, 1985.

d. Applicant: Easton Associates.

e. Name of Project: Silver Creek.

f. Location: On Silver Creek, tributary to the Yakima River, near the town of Easton, in Sections 35 and 36 T21N., R13E, in Kittitas County, Washington, and affecting U.S. lands within the Wenatchee National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jordan R. Walker, 484 East 300 North, Manti, UT 84642, (801) 835–0202.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 10-foot-high, 35-foot-long, concrete-

gravity, overflow-type diversion dam at elevation 3,680.0 feet msl; (2) a small reservoir; (3) a 26-inch-diameter, 5,500-foot-long buried penstock; (4) a powerhouse containing a generating unit rated at 2,817-kWh at a flow of 36 cfs and at a net head of 1,221 feet; (5) a 2,400-v/69-kV switchyard; and (6) a 53,859-foot-long, 69-kV transmission line.

A preliminary permit, if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary. The estimated cost of permit activities is $15,000.

k. Purpose of Project: Applicant intends to sell the power produced at the site to local municipalities or to the local power company. Applicant estimates that the average annual energy production would be 9,870,460-kWh

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B,. C, and D2.

12 a. Type of Application: Preliminary Permit.

b.Project: No.: 9500–000.

c. Dated Filed: October 1, 1985.

d. Applicant: Tongue River Hydro Partners I.

e. Name of Project: South Tongue River.

f. Location: On South Tongue River in Sheridan County, Wyoming within the Bighorn National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis Rosenman, Attorney at Law, 1350 New York Avenue, #600, Washington, D.C. 20005, (202) 783–2100.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) A 2-foot-high, 100-foot-long concrete diversion structure at elevation 6,8000 feet; (2) a 60-inch-diameter, 8,000-foot-long steel penstock; (3) a powerhouse containing a single generating unit with an installed capacity of 4,300 kW, producing an estimated average annual energy output of 10.5 GWh; (4) a 10-long-wide, 20-foot-long concrete tailrace; and (5) a 5-mile-long, 64–kV transmission line tying into a Montana-Dakota Utility line.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a permit to study the feasibility of constructing and operating the project. No new access road will be needed for the purpose of conducting these studies. The estimated cost for conducting these studies is $145,000.

k. Purpose of Project: Project power would be sold to Montana-Dakota Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

13 a. Type of Application: Preliminary Permit.

b. Project: No.: 9730–000.

c. Date Filed: December 26, 1985.

d. Applicant: Summit Hydropower.

e. Name of Project: Whitman River Water Power.

f. Location: On the Whitman River in Worcester County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Duncan Broatch, P.O. Box 122, Putnam, CT 06260.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 20-foot-high and 60-foot-long granite dam with a spillway crest elevation of 661 feet msl; (2) an existing 8-acre reservoir with a storage capacity of 20-acre-feet at 661 feet msl; (3) an existing penstock 400 feet long to be rehabilitated; (4) an existing powerhouse to be rehabilitated to contain one new turbine-generator for an installed capacity of 282 kW; (5) an existing tailrace; (6) an existing 13.4-kV three phase transmission line approximately 125 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 1,000,000 kWh under a hydraulic head of 70 feet. The dam is owned by the James River Massachusetts, Inc.

k. Purpose of Project: Project power will be sold to the Fitchburg Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

14 a. Type of Application: Preliminary Permit.

b. Project: No.: 9656–000.

c. Dated Filed: December 2, 1985.

d. Applicant: Marble Creek Hydro, Inc.

e. Name of Project: Marble Creek.

f. Location: In St. Joe National Forest, on Marble Creek in Shoshone County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: James R. Morris, P.O. Box 1016, Lewiston, ID 83501.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion weir at elevation 1,560 feet; (2) a 4,150-foot-long, 84-inch-diameter steel conduit; (3) a powerhouse containing two generators with a combined capacity of 3.95 MW and an average generation of 17,301 MWh; and (4) a 1.8-mile-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $385,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9491–000.

c. Date Filed: October 1, 1985.

d. Applicant: Fall Creek Associates.

e. Name of Project: Fall Creek.

f. Location: At the U.S. Army Crops of Engineers' Fall Creek Dam on Fall Creek, a tributary to the Willamette River, near Springfield, in Lane County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Conact Person: Mr. J. Kirk Rector, 5041 S. Boabab Drive, Salt Lake City, UT 84117.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would utilize the existig Corps of Engineers' Fall Creek Dam and would consist of: (1) A 550–foot-long, 10 -foot-diameter steel penstock; (2) a bifurcation; (3) a powerhouse containing a generating unit rated at 1.4-kW at an operating head of 85 feet; (4) a short 13.8-kW transmission line; and (5) a tailrace.

A preliminary permit if issued, does not authorize construction. Applicant seeks a 36-month preliminary permit to conduct engineering, economic and

environmental studies to ascertain project feasibility and to support an application for a license to construct and operate the project. Applicant has stated that no new roads are necessary. The estimated cost of permit activities is $105,000.

k. Purpose of Project: Project energy would be sold to Lane Electric Cooperative. Applicant estimates that the average annual energy production would be 6.3–GWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

16 a. Type of Application: Preliminary Permit.

b. Project No.: 9543–000.

c. Date Filed: October 11, 1985.

d. Applicant: Rim View Trout Company.

e. Name of Project: Rim View.

f. Location: On Niagra Springs a tributary to the Snake River in Gooding County, Idaho.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Conact Person: Vernon Ravenscroft, Consulting Associates, Inc., P.O. Box 893, Boise, ID 83701.

i. Comment Date: April 4, 1986.

j. Description of Project: The proposed project would consist of: (1) A 50-foot-long, 80-inch-diameter penstock from the hatchery's existing intake facilities; (2) a powerhouse containing a single generating unit; (3) an 80-inch-diameter penstock from the hatchery's outflow facilities; (4) a second powerhouse also containing a single generative unit. The combined capacity would be 548 kw with an average annual generation of 4,567,113 kwh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $23,100. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

17 a. Type of Application: License (5MW or Less).

b. Project No.: 9028–000.

c. Date Filed: March 15, 1985.

d. Applicant: Halifax County, Virginia, Synergics, Inc., and Banister Hydro Associates.

e. Name of Project: Halifax Hydropower Project.

f. Location. On the Banister River in Halifax County, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. David M. Coombe, Synergics, Inc., 410 Severn Avenue, Suite 409, Annapolis, MD 21403, 301–268–8820.

i. Comment Date: April 7, 1986.

j. Description of Project: The existing dam is owned by the City of Halifax, Virginia. The proposed project would consists of: (1) A dam which consist of a 246-foot-long section of steel coffercells filled with earth and rock, a 56-foot-long concrete, non-overflow section, a 293-foot-long gated spillway section, and a 74-foot-long existing powerhouse constructed integrally with the dam. The powerhouse would contain three proposed generators, two rated at 455 kW and one rated at 875 kW. The dam is 37 feet high; (2) an existing reservoir with a surface area of 400 acres and a storage capacity of 3,510 acre-feet at powerpool elevation of 351.3 feet m.s.l.; (3) a proposed 300-foot-long, 13.2 kV transmission line; and (4) appurtenant facilities. The estimated average annual generation is 6.1 GWh.

k. Purpose of Project: Power produced at the project would be sold to the Virginia Electric Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, & D1.

18 a. Type of Application: Major License.

b. Project No.: 4715–003.

c. Date Filed: May 31, 1985.

d. Applicant: Long Lake Energy Corporation.

e. Name of Project: Felts Mills.

f. Location: On the Black River in Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Donald E. Hamer, Long Lake Energy Corporation, 420 Lexington Avenue, Suite 440, New York, NY 10170 (212) 983–2006.

i. Comment Date: April 7, 1986.

j. Description of Project: The proposed project would consist of the following:

(A) the Upper Dam development would consist of: (1) A 20-foot-high, 381-foot-long concrete gravity dam; (2) an existing reservoir with a water surface area of 50 acres, a gross storage capacity of 690 acre-feet, and a water surface elevation of 608.90 feet USGS; (3) a new 500-foot-long earth power canal; (4) a new powerhouse containing two generating units with an installed generating capacity of 3,560 kW each for a total installed generating capacity of 7,120 kW; (5) a new 85-foot-wide, 100-foot-long earth tailrace; (6) a new transmission line, 400 feet long; and (7) appurtenant facilities.

(B) The Middle Dam, located 1.4 miles downstream from the Upper Dam development, would consist of: (1) A 20-foot-high, 879-foot-long concrete gravity dam to be partially demolished; and (2) a reservoir with a water surface area of 46 acres, a gross storage capacity of 350 acre-feet, and a water surface elevation of 590.50 feet USGS.

(C) The Lower Dam development, located 1.1 miles downstream from the Middle Dam, would consist of: (1) A 20-foot-high, 2,460-foot-long concrete gravity and earth embankment dam; (2) a reservoir with a water surface area of 17 acres, a gross storage capacity of 300 acre-feet, and a water surface elevation of 578.20 feet USGS; (3) a new concrete intake gate; (4) a new powerhouse containing two generating units with an installed generating capacity of 4,720 kW each for a total installed generating capacity of 9,440 kW; (5) a new 75-foot-wide, 600-foot-long earth tailrace; (6) a new transmission line, 2,400 feet long; and (7) appurtenant facilities.

The project would have a total installed generating capacity of 16,560 kW. The Applicant estimates that the average annual generation would be 76,551,000 kWh. The existing dams are owned by the Niagara Mohawk Power Corporation. This license application was filed pursuant to a preliminary permit held by the Applicant.

k. Purpose of Project: Project power would be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

19 a. Type of Application: Preliminary Permit.

b. Project No: 9841–000.

c. Date Filed: December 31, 1985.

d. Applicant: Dennis K. and Patricia A. Rathbun.

e. Name of Project: Ladies Canyon Creek Project.

f. Location: On Ladies Canyon Creek in Sierra County, California; Section 26, T.20N., R.11E., MDB&M.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dennis Rathbun, 4608 North Cheslea Lane, Bethesda, MD 20814 (301) 951–8773.

i. Comment Date: April 7, 1986.

j. Competing Application: Project No. 9344, Date Filed: 07–12–85.

k. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 45-foot-long diversion dam located at elevation 4,520 feet msl; (2) a 14-inch-diameter, 1,500-foot-long low pressure conduit; (3) a 12-inch-diameter, 1,500-foot long penstock; (4) a powerhouse with a total installed

capacity of 350 kW; and (5) a 1,000-foot-long, 12.5-kV transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line. The estimated 2.4 GWh generated annually by the proposed project would be sold to PG&E. The project would be partially located on the Tahoe National Forest lands.

l. Purpose of Project: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $20,000.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specifiy which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents.*—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One

copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly indentified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's respresentatives.

Dated: February 26, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4558 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-299-000 et al.]

Natural Gas Certificate Filings; Colorado Interstate Gas Co. et al.

February 26, 1986.

Take notice that the following filings have been made with the Commission:

1. Colorado Interstate Gas Company

[Docket No. CP86-299-000]

Take notice that on January 30, 1986, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP86-299-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a one-year limited-term transportation of natural gas for Mountain Industrial Gas Company (MIG) on behalf of Exxon Company USA (Exxon), the sale of fuel reimbursement gas and the construction and operation of an interconnection with Stauffer Wyoming Pipeline Company (Stauffer), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Exxon would purchase up to 30,000 Mcf on natural gas per day (Mcfd) from MIG for use in the start-up of Exxon's Shute Creek processing plant in Lincoln County, Wyoming. It is further stated that MIG has requested that CIG transport to 30,000 Mcfd, on an interruptible basis, for it on behalf of Exxon. It is explained that the natural gas would be delivered to CIG for MIG's account at five receipt points in Colorado and Wyoming. CIG would then redeliver thermally equivalent volumes, less an allowance for fuel requirements, to Stauffer at redelivery points in Sweetwater County, Wyoming. It is stated that Stauffer would then transport and deliver the natural gas to Exxon for use as fuel in the start-up of its Shute Creek Plant.

CIG indicates that it proposes to construct an interconnection with Stauffer in Sweetwater County, Wyoming, at an estimated cost of $19,700. CIG further indicates that the new interconnection with Stauffer would be required to effectuate redelivery of the proposed transportation volumes because there is insufficient capacity at the existing CIG/Stauffer interconnection to redeliver the maximum volumes contemplated under the proposal.

CIG states that it proposes to charge MIG 32.62 cents per Mcf for redelivery volumes plus a Gas Research Institute surcharge of 1.35 cents per Mcf. CIG further states that the transportation rate would be equivalent to CIG's Rate Schedule EUS-2 rate which is subject to final Commission action in Docket No. RP85-122-000. CIG indicates that it proposes to either redeliver thermally equivalent volumes, less an allowance for fuel reimbursement, or redeliver thermally equivalent volumes and sell MIG the fuel requirement volumes. It is stated that the sale of any fuel requirement volumes would be at a rate equal to CIG's then current weighted average cost of gas.

Comment date: March 19, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP86-296-000]

Take notice that on January 19, 1986, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1624, Houston, Texas 77001, filed in Docket No. CP86-296-000 and application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of three compressors at the Hemphill compressor station, Dewey County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle requests authority to install three 779 horsepower (site rated) compressor units at the Hemphill compressor station. Panhandle requests that the design capacity at the Hemphill compressor station be increased from 47 million cubic feet per day (Mcfd) to 67.9 Mcfd. Panhandle states that additional horsepower is required at the Hemphill compressor station to compress the projected winter 1986-87 average day flow of 60,000 Mcf of gas per day of currently attached gas supply and that the existing compressor can only compress up to 47,000 Mcf of natural gas per day to pipeline specifications. The estimated cost of these compression facilities is $2,000,000, which would be financed with company cash on hand and short-term bank borrowing as necessary.

Comment date: March 19, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Southern Natural Gas Company

[Docket No. CP86-308-000]

Take notice that on February 6, 1986, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-308-000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Alabama Gas Corporation (Alagasco), acting as agent for certain of its industrial end-use customers (End-Users), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport, on an interruptible basis, up to 50 billion Btu of natural gas per day on behalf of Alagasco, acting as agent for the End-Users, for a term of one year from the date of the Commission's order. It is stated that Alagasco, as agent for the End-Users, would purchase such gas from SNG Trading, Inc. It is explained that Applicant would receive the gas at existing points of interconnection on Southern's system as specified in Exhibit A to the transportation agreement and deliver it to Alagasco for further transportation to the respective plants of the End-Users (See appendix for list of End-Users and volumes to be transported).

Applicant states that Alagasco has agreed to pay the following transportation charge:

(a) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Alagasco under any and all transportation agreements with Applicant, excluding that certain long-term transportation agreement among Applicant, Alagasco, and Alabama Intrastate Supply, dated October 1, 1984, when added to the volumes of gas delivered under Applicant's OCD Rate Schedule on such day to Alagasco do not exceed the daily contract demand of Alagasco, the transportation rate would be 39.9 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Applicant on any day to Alagasco under any and all transportation agreements with Applicant, excluding that certain long-term transportation agreement among Applicant, Alagasco, and Alabama Intrastate Supply, dated October 1, 1984, when added to the volumes of gas delivered under Applicant's OCD Rate Schedule on such day to Alagasco exceed the daily contract demand of Alagasco, the transportation rate for the excess volumes would be 64.9 cents per million Btu.

Applicant proposes to charge Alagasco the currently effective GRI surcharge. Applicant also proposes to retain 3.25 percent of the volume transported for fuel use.

Applicant also requests flexible authority to provide transportation from additional delivery points in the event Alagasco obtains alternative sources of supply of natural gas.

Applicant states that the transportation service would enable the End-users to diversify their natural gas supply sources and to obtain gas at competitive prices. In addition, Applicant states that it would obtain take-or-pay relief on the gas that Alagasco may obtain from Applicant's suppliers.

APPENDIX

End-users	Agency agreement date	Estimated transportation quantity[1]
ANNISTON AREA		
Lee Brass, Anniston, AL	Feb. 3, 1986	550
Monsanto Co. Anniston, AL	do	1,846
C.M. Offray, Anniston, AL	do	352
McWane, Inc., Anniston, AL	do	800
BIRMINGHAM AREA		
Allied Chemical, Fairfield, AL	do	500
A.P. Green, Birmingham, AL	do	310
Berman Iron & Metal Co., Birmingham, AL	do	300
Bickerstaff Clay Products Co., Bessemer, AL	do	1,150
Dickey Co., Birmingham, AL	do	880
Golden Flake, Inc., Birmingham, AL	do	407
SMI Steel, Inc., Birmingham, AL	do	1,000
Stockham Valves & Fittings, Birmingham, AL	do	447
U.S. Pipe & Foundry, Bessemer, AL	do	1,548
U.S. Pipe & Foundry, Birmingham, AL	do	1,214
GADSDEN AREA		
Culp Smelting & Refining Co., Inc., Gadsden, AL	do	359
Goodyear Tire & Rubber Co., Gadsden, AL	do	6,000
LEEDS AREA		
ILCO, Inc., Leeds, AL	do	400
MONTGOMERY AREA		
Brockway Glass Co., Inc., Montgomery, AL	do	4,382
Excelsior Brick Co., Montgomery, AL	do	400
Gurney Industries, Montgomery, AL	do	388
Jenkins Brick Co., Montgomery, AL	do	910
Rheem Manufacturing Co., Montgomery, AL	do	503
Union Camp Corp., Montgomery, AL	do	9,000
OPELIKA AREA		
Uniroyal, Inc., Opelika, AL	do	1,440
West Point Pepperell, Opelika, AL	do	1,768
Ampex Corp., Opelika, AL	do	844
FAIRFAX-SHAWMUT AREA		
West Point Pepperell, Langdale, AL	do	470
SELMA AREA		
Henry Brick, Selma, AL	do	385

APPENDIX—Continued

End-users	Agency agreement date	Estimated transportation quantity[1]
TUSCALOOSA AREA		
B.F. Goodrich Co., Tuscaloosa, AL	do	2,600
Phiter Wire Products, Inc., Tuscaloosa, AL	do	349
Tamko Asphalt, Inc., Tuscaloosa, AL	do	350
GREENE-HALE		
Southern Resins, Moundville, AL	do	500

[1] The Transportation Quantity is an estimated average daily volume in million Btu for each End-user; and, therefore, the total of these quantities does not exactly equal the transportation quantity in the agreement.

Comment date: March 19, 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, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 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 accordnce 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. 86-4559 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-22-000]

Airco, Inc., et al; Complaint

February 26, 1986.

Take notice that on February 6, 1986, Airco, Inc. and S.K.W. Alloys tendered for filing a complaint pursuant to section 206 of the Commission's rules of practice and procedure (18 CFR 385.206). Airco and S.K.W. file this complaint seeking an order to compel Niagara Mohawk Corporation (Niagara Mohawk) to refund to the power authority of the State of New York (Power Authority) for ultimate refund to Airco, S.K.W. and all similarly situated industries, all amounts collected in excess of the rates on file with the Commission for Fitzpatrick Nuclear Power (Fitzpatrick Power) transmission service.

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 214 and 211 of the Commissions' rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection. Complainants state that the filing has been served on Niagara Mohawk. Niagara Mohawk's answer is due on or before March 28, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4560 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI68-690-001; CI75-361-000]

Applications for Partial Limited-Term Abandonment Authorizations; ARCO Oil and Gas Co., et al.

February 26, 1986.

Take notice that on February 19, 1986, ARCO Oil and Gas Company, Division of Atlantic Richfield Company (Applicant), P.O. Box 2819, Dallas, Texas 75221 filed applications for expedited partial limited-term abandonment of sales of gas to Natural Gas Pipeline Company of America (NGPL). The sales were made pursuant to contracts dated September 1, 1967, certificated in Docket Nos. CI68-690 and CI75-361, which are on file as Applicant's FERC Gas Rate Schedule No. 609 and 688, respectively.

Applicant proposes to abandon for a limited-term sales of gas from its interest in the Tubb Estate #1-25 Well, which was recompleted in February 1984 as an NGPA section 104 recompletion well with an expected optimal flow rate of 18-24 MMcf/d. Applicant states that the well produces sour gas and that NGPL has applied for an EPA permit to install a 1.5 MMcf/d sweetening facility. However, a local landowner has protested the proposed facility and it is unknown when, if ever, Natural will be granted a permit for such facility. Applicant states that these filings are made with NGPL's knowledge, and that Applicant is exercising its right pursuant to Article Four, (a) of the referenced contract that reads in part:

"Seller (ARCO) shall have the right to take gas from the gas reserves for the sale of gas to others on an interim basis, provided that any arrangement entered into by Seller pursuant thereto shall be intrastate in nature, and shall, by its terms, be expressly terminable by Seller and shall be terminated by Seller on or before the date Pipeline (NGPL) completes the construction of facilities adequate to enable the receipt of the applicable quantity hereunder".

Applicant states that NGPL is also aware of Applicant's intent to deliver such gas to Lyondell Petrochemical Company, Division of Atlantic Richfield Company (Lyondell) until such time as NGPL is ready to take the gas. Applicant further states that NGPL has stated that it will not oppose this filing. Applicant also states that abandonment authorization will allow it to produce and deliver the gas from the Tubb Estate #1-25 well to Lyondell on the basis of in interdivision transfer or to sell to intrastate purchasers. Therefore, Applicant contends that abandonment in this instance will benefit the overall market by making otherwise shut-in gas available in competition with other gas, the ultimate effect of which will be to lower prices, or at least keep prices low, for consumers. It is asserted that at the same time there will be no adverse effect on NGPL or its customers, because NGPL cannot accept deliveries of production of gas from the well, and may never be able to accept such delivery. Applicant states that the effect of granting the requested limited-term, partial abandonment in this case will cause, to quote Felmont Oil Corporation and Essex Offshore, Inc. (33 FERC ¶ 61,333): "a shift in the identification of the public interest, from the interest of only specific customers to the interests of the market as a whole." Applicant avers that clearly, it is in the interest of the market as a whole to permit abandonment of the production from the Tubb Estate #1-25; and, whether the specific customers of NGPL would ever benefit from its production is speculative. Therefore, Applicant states the public interest compels a "shift" in this case.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 17, 1986, file wtih the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4561 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-287-000]

Filing of Executed Letter Agreement; Cambridge Electric Light Co.

February 24, 1986.

Take notice that on February 6, 1986, Cambridge Electric Light Company (Cambridge) tendered for filing an executed letter agreement between Cambridge and Town of Belmont, Massachusetts (Belmont) requesting the Commission to allow such agreement to become effective as proposed on July 1, 1985, the date upon which New York Power Authority (NYPA) power was first delivered by Cambridge to Belmont.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 7, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4562 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-48-000]

Columbia Gas Transmission Corp. et al.; Complaint

February 26, 1986.

Take notice that on February 11, 1986, Columbia Gas Transmission Corp. (Columbia) tendered for filing a Complaint pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) rules of practice and procedure.[1] In its Complaint, Columbia requests that the Commission find the minimum commodity bill provision contained in Transcontinental Gas Pipe Line Corporation's (Transco) Rate Schedule CD unjust, unreasonable, and unduly discriminatory under the Natural Gas Act. Columbia asserts that Transco's minimum bill is contrary to the objections of Order Nos. 436 [2] and 436-A [3] which encourage competition within the natural gas industry. Specifically, Columbia alleges that Transco's minimum bill thwarts Columbia's ability to compete for joint customers of Columbia and Transco; the minimum bill sends improper market signals as to the true market value of natural gas; and that Columbia is burdened with unwarranted expenditures unrelated to Transco's cost of providing service to Columbia. In addition, Columbia contends that Transco's minimum bill should be eliminated on the basis of recent Commission precedent.

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.[4] All such motions or protests should be filed on or before March 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. 86-4563 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-311-000, et al.]

Application and Filing of Settlement; Consolidated Gas Transmission

February 24, 1986.

Take notice that on February 10, 1986, Consolidated Gas Transmission Corporation (Applicant), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP86-311-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to transport natural gas on behalf of all shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436. Applicant states that it accepts and would comply with the conditions in paragraph (c) of 284.221 of the Commission's Regulations which paragraph refers to Subpart A of Part 284 of the Commission's Regulations.

It is indicated that the application for a blanket transportation certificate is filed pursuant to a proposed settlement in *Consolidated Gas Transmission Corporation*, Docket No. RP85-169-000, RP81-80-000, and RP82-115-000 (settlement) which was filed concurrently with the application herein and revised on February 19, 1986. Applicant states that pursuant to that settlement, upon receipt of (a) a Commission order approving the settlement in accordance with the terms thereof, and (b) a Commission order approving the blanket certificate application in accordance with the terms thereof, Applicant would accept such blanket certificate. Applicant indicates that immediately thereafter, it and its customers would execute new service agreements in the same form and substance as those currently in effect, except that such new service agreements would contain the language in the form prescribed in Appendix E to the settlement. Applicant states that the parties agree to execute new service agreements, in accordance with the provisions of Article VI of the settlement prior to the exercise of any rights under §§ 284.10(c) 284.10(d) of the Commission's Regulations, such that the new service agreements are not "eligible firm sales service agreements" as defined in § 284.10(b) of the Commission's Regulations. Applicant states that, accordingly, pursuant to § 284.10(b), the provisions of § 284.10(c) of the Commission's Regulations regarding contract demand conversions and reductions did not apply to Applicant's transportation service. It is also indicated that although not required under Order No. 436, the new service agreements provide that Applicant's sales customers would have the right to contract demand reductions or conversions commencing January 1, 1989. Additionally, the settlement provides that the sole supplier clauses contained in Applicant's full requirements contracts shall be waived to the extent that Applicant provides transportation service as provided in the settlement.

The settlement contains transportation rates and conditions which Applicant states reflect the requirements of Order No. 436. Applicant also states that it intends to provide firm and interruptible transportation service under proposed Rate Schedules TF and TI, respectively, to be included in its FERC Gas Tariff, Volume No. 1. The rate schedules are attached as Appendix C to the proposed settlement.

In addition, Applicant indicates that it is the understanding of Applicant and the parties to the settlement that Applicant's storage facilities are excluded from the non-discriminatory access provisions of the rules promulgated by Order No. 436, except to allow access to these facilities in order to assure firm transportation service. Applicant requests that the certificate issued should affirm that understanding.

The settlement also proposes to resolve the outstanding rate-of-return issue in Docket No. RP81-80-000 and terminate all remaining issues or

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[1] 18 CFR 385.206.

[2] 50 FR 42408 (October 18, 1985), FERC Stats. & Regs. ¶ 30,665, 33 FERC ¶ 61,007 (1985).

[3] 50 FR 52217 (December 18, 1985), FERC Stats. and Regs., ¶ 30,675, 33 FERC ¶ 61,372 (1985).

[4] 18 CFR 385.214, 385.211.

proceedings in Docket No. RP82-115-000.

Any person desiring to be heard or to make protest with reference to said application should on or before March 3, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Comments on the proposed settlement are due not later than March 3, 1986. Reply comments, if any, are due not later than March 13, 1986.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4564 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-49-000]

East Ohio Gas v. Panhandle Eastern Pipe Line Co.; Complaint and Request for Summary Disposition

February 26, 1986.

Take notice that on February 10, 1986, the East Ohio Gas Company ("East Ohio"), pursuant to Rule 206 of the Commission's rules of practice and procedure and section 4 of the Natural Gas Act (15 U.S.C. 717c), submitted for filing a Complaint And Request For Summary Disposition against Panhandle Eastern Pipe Line Company ("Panhandle").

In its complaint East Ohio requests that the Commission, by summary disposition, order Panhandle to continue its practice of providing minimum bill credits for on-system transportation service, a practice which Panhandle has attempted to terminate unilaterally as of September 1, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 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. 86-4565 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI75-52-004]

Equitable Resources Energy; Application

February 24, 1986.

Take notice that on February 11, 1986, Equitable Resources Energy Company ("EREC") filed an application under the Natural Gas Act and the Federal Energy Regulatory Commission's ("Commission") Regulations, requesting that the Commission permit and approve the abandonment of certain sales of natural gas committed and dedicated to Kentucky West Virginia Gas Company ("Kentucky West"), and issue a certificate of public convenience and necessity to EREC authorizing the sale of natural gas from certain wells and leases in southwest Virginia to East Tennessee Natural Gas Company ("East Tennessee"), all as more fully set out in EREC's application.

EREC states that the gas sales to Kentucky West to be abandoned involves gas produced and sold from Dickenson County, Virginia. EREC states that the abandonment requested is in the public interest since Kentucky West has excess gas supplies and the abandonment will reduce Kentucky West's potential take-or-pay liability and lower Kentucky West's average gas costs. EREC further requests a certificate authorizing it to sell to East Tennessee the gas that will be abandoned. EREC states that the sale proposed herein will provide a stable gas supply and permit East Tennessee to diversify its supply sources.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 10, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4566 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5367-003]

Platte River Power Authority; Surrender of Exemption

February 26, 1986.

Take notice that Platte River Power Authority, Exemptee for the proposed Button Rock Project No. 5367, has requested that its exemption be terminated. The exemption was issued on April 13, 1984. The project would have been located on the North Fork St. Vrain Creek, in Boulder County, Colorado.

The Exemptee filed the request on January 21, 1986, and the exemption for Project No. 5367 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 business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4567 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2217-000]

Steven A. Rice; Notice of Application

February 25, 1986.

Take notice that on February 19, 1986, Steven A. Rice submitted for filing an application for authority to hold the following interlocking positions:

Director, Monongahela Power Company, Public Utility

Director, The Potomac Edison Company, Public Utility

Director, West Penn Power Company, Public Utility

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 10, 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 proceedings. Any persons wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4568 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-256-000]

Tucson Electric Power Co.; Notice of Filing

February 24, 1986.

Take notice that on February 18, 1986, Tucson Electric Power Company tendered for filing a notice of cancellation of Rate Schedule FPC No. 9 and Supplement thereto. As a result of certain agreements reached by Tucson Electric Power Company and Arizona Electric Power Cooperative, Inc., the said Rate Schedule and Supplement No. 1 are no longer of any use or benefit. The wheeling arrangement was discontinued as of December 26, 1985.

The aforementioned Rate Schedule and Supplement thereto are identified as the "Tucson-AEPCO Electric Power Wheeling Agreement" and "Amendment No. 1 to the Tucson-AEPCO Electric Power Wheeling Agreement," respectively. The wheeling agreement was dated January 4, 1980. The termination date agreed to by the parties with respect to both the Agreement and Amendment No. 1 was December 26, 1985.

The only parties to the Rate Schedule and Supplement No. 1 thereto are Tucson Electric Power Company and Arizona Electric Power Cooperative, Inc. There are no other entities affected by this termination.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 7, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4569 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST86-784-000, et al.]

Valley Gas Transmission, Inc., et al.; Self-Implementing Transactions

February 25, 1986.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Subpart F of Part 157 and Part 284 of the Commission's Regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant of a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

A "C/F(157)" indicates intrastate pipeline transportation which is incidental to a transportation by an interstate pipeline to an end-user pursuant to a blanket certificate under 18 CFR 157.209. Similarly, a "G/F(157)" indicates such transportation performed by a Hinshaw Pipeline or distributor.

Any person desiring to be heard or to make any protests with reference to a transaction reflected in this notice should on or before March 14, 1986, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 or 385.214).

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[1] Notice of transactions does not constitute a determination that service will continue in accordance with Order No. 436, Final Rule and Notice Requesting Supplemental Comments, 50 FR 42,372 (Oct. 18, 1985).

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 party to a 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.

Kenneth F. Plumb,
Secretary.

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (cent/MMB tu)
ST86-0784	Valley Gas Transmission, Inc	Intrastate Gathering Corp	01-02-86	B		
ST86-0785	Equitable Gas Co	Columbia Gas of Pennsylvania, Inc	01-02-86	B		
ST86-0786	Texas Eastern Transmission Corp	Tuscan Dairy Farms, Inc	01-02-86	F(157)		
ST86-0787	Texas Eastern Transmission Corp	Archer Daniels Midland Co	01-02-86	F(157)		
ST86-0788	Texas Eastern Transmission Corp	Reichold Chemical, Inc	01-02-86	F(157)		
ST86-0789	Texas Eastern Transmission Corp	Witco Chemical Corp	01-02-86	F(157)		
ST86-0790	Texas Eastern Transmission Corp	Celotex Corp	01-02-86	F(157)		
ST86-0791	Texas Eastern Transmission Corp	U.S. Gypsum Co	01-02-86	F(157)		
ST86-0792	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	01-02-86	B		
ST86-0793	Texas Eastern Transmission Corp	Battle Creek Gas Co	01-02-86	B		
ST86-0794	Texas Eastern Transmission Corp	Consumers Power Co	01-02-86	B		
ST86-0795	Texas Eastern Transmission Corp	FMC Corp	01-02-86	F(157)		
ST86-0796	Texas Eastern Transmission Corp	M&M/Mars	01-02-86	F(157)		
ST86-0797	Texas Eastern Transmission Corp	Millen Industries	01-02-86	F(157)		
ST86-0798	Trunkline Gas Co	Battle Creek Gas Co	01-06-86	B		
ST86-0799	Trunkline Gas Co	Consumers Powers Co	01-06-86	B		
ST86-0800	Northwest Pipeline Corp	Washington Water Power Co	01-06-86	B		
ST86-0801	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	01-03-86	B		
ST86-0803	Texas Eastern Transmission Corp	Columbia Gas of Kentucky, Inc	01-06-86	B		
ST86-0804	Michigan Gas Storage Co	Consumers Power Co	01-02-86	B		
ST86-0805	Tennessee Gas Pipeline Co	Valley Gas Co	01-06-86	B		
ST86-0806	Transcontinental Gas Pipe Line Corp	Elizabethtown Gas Co	01-07-86	B		
ST86-0807	ANR Pipeline Co	Columbia Gas of Ohio, Inc	01-07-86	B		
ST86-0808	ANR Pipeline Co	Kimberly-Clark Corp	01-07-86	F(157)		
ST86-0809	Michigan Gas Storage Co	Battle Creek Gas Co	01-07-86	B		
ST86-0810	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-07-86	B		
ST86-0811	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-07-86	B		
ST86-0812	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-07-86	B		
ST86-0813	Valero Transmission Co	Pacific Gas and Electric Co	01-09-86	C		
ST86-0814	Texas Gas Transmission Corp	Michigan Gas Utilities Co., et al	01-09-86	B		
ST86-0815	Texas Gas Transmission Corp	Columbia Gas of Kentucky, Inc., et al	01-09-86	B		
ST86-0816	Texas Gas Transmission Corp	Consolidated Gas Transmission Corp	01-09-86	G		
ST86-0817	Texas Eastern Transmission Corp	American Distribution Co	01-09-86	B		
ST86-0818	Texas Eastern Transmission Corp	Battle Creek Gas Co	01-09-86	B		
ST86-0819	Texas Eastern Transmission Corp	Central Illinois Public Service Co	01-09-86	B		
ST86-0820	Texas Eastern Transmission Corp	National Gas and Oil Corp	01-09-86	B		
ST86-0821	Texas Eastern Transmission Corp	Texas Products Corp., Inc. (TPC)	01-09-86	B		
ST86-0822	Texas Eastern Transmission Corp	Philadelphia Gas Works	01-10-86	B		
ST86-0823	Trunkline Gas Co	Michigan Gas Utilities	01-10-86	B		
ST86-0824	ANR Pipeline Co	Northern Intrastate Pipeline Co	01-10-86	B		
ST86-0825	Michigan Gas Storage Co	Consumers Power Co	01-13-86	B		
ST86-0826	Delphi Gas Pipeline Corp	Philadelphia Electric Co	01-13-86	C		
ST86-0827	Texas Eastern Transmission Corp	Consolidated Edison Co., of NY, Inc	01-13-86	B		
ST86-0828	Texas Eastern Transmission Corp	Brooklyn Union Gas Co	01-13-86	B		
ST86-0829	Texas Eastern Transmission Corp	Public Service Electric and Gas Co	01-13-86	B		
ST86-0830	Texas Eastern Transmission Corp	Elizabethtown Gas Co	01-13-86	B		
ST86-0831	Texas Gas Transmission Corp	Mississippi Valley Gas Co	01-13-86	B		
ST86-0832	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-13-86	B		
ST86-0833	Texas Gas Transmission Corp	City of Elizabethtown	01-13-86	B		
ST86-0834	Texas Gas Transmission Corp	Carrollton Utilities	01-13-86	B		
ST86-0835	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-13-86	B		
ST86-0836	Texas Eastern Transmission Corp	New Jersey Natural Gas Co	01-13-86	B		
ST86-0837	Texas Eastern Transmission Corp	Philadelphia Electric Co	01-13-86	B		
ST86-0838	Transcontinental Gas Pipe Line Corp	Pontchartrain Natural Gas System	01-13-86	B		
ST86-0839	Transcontinental Gas Pipe Line Corp	Brooklyn Union Gas Co	01-13-86	B		
ST86-0840	Colorado Interstate Gas Co	Public Service Co. of Colorado	01-13-86	B		
ST86-0841	Northwest Pipeline Corp	Cascade Natural Gas Corp	01-13-86	B		
ST86-0842	Panhandle Gas Co	Philadelphia Electric Co	01-14-86	D		
ST86-0843	Panhandle Gas Co	Philadelphia Gas Works	01-14-86	D		
ST86-0844	Panhandle Gas Co	Long Island Lighting Co	01-14-86	D		
ST86-0845	Panhandle Gas Co	Philadelphia Electric Co	01-14-86	D		
ST86-0846	Panhandle Gas Co	Philadelphia Electric Co	01-14-86	D		
ST86-0847	Panhandle Gas Co	Philadelphia Gas Works	01-14-86	D		
ST86-0848	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-14-86	B		
ST86-0849	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-14-86	B		
ST86-0850	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-14-86	B		
ST86-0851	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-14-86	B		
ST86-0852	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-14-86	B		
ST86-0853	Arkla Energy Resources	Memphis Light, Gas and Water Division	01-14-86	B		
ST86-0854	The Nueces Co	Colorado Interstate Gas Co	12-02-85	C	05-01-86	38.81
ST86-0856	Texas Eastern Transmission Corp	Creole Gas Pipeline Corp	01-15-86	B		
ST86-0857	Columbia Gulf Transmission Co	Lynchburg Gas Co	01-15-86	B		
ST86-0858	Equitable Gas Co	Equitable Gas Co	01-15-86	B		
ST86-0859	Equitable Gas Co	Equitable Gas Co	01-15-86	B		
ST86-0860	Equitable Gas Co	Equitable Gas Co	01-15-86	B		
ST86-0861	Equitable Gas Co	Equitable Gas Co	01-15-86	B		
ST86-0862	Trunkline Gas Co	Pontchartrain Natural Gas System	01-16-86	B		
ST86-0863	Trunkline Gas Co	Michigan Gas Utilities	01-16-86	B		
ST86-0864	Delhi Gas Pipeline Corp	Louisiana Industrial Gas Supply System	01-17-86	C		
ST86-0865	Transcontinental Gas Pipe Line Corp	National Fuel Gas Supply Corp	01-17-86	G		
ST86-0866	Northwest Pipeline Corp	Intermountain Gas Co	01-17-86	B		
ST86-0867	Northwest Pipeline Corp	Northern Natural Gas Co	01-17-86	G		
ST86-0868	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-17-86	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (cent/MMB tu)
ST86-0869	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-17-86	B		
ST86-0870	Texas Gas Transmission Corp	Louisville Gas & Electric Co	01-17-86	B		
ST86-0871	Texas Gas Transmission Corp	United Cities Gas Co	01-17-86	B		
ST86-0872	Texas Gas Transmission Corp	Transcontinental Gas Pipe Line Corp	01-21-86	G		
ST86-0873	Michigan Gas Storage Co	Consumers Power Co	01-21-86	B		
ST86-0874	Louisiana Intrastate Segment, Div. AER	Associated Natural Gas Co	01-21-86	D	06-20-86	101.42
ST86-0876	Gas Transport, Inc	Columbia Gas of Pennsylvania, Inc	01-22-86	B		
ST86-0877	Gas Transport, Inc	Columbia Gas of Pennsylvania, Inc	01-22-86	B		
ST86-0878	Valero Transmission Co	Baltimore Gas and Electric Co., et al	01-22-86	C		
ST86-0879	Valero Transmission Co	Consumers Power Co	01-22-86	C		
ST86-0880	Valero Transmission Co	VLDC Co	01-22-86	C		
ST86-0881	Panhandle Eastern Pipe Line Co	Midwest Solvents Co	01-23-86	F(157)		
ST86-0882	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-23-86	B		
ST86-0883	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-23-86	B		
ST86-0884	Texas Gas Transmission Corp	Southern Indiana Gas & Electric Co	01-23-86	B		
ST86-0885	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-23-86	B		
ST86-0886	Houston Pipe Line Co	Texas Eastern Transmission Corp	01-27-86	C		
ST86-0887	ONG Transmission Co	Northern Indiana Public Service Co	01-30-86	C	06-29-86	10.00
ST86-0888	Channel Industries Gas Co	El Paso Natural Gas Co	01-30-86	C		
ST86-0889	Transtexas Pipeline	Richardson Fuels, Inc., et al	01-30-86	C		
ST86-0890	Tenngasco Gas Supply Co	El Paso Natural Gas Co	01-30-86	C		
ST86-0891	Kentucky West Virginia Gas Co	UGI Corp	01-30-86	B		
ST86-0892	Intrastate Gathering Corp	Tennessee Gas Pipeline Co	01-30-86	C		
ST86-0893	Louisiana Intrastate Gas Corp	Freeport Interstate Pipeline Co	01-30-86	D	06-29-86	22.40
ST86-0894	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-31-86	B		
ST86-0895	Arkla Energy Resources	Arkansas Louisiana Gas Co	01-31-86	B		
ST86-0896	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-31-86	B		
ST86-0897	Texas Gas Transmission Corp	Mississippi Valley Gas Co	01-31-86	B		
ST86-0898	Texas Gas Transmission Corp	Western Kentucky Gas Co	01-31-86	B		
ST86-0899	Texas Gas Transmission Corp	Memphis Light, Gas and Water Div	01-31-86	B		
ST86-0900	Texas Gas Transmission Corp	Jackson Utility Div., city of Jackson	01-31-86	B		
ST86-0901	Texas Transmission Corp	Citizens Gas & Coke Utility	01-31-86	B		

[1] Notice of transactions does not constitute a determination that filings comply with Commission regulations in accordance with Order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Intrastate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 87-4570 Filed 2-28-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-2977-3]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382-2740 or FTS 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Survey of Community Water Systems (EPA ICR #0371). (This is a new survey.)

Abstract: EPA is surveying community drinking water systems in order to estimate the costs associated with proposed regulatory actions. Data items include size of population served, sources of water, operating characteristics, and financial data.

Respondents: Community water systems: local governments, businesses.

Office of Pesticides and Toxic Substances

Title: Monitoring Potential Arsenic Exposure Levels in Wood Treatment Plants (EPA ICR #1289). (This is a request for a new collection.)

Abstract: This information collection is required as a condition imposed on applicators of arsenic as a preservative on wood products in order to assure that the levels of arsenic in wood treatment plants do not exceed acceptable potential exposure levels.

Respondents: Arsenical wood treatment plant employers.

Title: Ethylene Oxide Monitoring and Recordkeeping Program (EPA ICR #1290). (This is a request for a new collection.)

Abstract: This action imposed the requirements of the Office of Safety and Health Administration (OSHA) ethylene oxide standard in facilities not regulated by OSHA which use ethylene oxide as a pesticide. This action will ensure that all workers exposed to ethylene oxide are afforded the protection of the OSHA ethylene oxide standard. Facilities affected are public State and local hospitals.

Respondents: Public State and local hospitals.

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street SW., Washigton, DC 20460

and

Richard D. Otis (ICRs #0371) or Carlos Tellez (ICRs #1289 and #1290), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, DC 20503.

Dated: February 25, 1986.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-4480 Filed 2-28-86; 8:45 am]

BILLING CODE 6560-50-M

[A-9-FRL-2976-2; EPH Project Number SJ 85-08]

Approval of Prevention of Significant Air Quality Determination (PSD) Permit to Shell California Production, Inc.

AGENCY: Environmental Protection Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on February 6, 1986 the Environmental Protection Agency issued a PSD permit under EPA's federal regulations 40 CFR 52.21 to the applicant named above. The PSD permit grants approval to construct an additional 20 megawatt gas turbine cogeneration project to the existing facility in the South Belridge Oil Field, Kern County, California. The permit is subject to certain conditions, including an allowable emission rate as follows: No_x at 35 lbs/hr and CO at 22 lbs/hr.

FOR FURTHER INFORMATION: Copies of the permit are available for public inspection upon request; address requests to: Anita Tenley (A-3-1), U.S. Environmental Protection Agency, Region 9,215 Fremont Street, San Francisco, CA 94105, (415) 974-8240, FTS 454-8240.

SUPPLEMENTARY INFORMATION: Best Available Control Technology (BACT) requirements include the use of a water injection system to control NO_x and an emissions limit of 41 ppm @ 15% O_2 (dry) for CO.

DATE: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by May 2, 1986.

Dated: February 20, 1986.

David P. Howekamp,

Director, Air Management Division, Region 9.

[FR Doc. 86-4481 Filed 2-28-86; 8:45 am]

BILLING CODE 6560-50-M

[OW-10-FRL-2977-5]

Proposal To Recommend Designation of the North Florence Dunal Aquifer, Lane County, OR, as a Sole Source Aquifer and Request for Public Comment

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and public hearing.

SUMMARY: The Region 10 office of the Environmental Protection Agency (EPA) is proposing to recommend that the North Florence Dunal Aquifer in Lane County, Oregon, be designated as the sole or principal source of drinking water for the area. A Support Document providing the bases for this recommendation is available for review and public comments are requested. A hearing will be held if sufficient public interest is expressed.

DATES: Requests to hold a public hearing should be filed on or before May 23, 1986.

A public hearing is tentatively scheduled for June 23, 1986, in Florence, Oregon at 7:00 p.m. The hearing will be cancelled if sufficient public interest is not expressed by May 23, 1986. The public is also encouraged to submit written comments regarding the support document, the proposed boundaries and the appropriateness of this designation. These must be submitted by August 1, 1986.

ADDRESSES: Persons requesting a hearing should notify Wendy Marshall, M/S 409, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

The Support Document, which includes a map of the area proposed for designation, is available for public inspection and copying during normal business hours at the Environmental Protection Agency, Region 10 Library, 1200 Sixth Avenue, Seattle, Washington, the Environmental Protection Agency, Oregon Operations Office, 522 Southwest Fifth Avenue, Yeon Building, 2nd Floor, Portland, Oregon, and the Siuslaw Public Library, 250 Highway 101 North, Florence, Oregon. The Support Document may also be obtained by contacting Wendy Marshall at the address above.

The public hearing will be held at the Florence City Hall Council Chambers, 250 Highway 101, Florence, on June 23, 1986, from 7:00 p.m. to 9:00 p.m.

FOR FURTHER INFORMATION CONTACT: Wendy Marshall at (206) 422-1890 or FTS 399-1890.

SUPPLEMENTARY INFORMATION: Section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) authorizes the Administrator to determine, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health. After such a determination is made, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such an aquifer through a recharge zone so as to create a significant hazard to public health.

On June 2, 1985, a private citizen residing in Lane County, Oregon submitted a petition requesting that the Administrator of the EPA designate the aquifer underlying the North Florence Dunal Area as the sole drinking water source for the area. Additional information was provided to EPA on July 30, 1985. Notice of this petition was published in the **Federal Register** on November 13, 1985.

The EPA Region 10 office is proposing to recommend to the Administrator that sole source aquifer designation be made. The boundaries of the area being proposed for designation by the Regional Office are the Siuslaw River to the south, the Pacific Ocean to the west, Sutton Creek to the north, and an extensive bedrock ridge east of Collard, Clear, and Munsel Lakes to the east.

A Support Document providing the bases for the recommendation is available for public review. This document includes such information as a description of the location of the aquifer, boundary of the area, pertinent geologic and hydrologic information, climate, population, existence or absence of alternate drinking water sources, and potential sources of contamination.

A hearing will be held to discuss the proposal and the Support Document if sufficient public interest is expressed. Requests for a public hearing should include the following information: (1) Name, address, and telephone number of the individual, organization, or other entity requesting a hearing and (2) a brief statement of the requesting person's interest in the proposed recommendation.

If the hearing is cancelled, those persons having expressed interest in attending the hearing will be notified by phone and by letter of the cancellation. Other persons should contact the Environmental Protection Agency at (206) 442-1890 to confirm the hearing date and time. EPA will also send notice of the hearing or of its cancellation to the local media.

Dated: January 24, 1986.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 86-4477 Filed 2-28-86; 8:45 am]

BILLING CODE 6560-50-M

[A-4-FRL-2974-7]

Clean Air Act Grant to Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA today announces it is granting Kentucky's request that specific

reductions in non-federal matching funds be judged nonselective with regard to the provisions of section 105(b) of the Clean Air Act (CAA). This action was proposed in the **Federal Register** of November 5, 1985 (50 FR 45931), and an opportunity for public hearing was offered. There was no response to the proposal notice.

EFFECTIVE DATE: This action is effective immediately.

ADDRESSES: Copies of the information submitted by Kentucky may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Grants Administration Unit, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Kentucky Natural Resources and Environmental Protection Cabinet, Division of Air Pollution Control, 18 Reilly Road, Bldg. 2, Fort Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: William H. McBride of EPA Region IV's Grants Administration Unit at the Atlanta address above, or call 404/881-4415 (FTS 257-4415).

SUPPLEMENTARY INFORMATION: EPA assists Kentucky in the operation of the State's air pollution control program through an annual cooperative agreement made pursuant to section 105 of the CAA (42 U.S.C. 7405). Section 105(b) of the CAA specifies the following criteria for such financial assistance:

> * * * No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for other than nonrecurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year, unless the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in expenditures in the programs of all executive branch agencies of the applicable unit of Government * * *

On June 26, 1984, the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC), in the context of section 105(b) of the CAA and applicable EPA federal regulations, requested that EPA consider certain reductions in non-federal funding as nonselective. That request is part of the technical support document (TSD) for this notice. EPA responded in a letter dated August 23, 1984, also part of the TSD for this notice, asking Kentucky to submit additional documentation to clarify specific details of the request. If EPA disapproved the request regarding non-selective funding reductions and determined that Kentucky was not eligible for assistance under section 105 of the CAA, Kentucky would be obliged to return assistance funds for which they were not eligible.

On November 1, 1984, Kentucky supported their request by providing a chronological list and discussion of twenty-six relevant actions that took place between April 13, 1979, and August 1, 1984. These served to document an extended period of austerity in State government prompted by revenue shortfalls. The November 1, 1984, submittal is also part of the TSD for this notice. The twenty-six items were described in the proposal notice of November 5, 1985 (50 FR 45931).

EPA met with State agency representatives on January 8, 1985, and again on January 23, 1985, to clarify the State's submittal to specify only those requests that they believed to be absolutely necessary. As a result of the meetings, all parties agreed that Kentucky's request to EPA Region IV could be summarized and broken down as follows:

1. The Financial Status Report (FSR) submitted by Kentucky for the FY 83 section 105 cooperative agreement reported $2,218,306 as the State share. Neither the cooperative agreement or any other documentation prior to June 26, 1984, requested that any portion of this amount be determined nonrecurrent.

2. Kentucky requested that $80,700 budgeted for expenditure in FY 84 but lost through a statewide funding reduction be determined by EPA to be a State government-wide nonselective expenditure reduction as allowed under section 105(b) of the Clean Air Act.

3. Kentucky requested that $186,900 lost from a receipt fund account through a Governor's Office action be determined by EPA to be a State government-wide nonselective expenditure reduction as allowed under section 105(b) of the Clean Air Act. The lost receipt funds were programmed for expenditure in FY 84.

EPA Region IV determined to respond to Kentucky's requests as follows:

1. This was a point of information for which no response was necessary.

2. EPA determined that the $80,700 was part of a nonselective statewide reduction (see discussion below).

3. While the Governor's Office policy decision to impound all receipt funds appears nonselective, the impact of this policy was uneven. EPA requested that Kentucky withdraw this portion of their request.

The basis for EPA's second determination is now presented. A nonselective statewide reduction is allowed under section 105(b) of the CAA, and does not affect the State's eligibility for receiving EPA assistance. Kentucky has requested that an FY 83 reduction in air program support in the amount of $80,700 be considered a nonselective reduction. The reduction occurred as a result of the Governor's imposing a blanket funding reduction by the Kentucky General Fund. The reduction is verified in documentation included as part of Kentucky's June 26, 1984 submittal, namely:

A. A December 17, 1982, letter from the Secretary of KNREPC to the State Budget Director indicated that the Department for Environmental Protection, as directed, was reducing its budget by $87,400. In discussions with Kentucky it was revealed that the share of the Division of Air Pollution Control (DAPC) in this reduction was $29,100.

B. A September 8, 1983, memorandum from KNREPC's Administrative Services Department to various divisions in the agency indicated a three percent General Fund reduction, and that the DAPC's share in the reduction was $51,600.

These two sums—$29,100 and $51,600—account for the $80,700 total reduction in State funding for FY 83.

Final action. Since the reduction in air program funds was in line with reductions imposed on other executive branches of the State government, EPA finds that the reduction was nonselective and does not affect Kentucky's eligibility for receiving Federal assistance under Section 105 of the CAA.

This action is consistent with the provisions of Section 105(b) in that an opportunity was offered in the notice of November 5, 1985 (50 FR 45931) for the public to comment and request a public hearing on the matter.

Dated: February 10, 1986.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 86-4121 Filed 3-28-86; 8:45 am]

BILLING CODE 6560-50-M

[OA-FRL-2977-4]

Intergovernmental Review of Agency Programs and Activities

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: After the Office of Management and Budget (OMB) reviewed the first year's implementation Executive Order 12372, it rescinded previously approved criteria for program exclusions that were not included in the

Order or the White House Fact Sheet. Subsequently, the Environmental Protection Agency (EPA) re-examined its excluded programs. The purposes of this Notice is to inform all interested parties that EPA proposes to continue to exclude all except on training program, most research, development, and demonstration projects, and all EPA issued interstate plans and permits from the scope of Executive Order 12372. In addition, EPA proposes to exclude certain applications submitted under the new Senior Environmental Employment (SEE) Program. The following explains the basis for these proposed exclusions.

DATE: Comments must be received on or before April 17, 1986.

ADDRESS: Interested persons should submit comments (2 copies if possible) to: Central Docket Section (LE–131), Attention: Docket No. G–86–01, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

The public may inspect the comments received on this Notice between 8 a.m. and 4 p.m. on business days at: Central Docket Section, Gallery 1 West Tower Lobby, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Corinne. S. Allison, Grants Policy and Procedures Branch (PM–216), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460 (Telephone (202) 382–5294.)

SUPPLEMENTARY INFORMATION: *Training:* EPA's training programs have the primary objective of supporting students through traineeships for occupational and professional training, and to develop career-oriented personnel qualified to work in occupations involving environmental protection and pollution abatement and control. The training programs include: Air Pollution Control Manpower Training, Air Pollution Control Technical Training, Water Pollution Control Professional Training, Water Pollution Control—State and Local Manpower Program Development, Safe Drinking Water Professional Training, Safe Drinking Water Occupational Training, and Hazardous Waste Training. (Note: With the exception of Air Pollution Control Manpower Training (66.003), these programs are not separately listed in the *Catalog of Federal Domestic Assistance.)* In general, these programs all operate with limited funds that Congress adds to the Agency's annual appropriations in order to maintain environmental training programs. Awards are made primarily to academic institutions which in turn select trainees (priority for the traineeships is assigned to employees of State and local environmental control agencies). EPA pays tution and fees directly to the recipient organizations which in turn pay stipends directly to the trainees.

Except for training for wastewater treatment operators (formerly cataloged as 66.420, "Water Pollution Control—State and Local Manpower Program Development) we believe that the Agency's training programs only indirectly affect State and local governments and that the nature of the programs and the small amount of Federal funds associated with them does not have a major impact on State and local planning. Accordingly, we propose to exclude these programs from the scope of the Order. Since the wastewater treatment operator training program provides direct, job-related skills training to enhance the effectiveness of wastewater treatment operators, a number of States believe that this program does directly affect them. We agree and propose to include the program under the Order.

Research, Development, Demonstration: A second category of proposed exclusions concerns most of the applications submitted under EPA's various research, development, and demonstration programs: those which (1) do not require an Environmental Impact Statement (EIS); or (2) do not require unusual measures to limit the possibility of adverse exposure or hazard to the general public; or (3) do not have a unique geographic focus or directly relate to the governmental responsibilities of a State or local government with the project's geographic area. Those projects generally are national in scope and do not directly affect State and local governments. However, applications that do require an EIS or unusual measures to protect the public, or have an unique geographic focus or directly relate to the governmental responsibilities of a State or local government within the project's geographic area will continue to be eligible for intergovernmental review.

EPA-Issued Interstate Plans and Permits: The third category proposed for exclusion concerns *EPA-issued Interstate plans and permits* for the following direct development activities:

(1) State Implementation Plans (SIPs) under Section 110(c) of the Clean Air Act;

(2) Prevention of Significant Deterioration (PSD) permits under the Clean Air Act;

(3) National Pollutant Discharge Elimination System (NPDES) permits under the Clean Water Act;

(4) Underground Injection Control (UIC) permit under the Safe Drinking Water Act, and

(5) Treatment, storage, and disposal permits under the Resource, Conservation and Recovery Act (RCRA).

Note.—EPA-issued intrastate plans and permits will continue to be covered.

Current procedures and regulations that implement statutory requirements allow affected States, elected officials, and the general public to be consulted and to comment on EPA plans and permits before EPA makes a final decision. To expand our procedures to include a detailed interstate process under the Order would require EPA to set up a redundant review process and greatly impede our issuance of permits or substitute SIPs.

Senior Environmental Employment (SEE) Program: The fourth proposed exclusion is for certain applications under the SEE Program. (This new program will be described in the next *Catalog of Federal Domestic Assistance* and has been assigned the number 66.508.) The SEE program uses the talents of older Americans to provide technical assistance to Federal, State, and local environmental agencies for pollution abatement, prevention and control projects. EPA is proposing to include this program except for applications proposing technical assistance for Federal environmental agencies. In the latter case, we believe applications should be excluded because they will not directly affect State and local governments. However, SEE applications providing technical assistance to a State or local environmental agency will directly affect State and local government and therefore will be eligible for States to review under an official E.O. process.

Dated: February 12, 1986.

Seymour D. Greenstone,

Acting Assistant Administrator for Administration and Resources Management.

[FR Doc. 86–4479 Filed 2–28–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51607; FRL–2960–2]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86–1680, beginning on page 4033, in the issue of Friday, January 31, 1986, make the following correction:

On page 4035, second column, under P86-393, in the eighth line, "1 hrs" should read "3 hrs".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Senior Executive Service Performance Review Board; Members

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Listing names of the members of the Senior Executive Performance Review Board.

DATE: February 11, 1986.

FOR FURTHER INFORMATION CONTACT: Robert H. Volland, Director of Personnel, 500 C Street SW., Washington, DC 20472, (202) 646-3962.

The names of the members of the FEMA Senior Executive Service Performance Review Board established pursuant to 5 U.S.C. 4314(c) are:

Members: William F.W. Jones; Edward W. Kernan; John R. Lilley, II; Audrey J. Reeg; Frank C. Sidella; Frank H. Thomas; and Robert S. Wilkerson.

Dated: February 18, 1986.

Spence W. Perry,

Acting General Counsel.

[FR Doc. 86-4456 Filed 2-28-86; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-757-DR]

Washington; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Washington (FEMA-757-DR), dated February 15, 1986, and related determinations.

DATE: February 15, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3616.

Notice

Notice is hereby given that, in a letter of February 15, 1986, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub.L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Washington resulting from severe storms, landslides, and flooding, beginning on or about January 16, 1986, is of sufficient severity and magnitude to warrant a major disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Washington.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Richard A. Buck of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Washington to have been affected adversely by this declared major disaster and are designated eligible as follows:

Clallam, King, and Jefferson Counties for Public assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 86-4457 Filed 2-28-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-469]

Star Savings and Loan Association, Sayre, PA; Notice of Final Action, Approval of Conversion Application

Dated: February 24, 1986.

Notice is hereby given that on February 7, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Star Savings and Loan Association, Sayre, Pennsylvania for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Pittsburgh, 11 Stanwix Street, 4th Floor, Gateway Center, Pittsburgh, Pennsylvania 15222.

By the Federal Home Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 86-4431 Filed 2-28-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 024-004008-003.

Title: Port of Oakland (Port) and Marine Terminals Corporation (MTC) Management Agreement.

Parties:

Port of Oakland
Marine Terminals Corporation

Synopsis: The proposed amendment would add to the terminal area covered by the agreement an additional area of approximately one acre. A restatement of the entire agreement was also included.

Agreement No. 213-010657-002.

Title: Nippon Yusen Kaisha and Showa Line, Ltd. Space Charter and Sailing Agreement in the Far East-U.S. Pacific Trades.

Parties:

Nippon Yusen Kaisha
Showa Line, Ltd.

Synopsis: The proposed amendment would (1) enlarge the scope of the agreement to include the Japan-U.S. Pacific Northwest (Oregon and Washington) trade; (2) permit the parties to operate a maximum of fifteen (15) vessels which have standard operating capacities ranging up to 3500 TEU'S; (3) revise the duration provision of the

agreement to incorporate an indefinite term with the right of termination upon ninety (90) days' written notice by either party; and (4) make certain nonsubstantive changes to the agreement. The parties have requested a shortened review period.

Agreement No. 207-010668-001.

Title: Overseas Containers Limited Joint Service.

Parties:

The Peninsular & Oriental Steam Navigation Company
Ocean Transport & Trading, PLC
British & Commonwealth Shipping Co., PLC
Overseas Containers Limited

Synopsis: The proposed amendment provides that Overseas Containers Limited or any of its subsidiaries may enter into joint service or any other agreement with other common carriers, and may operate additional ships under such agreement. The parties have requested a shortened review period.

Dated: February 26, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-4547 filed 2-28-86; 8:45 am]

BILLING CODE 6730-01-M

HEALTH AND HUMAN SERVICES DEPARTMENT

Public Health Service

National Toxicology Program; Board of Scientific Counselors Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on March 24 and 25, 1986.

The meeting will be open to the public from 8:30 a.m. until adjournment on March 24. The preliminary agenda with *approximate* times are as follows:

Review of NTP Reproductive and Development Toxicology Programs:

8:30 a.m.-12:10 p.m.—Overview and platform and poster presentations on intramural and extramural projects in reproductive toxicology and evaluation of short-term assays for teratologic and reproductive toxicologic effects.

1:00 p.m.-4:30 p.m.—Platform and poster presentations on intramural and extramural projects in developmental toxicology. Concluding remarks and discussions.

The meeting on March 25 will be open to the public from 8:30 a.m. to 10:45 a.m. and from 1:00 p.m. until adjournment. The preliminary agenda with *approximate* times are as follows:

8:30 a.m.-8:45 a.m.—Report of the Director, NTP.

8:45 a.m.-10:45 a.m.—Review of Chemicals Nominated for NTP Testing. (Thirteen chemicals will be reviewed. Of these, five were reviewed by the NTP Chemical Evaluation Committee (CEC) on October 23, 1985, and listed in the **Federal Register**, Volume 51, No. 6, pp. 3262-3263, January 24, 1986: (1) n-Butyl acrylate; (2) 12-0-Hexadecanoyl-16-hydroxyphorbol-13-acetate; (3) Methyl ethyl ketoxime; (4) alpha-Methylstyrene; and (5) Tung oil. The remaining eight chemicals were reviewed by the CEC on January 8, 1986: (1) n-Butane; (2) Catechol; (3) 2-Chloronitrobenzene; (4) 4-Chloronitrobenzene; (5) Furan; (6) Furfuryl alcohol; (7) Isopentane; and (8) Pentamidine isethionate.)

1:00 p.m.-Adjournment—Discussion of Levels of Evidence of Carcinogenicity.

In accordance with the provisions set forth in section 552b(c)(6) Title 5 U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on March 25 from approximately 11:00 a.m. to 1:00 p.m. for further evaluation of NTP programs in reproductive and developmental toxicology, including the consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541-3971, FTS 629-3971, will have available a roster of Board members and expert consultants and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: February 13, 1986.

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 86-4467 Filed 2-28-86; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Board of Scientific Counselors Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of March 26, 1986, of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina.

The meeting begins at 8:30 a.m. and will be open to the public. The primary agenda topic is to peer review draft technical reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* Panel of Experts. The meeting will commence with a discussion of modifications to the levels of evidence of carcinogenicity used since June 1983 in formulating interpretive conclusions for the NTP long-term toxicology and carcinogenesis studies.

Draft technical reports of studies on the following chemicals (listed in alphabetical order with Chemical Abstracts, Service registry numbers routes of administration and species, and NTP chemical managers) are tentatively scheduled to be peer reviewed on March 26. The actual order of presentation will be decided at a later date.

Chemical (CAS Registry No.)	Route/species	Chemcial manager (Phone No.)
Boric Acid (10043-35-3).	Feed/Mice	Dr. M.P. Dieter (919-541-3368).
1,4-Dichlorobenzene (106-46-7).	Feed/Mice, Rats	Dr. J.A. Goldstein (919-541-4495).
Pentachloronitrobenzene (82-68-8).	Feed/Mice	Dr. J.K. Dunnick (919-541-4811).
Phenylephrine Hydrochloride (61-76-7).	Feed/Mice, Rats	Dr. J.A. Bucher (919-541-4532).
Tetrakis (Hydroxymethyl) Phosphonium Chloride (124-64-1).	Gavage/Mice, Rats.	Dr. C.W. Jameson (919-541-4096).
Tetrakis (Hydroxymethyl) Phosphonium Sulfate (55566-30-8).	Gavage/Mice, Rats.	Dr. C.W. Jameson (919-541-4096).
Xylenes (mixed) (1330-20-7).	Gavage, Mice, Rats.	Dr. W.C. Eastin (919-541-7941).

The draft technical report on Trichloroethylene (without Epichlorohydrin) (79-01-6) (NTP TR No. 273) reviewed at the last meeting on December 9, 1985, and deferred for revision will *not* be presented until the next meeting (summer 1986).

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919-541-3971), FTS (629-3971), will furnish final agenda, rosters of Subcommittee and Panel members, and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: February 25, 1986

David P. Rall, M.D., Ph.D.,

Director, National Toxicology Program.

[FR Doc. 86-4468 Filed 2-28-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action; Exchange of Public and Private Lands in Riverside County, CA

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice of Realty Action CA 18780.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Managment Act of Octbober 21, 1976 (43 U.S.C. 1716):

San Bernardino Meridian, California

T. 3S., R. 5E.,
Sec. 30: Lots 1, 14, 16, 21, 22, 25, SE¼, unnumbered lot in the NW¼ (42.93 acres), unnumbered lot in the SW¼ SW¼ (42.98 acres).

Containing 352.34 acres of public land.

In exchange for these lands, the United States will acquire the following lands from The Nature Conservancy:

San Bernardino Meridian, California

T. 4S., R. 6E.,
Sec. 2: Lot 3 and 4, SW¼ NW¼, W½ SE¼ NW¼, W¼ SE¼, SW¼ NE¼ SE¼ SE¼.

San Bernardino Meridian, California

T. 4S., R. 7E.,
Section 6: Lot 1 of NW¼, Lot 1 of SW¼, N½ of Lot 2 of SW¼, W½ NW¼ SE¼.

Except any portion within the 80.00 foot wide right-of-way, for an aqueduct road; the 50.00 foot wide right-of-way, for a transmission line, and the 80.00 foot wide right-of-way, for an aqueduct road, granted to the Metropolitan Water District of Southern California, by an act of Congress, approved June 18, 1932 (Ch. C 47 Stat. 324), as shown on the maps of definite location thereof, approved by the Secretary of the Interior, May 2, 1933 and December 2, 1933;

Containing 656.51 acres of private land.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire a portion of the non-federal lands within the proposed 13,030 acre preserve for the Coachella Valley fringe-toed lizard. The lizard is federally listed as threatened and State listed as endangered. The Bureau of Land Management's goal is to acquire approximately 6,700 acres within the preserve. Other State or Federal agencies will acquire the remaining portion of the preserve. The public interest will be well served by completing the exchange.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or 2 years from the date of publication, whichever occurs first.

The values of the lands to be exchanged are approximately equal. Full equalization of value will be achieved by acreage adjustments or by a payment to the United States by the Nature Conservancy of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

2. All the oil, gas, and geothermal steam and associated geothermal resources shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

3. Those rights for railroad purposes granted to the Southern Pacific Railroad Company, its successors or assigns, under the authority of the Act of July 27, 1866 (14 Stat. 292).

4. An existing pipeline right-of-way granted by the United States to Southern California Gas Company, its successors or assigns, by right-of-way grant LA 0107395 under the authority of the Act of February 25, 1920 (30 U.S.C. 181).

5. A right-of-way for a Federal Aid Highway, serial No. LA 097054, under the Act of November 9, 1921 (42 Stat. 212, 23 U.S.C. 18).

6. An existing pipeline right-of-way granted by the United States to Southern California Gas Company, its successors or assigns, by right-of-way grant LA 0110795 under the authority of the Act of February 25, 1920 (41 Stat. 440).

7. Those rights for telephone line purposes granted to Pacific Telephone and Telegraph Company, its successors or assigns, serial No. LA 0170375, under the Act of March 4, 1911 (43 U.S.C. 961).

8. A right-of-way for a Federal Aid Highway, serial No. R 243. Act of August 27, 1958, as amended (23 U.S.C. 317).

9. Those rights for transmission line purposes granted to Southern California Edison Company, its successors or assigns, serial No. R 458, under the Act of March 4, 1911 (43 U.S.C. 961).

10. Those rights for drainage purposes granted to the Coachella Valley Water District, its successors or assigns, serial No. R 829, under the Act of March 3, 1891 (43 U.S.C. 946-949).

11. Those rights for electric transmission line purposes granted to Southern California Edison Company, its successors or assigns, serial No. R 964, under the Act of March 4, 1911 (43 U.S.C. 961).

12. Those rights for pipeline purposes granted to Southern California Gas Company, its successors or assigns, serial No. R 1091, under Sec. 28 of the Mineral Leasing Act (30 U.S.C. 185).

13. Those rights for road purposes granted to Palm Center Associates, its successors or assigns, serial No. CA 10226, under the Act of October 21, 1976 (43 U.S.C. 1761).

14. The reservation to the United States, its permittees and licensees, to enter upon, occupy and use any part or all of the said land lying within 50 feet of the centerline of an electric transmission line authorized under Power Project 1397 and Powersite Reserve 530, and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075, as amended (16 U.S.C. 818).

FOR FURTHER INFORMATION CONTACT: Information relating to this exchange, including the environmental assessment and land report, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92505.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District Office, Bureau of Land Management, 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, this realty action will become the final determination of the Department of Interior.

Dated: February 20, 1986.

Hugh W. Riecken,

Acting District Manager.

[FR Doc. 86-4434 Filed 2-28-86; 8:45 am]

BILLING CODE 4310-40-M

Utah; Proposed Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to withdraw 160 acres of public land for the East Canyon Dam, Weber Basin Project near Bountiful, Utah. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

ADDRESS: Inquiries concerning the land should be sent to: Utah State Director, 324 South State, Suite 301, Salt Lake City, Utah 84111–2303.

FOR FURTHER INFORMATION CONTACT: Lillie Hikida, BLM Utah State Office, 801–524–3074.

On February 19, 1986, a petition was approved allowing the Bureau of Reclamation to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

Salt Lake Meridian

T. 2 N., R. 3 E.,
Sec. 10: SE¼.

The area described contains 160 acres in Morgan County.

The purpose of the proposed withdrawal is to reserve the land as an addition for the East Canyon Dam of the Weber Basin Project.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The temporary segregation of the lands in connection with a withdrawal application or proposal shall not affect administrative jurisdiction over the lands, and the segregation shall not have the effect of authorizing any use of the lands by the Bureau of Reclamation.

Dated: February 24, 1986.

Orval L. Hadley,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–4491 Filed 2–28–86; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Information Collection Submitted 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 of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Washington, DC 20503, telephone 202–395–7340.

Title: Demonstration and Special Events Permit

Abstract: The National Park Service uses the Public Gathering Permit to authorize demonstrations and special events in National Capital Region parks and to grant waivers of numerical limitations on demonstrations on the White House Sidewalk and in Lafayette Park

Bureau Form Number: None

Frequency: On Occasion

Description of Respondents: Individuals or households Annual Responses: 1000

Annual Burden Hours: 500

Bureau Clearance Officer: Russell K. Olsen, 202–523–5133

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 4536 Filed 2–28–86; 8:45 am]

BILLING CODE 4310–70–M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m., CST, on April 1, 1986, at the Jefferson Parish West Bank Council Chamber, New Courthouse, Second Street, Gretna, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 92–265, section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the implementation and development of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

The matters to be discussed at this meeting include:

—Status of Funding
—Construction Program
—Land Acquisition
—State Legislative Proposal

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafittee National Historical Park, U.S. Customs ouse, 423 Canal Street, Room 206, New Orleans, Louisiana 70130, telephone 504/589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: February 19, 1986.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 86–4534 Filed 2–28–86; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Citizens Advisory Council: Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: March 21, 1986, 7:00 p.m. inclement weather reschedule date: April 11, 1986.

ADDRESS: Town of Tusten, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764–0159. (717) 729–7135.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. § 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda

for the meeting will include discussion of the 1986 draft plan. The meeting will be open to the public. Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

Any member of the public may file with the council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles North of Narrowsburg, NY, Damascus Township, Pennsylvania.

Dated: February 20, 1986.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 86-4535 Filed 2-28-86; 8:45 am]

BILLING CODE 4310-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-301 through 303 (Preliminary)]

Termination of Import Investigation; Certain Butt-Weld Pipe Fittings From Brazil, Japan, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Termination of investigations.

SUMMARY: On February 25, 1986, the Commission received notice from the U.S. Department of Commerce stating that, having received a letter from Counsel for petitioners in the subject investigations withdrawing the petition, Commerce was terminating its antidumping investigations on butt-weld pipe fittings from Brazil, Japan, and Taiwan. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the subject investigations are terminated.

EFFECTIVE DATED: February 25, 1986.

FOR FURTHER INFORMATION CONTACT: Brians Walters (202-523-0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002

Authority: These investigations are being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.40 of the Commission's rules (19 CFR 207.40).

By order of the Commission.

Issued: February 26, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-4447 Filed 2-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-306 and 307 (Preliminary)]

Glyoxal From the Federal Republic of Germany and France; Withdrawl of Petition in Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice of withdrawal of petition in antidumping investigations.

SUMMARY: On February 21, 1986, the Department of Commerce and the U.S. International Commission received a letter from counsel for the American Cyanamid Company, the petitioner in these investigations, stating that our client has instructed us to withdraw the antidumping petition concerning glyoxal from the Federal Republic of Germany and France filed on February 12, 1986." Having received this letter, Commerce did not initiate investigations as provided for in section 732(c) of the Tariff Act of 1930. Accordingly, the Commission hereby gives notice that the antidumping investigations involving glyoxal from the Federal Republic of Germany and France, provided for in item 427.53 of the Tariff Schedules of the United States (invs. Nos. 731-TA-306 and 307 (Preliminary)) will not be continued further

EFFECTIVE DATE: February 25, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202-523-0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

This notice is published pursuant to § 207.40 of the Commission's Rules of Practice and Procedure (19 CFR 207.40).

By order of the Commission.

Issued: February 25, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-4448 Filed 2-28-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-253 (Final) and 731-TA-252 (Final)]

Import Investigation Determination; Certain Welded Carbon Steel Pipes and Tubes From Turkey and Thailand

Determinations

On the basis of the record [1] developed in the subject investigations the Commission determines,[2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured, or threatened with material injury, by reason of imports from Turkey of welded carbon steel standard pipes and tubes,[3] which have been found by the Department of Commerce to be subsidized by the Government of Turkey. Chairwoman Paula Stern and Commissioner Alfred E. Eckes determine that an industry in the United States is materially injured by reason of the subject imports. Commissioner Seeley G. Lodwick and Commissioner David B. Rohr determine that a domestic industry is threatened with material injury by reason of the subject imports. Commissioner Lodwick and Commissioner Rohr further determine, pursuant to section 705(b)(4)(B) of the Act (19 U.S.C. 1671d(b)(4)(B)), that they would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

The Commission also determines,[4] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is threatened with material injury by reason of imports from Turkey of welded carbon steel line pipes and tubes,[5] which have been found by the

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler and Commissioner Brunsdale make negative determinations.

[3] For purposes of this investigation, the term "welded carbon steel standard pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, 0.375 inch or more but not over 16 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA).

[4] Chairwoman Stern, Vice Chairman Liebeler, and Commissioner Brunsdale make negative determinations.

[5] For purposes of this investigation, the term "welded carbon steel line pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch 0.375 inch or more but not over 16 inches in outside diameter, conforming to American Petroleum Institute (API) specifications for line pipe, provided for in TSUSA items 610.3208 and 610.3209.

Department of Commerce to be subsidized by the Government of Turkey. Commissioners Eckes, Lodwick, and Rohr further determine, pursuant to section 705(b)(4)(B) of the Act (19 U.S.C. 1671d(b)(4)(B)), that they would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

Finally, the Commission determines,[6] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured, or threatened with material injury, by reason of imports from Thailand of welded carbon steel standard pipes and tubes,[7] which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). Chairwoman Paula Stern and Commissioner Alfred E. Eckes determine that an industry in the United States is materially injured by reason of the subject imports. Commissioner Seeley G. Lodwick and Commissioner David B. Rohr determined that a domestic industry is threatened with material injury by reason of the subject imports. Commissioner Lodwick and Commissioner Rohr further determine, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), that they would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

Background

The Commission instituted the investigation on Thailand effective October 1, 1985, following a preliminary determination by the Department of Commerce that imports of certain welded carbon steel pipes and tubes from Thailand were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Effective October 25, 1985, the Commission instituted the investigation on Turkey following a preliminary determination by the Department of Commerce that imports of certain welded carbon steel pipes and tubes from Turkey were being subsidized within the meaning of section 701 of th Act (19 U.S.C. 1671). Notices of the institution of the Commission's investigations and of a public hearing to be held in connection therewith were given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** on October 28, 1985 (50 FR 43614) and November 14, 1985 (50 FR 47125). The hearing was held in Washington, DC, on January 7, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on February 21, 1986. The views of the Commission are contained in USITC Publication 1810 (February 1986), entitled "Certain Welded Carbon Steel Pipes and Tubes from Turkey and Thailand: Determinations of the Commission in Investigations Nos. 701–TA–253 (Final) and 731–TA–252 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.
Issued: February 21, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–4449 Filed 2–28–86; 8:45 am]

BILLING CODE 7020-02-M

[6] Vice Chairman Liebeler and Commissioner Bumsdale make negative determinations.

[7] For purposes of this investigation, the term "welded carbon steel standard pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, 0.375 inch or more but not over 16 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA).

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–43 (Sub–No. 18)]

Lease and Interchange of Vehicles—Segregated Escrow Funds; Termination of Proceeding

AGENCY: Interstate Commerce Commission.

ACTION: Termination of proceeding.

SUMMARY: The Commission has discontinued, for insufficient evidence, a proceeding initiated to determine whether the escrow fund rule at 49 CFR 1057.12(k) should be clarified to require that escrow funds deposited by a lessor with either a lessee or a third party be placed in a separate escrow account, in trust for the lessor, that cannot be commingled with the lessee's or third party's other funds. Notice of the proceeding has not been previously published in the **Federal Register**.

DATES: This decision is effective on March 3, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rothstein, (202) 275–7912
or
Howell I. Sporn, (202) 275–7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the full Commission decision that is available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, or may be purchased from ITS InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, 12th St. and Constitution Ave., NW., Washington, DC 20423; or call toll-free (800) 424–5403, or (202) 289–4357 in the Washington, DC, metropolitan area.

This notice and accompanying decision are issued pursuant to 49 U.S.C. 11107 and 10321 and 5 U.S.C. 553.

Decided: February 12, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons and Commissioner Lamboley dissented with separate expressions.

James H. Bayne,

Secretary.

[FR Doc. 86–4460 Filed 2–28–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30786]

Missouri Pacific Railroad Co.; Granting of Trackage Rights Exemption by Missouri-Kansas-Texas Railroad Co.

On February 11, 1986, Missouri Pacific Railroad Company (MP) filed a notice of exemption under 49 CFR 1180.2(d)(5).

MP and Missouri-Kansas-Texas Railroad Company (MKT) operate tracks between Ogden and San Antonio, TX. In order to create a shorter, more direct route for some of MP's traffic, MKT will grant MP overhead trackage rights over 23.86 miles of MKT's track between Ogden (milepost 1012.56) and San Antonio (bridge No. 1036.2). The trackage rights will be effective February 19, 1986. MP will continue to use its main line for other traffic.[1]

MP mischaracterizes the transaction as a joint project involving the relocation of a line of railroad that does not disrupt service to shippers, i.e. an exempt transaction under 49 CFR 1180.2(d)(5). The transaction does not fall within that exemption because MP

[1] In order to gain physical access to MKT's track, MP will construct (1) a 3,292-foot connecting track between its main line and MKT's line at milepost 1012.56, and (2) a 915-foot connecting track between MKT's track at bridge No. 1036.2 and a rail line of the Southern Pacific Transportation Company over which MP now operates under trackage rights.

Construction of these connecting tracks does not fall under an existing class exemption. That part of the transaction requires approval under 49 U.S.C. 10901 or exemption under 49 U.S.C. 10505. A separate decision will follow concerning the construction phase of the transaction.

is not relocating its line of railroad. Rather, MP will continue service over its main line while using the trackage rights over MKT's line as an alternative route.

The transaction involves the acquisition by MP of trackage rights over a line owned by another rail carrier (MKT) that is based on a written agreement and is not sought in a responsive application to a rail consolidation proceeding. MP's acquisition of these trackage rights, therefore, falls squarely within the trackage rights class exemption of 49 CFR 1180.2(d)(7).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to the use of the exemption, MP has proposed that any employees affected by the transaction be protected by the conditions set forth in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980). These conditions satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

Decided: February 24, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-4461 Filed 2-28-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act; Alaska Ventures & Alaska Ventures

In accordance with Department policy, 28 CFR § 50.7, notice is hereby given that on *February 18, 1986* a proposed consent decree in *United States v. David Sweet dba Alaska Ventures and Alaska Ventures*, Civil Action No. F84-0028, was lodged with the United States District Court for the District of Alaska. The proposed consent decree concerns the discharge of pollutants into the waters of the United States in violation of the Clean Water Act. The proposed consent decree requires the defendants to abate further discharges without the authorization of a NPDES permit and to pay a 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 and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. David Sweet dba Alaska Ventures and Alaska Ventures*, DJ Ref. 90-5-1-1-2183.

The proposed consent decree may be examined at the office of the United States Attorney, District of Alaska, United States Courthouse, Room 310, 101 12th Avenue, Fairbanks, Alaska and at the Region X Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530.

A copy of the proposed consent decree may be obtained in person or 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 $2.00 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-4435 Filed 2-28-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 86-12]

Anthony D. Christiano, D.O., Jackson NJ; Hearing

Notice is hereby given that on January 23, 1986, the Drug Enforcement Administration, Department of Justice, issued to Anthony D. Christiano, D.O., and Order To Show Cause as to why the Drug Enforcement Administration should not deny his application, executed on October 28, 1985, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elasped since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held, commencing at 10:00 a.m. on Thursday, March 13, 1986, in Courtroom No. 10, Room 309, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C.

Dated: February 25, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-4515 Filed 2-28-86; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL SCIENCE FOUNDATION

Forms Submitted For OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming (202) 357-9520.

OMB Desk Officer: Carlos Tellez, (202) 395-7340.

Title: Sample Survey of Industrial Innovation in the United States.

Affected Public: Businesses or other for-profit.

Number of Respondents: 2,500; total of 2,208 burden hours.

Abstract: Since Research and Development is only one component of the innovation process in firms, additional quantitative information is needed on industrial innovative activities to improve the capabilities of the Federal Government to better understand the relationships among Research and Development, competition, innovation and productivity of the U.S. industrial sector.

Dated: February 26, 1986.

Herman G. Fleming,

NSF Reports Officer.

[FR Doc. 86-4543 Filed 2-28-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-352]

Philadelphia Electric Co., Limerick Generating Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an Exemption to 10 CFR Part 50, Appendix J, Paragraph III.D.3 for Facility Operating License No. NPF-39, issued to the Philadelphia Electric Company (the licensee), for operation of the Limerick Generating Station, Unit 1, located in Montgomery County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action: This Exemption would suspend the

requirement to conduct Type C leakage testing at intervals no greater than 24 months, as stated in 10 CFR Part 50, Appendix J, Paragraph III.D.3, for 27 containment isolation valves from March 3, 1986 until May 26, 1986.

The Need for the Proposed Action: The proposed Exemption from the regulation is required in order to allow continued operation of the plant until May 26, 1986 when the plant will be shutdown for extensive maintenance and surveillance testing activities. Without this Exemption, a forced shutdown, beginning on March 3, 1986 and lasting about two weeks, would be required in order to perform the necessary surveillance tests.

Environmental Impacts of the Proposed Action: There are no environmental impacts of the proposed action. During the period of the extension the plant will continue with normal operations. On May 26, 1986 the plant will be shutdown and the containment isolation valve Type C leakage test will be performed during that outage. The surveillance test will be performed at that time, in every other respect, the same as if it had been performed during an outage prior to March 3, 1986. The staff has reviewed the information provided by the licensee and finds that postponing these leakrate tests until May 26, 1986 would have little or no effect on containment integrity. No changes are being made in the allowable amounts and no significant changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed Exemption.

Alternative to the Proposed Actions: Since we have concluded that there is no measurable environmental impact associated with the granting of the proposed Exemption, any alternative to this Exemption will have the same or greater environmental impact.

The principal alternative would be to deny the Exemption which would require a two week shutdown beginning no later than March 3, 1986.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connnection with the "Final Environmental Statement" related to the operation of the Limerick Generating Station, Unit 1, dated April 1, 1984.

Agencies and Persons Consulted: The NRC staff performed the entire review of the licensee's position and did not consult other agencies or persons.

Findings of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for the proposed Exemption.

Based on 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 Amendment No. 2 to NPF–39, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464. A copy may be obtained on request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Walter R. Bulter, (301) 492–7456.

Dated at Bethesda, Maryland this 26th day of February 1986.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 86–4580 Filed 2–28–86; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 501–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Administrative Practices for Nuclear Criticality Safety at Fuels and Materials Facilities" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to describe practices acceptable to the NRC staff for administration of a nuclear criticality safety program for operations with fissionable materials at fuels and materials facilities in which there exists a potential for criticality accidents. The guide endorses ANSI/ANS–8.19–1984, "Administrative Practices for Nuclear Criticality Safety."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Adminstration, U.S. Nuclear Regulatory Commission, Washington DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by May 1, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

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

Dated at Rockville, Maryland this 24th day of February 1986.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology Office of Nuclear Regulatory Research.

[FR Doc. 86–4579 Filed 2–28–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 115 and 98 to Facility Operating License Nos. DPR-53 and DPR-69, issued to Baltimore Gas and Electric Company (the licensee), which revised the Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Units 1 and 2 (the facility), located in Calvert County, Maryland. The amendments were effective as of the date of their issuance.

The amendments revise provisions in the Technical Specifications (TS) to allow use of the 4-inch post-accident hydrogen purge line for containment purge during normal operation. The TS are changed as follows: (1) TS 3.6.1.8, "Containment Vent System," which requires the containment vent valves (MOV 6900 and 6901) to be closed during reactor operation will be deleted upon intial operability of the Containment Radiation Signal isolation input to motor operated valves (MOVs) 6900 and 6901; (2) the isolation times for MOVs 6900 and 6901 are decreased from less than or equal to 20 seconds to less than or equal to 15 seconds as required by TS 3.6.4.1, "Containment Isolation Valves"; (3) the notation at the end of TS Table 3.6-1, "Containment Isolation Valves," has been changed to reflect deletion of TS 3.6.1.8; and (4) a requirement has been added to TS Table 3.6-1 to limit the use of the containment vent valves to containment pressure control, containment radioactivity control, and surveillance purposes.

The applications for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments and Opportunity for Prior Hearing in connection with this action was published in the **Federal Register** on March 11, 1985 (50 FR 9733) and December 13, 1985 (50 FR 50973). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to the action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action significantly beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973.

For further details with respect to the action see (1) the applications for amendments dated December 22, 1983 and March 26, 1984, (2) Amendment Nos. 115 and 98 to facility Operating License Nos. DPR-53 and DPR-69, (3) the Commission's related Safety Evaluation dated February 20, 1986, and (4) the Environmental Assessment dated December 31, 1985. All of these items are avilable for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-B. Dated at Bethesda, Maryland, this 20th day of February, 1986.

For the Nuclear Regulatory Commission.

Donald E. Sells,

Acting Director, PWR Project Directorate #8, Division of PWR Licensing-B.

[FR Doc. 86-4561 Filed 2-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-10856 License No. 13-16347-01 and EA 85-93]

Calumet Testing Services, Inc.; Order Imposing Civil Monetary Penalities

I

Calumet Testing Services, Incorporated, 1945 N. Griffith Boulevard, Griffith, IN 46319 (the licensee) is the holder of License No. 13-16347-01 issued by the Nuclear Regulatory Commission (the Commission/NRC) which authorizes the licensee to use byproduct material to conduct industrial radiography.

II

An NRC safety inspection of the licensee's activities under the license was conducted June 21 through July 16, 1985. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated September 9, 1985. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission's requirements that the licensee had violated, and the cumulative amount of the proposed civil penalties. The base civil penalty was increased by 100 percent because of the licensee's prior poor performance and failure to implement effective corrective actions for similar problems. A response dated October 18, 1985 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

After consideration of the licensee's response and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement has determined that the violations occurred as stated and the penalties proposed in the Notice of Violation and Proposed Imposition of Civil Penalties should be mitigated by Four Thousand Dollars ($4,000) based on the licensee's prompt identification and reporting of an overexposure.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the cumulative amount of Twelve Thousand Dollars ($12,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request also shall be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, and

(b) Whether, on the basis of such violations, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 24th day of February 1986.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

In a letter dated October 18, 1985 the licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties dated September 9, 1985. In its response, the licensee admits certain violations occurred as described in the Notice, denies other violations, requests mitigation of the civil penalties and provides reasons why it believes that mitigation of the penalties is appropriate. Provided below are (1) a restatement of each violation, (2) the licensee's assertion regarding each violation, (3) NRC's response to each licensee assertion, (4) a summary of the licensee's arguments in support of mitigation of the proposed penalties, and (5) NRC's evaluation and conclusion.

I. Restatement of Violations, Licensee Assertions, and NRC's Response

A. Restatement of Violation A

10 CFR 20.101(a) provides that no licensee shall possess, use, or transfer licensed material in such a manner as to cause any individual in a restricted area to receive in any period of one calendar quarter from radioactive material and other sources of radiation a total occupation dose in excess of 18.75 rems to the hand and forearms.

Contrary to the above, on June 14, 1985, during the second calendar quarter of 1985, a radiographer's assistant received a calculated hand dose of greater than 75 rems.

Licensee's Assertion. The licensee does not agreee that the radiographer's assistant received a hand dose in excess of regulatory limits. However, based on time and distance measurements made during reenactments, the licensee does agree that 1.2 percent of the individual's hand (approximately 2 cm^2 in surface area) may have received over 75 rems and less than 9 percent of the hand may have received over 18.75 rems. From these data the licensee concludes that because only parts of the hand received doses in excess of regulatory limits, it did not constitute a violation. The licensee further asserts that even if the radiographer's assistant did receive a hand dose in excess of the regulatory limits, because only a small portion (i.e., 2 cm^2) of his hand received greater than 75 rems, the severity level is more appropriately set a Severity Level III.

NRC Response. The licensee's analysis assumes that 10 CFR 20.101(a) provides for averaging of extremity dose over the entire surface area of the exposed individual's hand. However, this assumption is erroneous because this section of 10 CFR Part 20 provides no basis to permit averaging the dose.

The licensee admits that an area of approximately 2 cm^2 of the exposed individual's hand may have received at least 75 rems. The licensee further admits that an additional area of approximately 14 cm^2 received greater than 18.75 rems. Therefore, the licensee violated the provisions of 10 CFR 20.101(a).

Determination of the severity level for the violation is based on the amount of dose received. As such, the determination of radiation dose is predicated on the radiation dose standards found in 10 CFR Part 20. That a licensee employee received 75 rems to only a small portion of his hand does not prevent the violation from being appropriately categorized as a Severity Level II. Accodingly, no basis exists in the licensee's response for reducing the severity level of the violation.

B. Restatement of Violation B

10 CFR 34.43(b) requires that a survey with a radiation survey instrument shall made after each radiographic exposure to determine that the sealed source has been returned to its shielded position. The entire circumference of the radiographic exposure device shall be surveyed. If the radiographic exposure device has a source guide tube, the survey shall include the guide tube.

Contrary to the above, on June 14, 1985, a radiographer's assistant failed to perform a radiation survey after a radiographic exposure to determine that the sealed source had been returned to its shielded position.

Licensee's Assertion. The licensee admits a survey was not made after each radiographic exposure and states the violation occurred because the radiographer's assistant made a personal decision not to make a survey, contrary to NRC requirements and the procedures of Calumet Testing Services, Incorporated (CTS).

NRC Response. The licensee's assertion that the radiographer's assistant is responsible for the violation because he made a personal decision to violate NRC rules and CTS procedures is without merit. NRC holds the licensee responsible for violations committed by an employee even in the absence of a finding that management contributed to the violation. *Atlantic Research Corporation,* CLI–80–7, 11 NRC 413 (1980). However, management participation may be a consideration in determining the severity level of a violation in that the severity level may be increased where management is found to be involved. This factor was not used here in determining the severity level.

C. Restatement of Violation C

10 CFR 34.44 requires that whenever a radiographer's assistant uses radiographic exposure devices, sealed sources or related source handling tools, or conducts radiation surveys required by 34.43(b) to determine that the sealed source has returned to the shielded position after an exposure, he shall be under the personal supervision of a radiographer. The personal supervision shall include: (a) The radiographer's personal presence at the site where the sealed sources are being used, (b) the ability of the radiographer to give immediate assistance if required, and (c) the radiographer's watching the assistant's performance of the operations referred to in this section.

Contrary to the above, on June 14, 1985, two radiographer's assistants performed three radiographic operations without the personal presence of a radiographer. As a result, a radiographer would not have been able to give immediate assistance if required and did not watch the assistants performing the operations.

Licensee' Assertion. The licensee denies that radiographer's assistants were performing radiographic exposures without the personal presence of a radiographer and asserts that a radiographer was in a position to be of immediate assistance since a radiographer was on site and was working on the same boiler as the assistants. The licensee admits that the radiographer did not actually watch the assistants while they were making radiographic exposures.

NRC Response. The regulation requires *visual* observation. Although a radiographer was present at the building site, he was making radiographic exposures in another area and could not observe two radiographer's assistants while they were making radiographic exposures. As a result, the radiographer was not aware of any problem until after he was notified that one of the

radiographer's assistants received an extremely overexposure. It should be noted that when the radiographer's assistant discovered that the radiography source was exposed he did not immediately contact the radiographer. Instead, accompanied by a second radiographer's assistant, he reentered the restricted area, unlocked the exposure device and retracted the source to a proper shielded position. If the radiographer had complied with the requirements of 10 CFR 34.44, he would have ensured that the radiographer's assistant did not approach the exposure device after an exposure without making a complete radiation survey, especially after it was discovered that the radioactive source was in an unshielded position. Accordingly, no basis has been provided in the licensee's response for withdrawal of this violation.

II. Licensee's Request for Mitigation

The licensee offers eight reasons why it believes the proposed civil penalty should be mitigated.

1. The event was promptly reported as it may have been an overexposure.

2. The licensee cooperated with NRC requests.

3. The NRC inspected two job sites and found no problem with the quality of training.

4. The overexposure was not the result of improper training. Several examples are cited to support the claim that the radiographer's assistant knew that surveys were required; but the individual made a personal decision not to make a survey.

5. The event that occurred in June 1983 and resulted in a $4,000 civil penalty that the licensee paid on September 1, 1983 occurred as a result of not surveying and was not the result of insufficient supervision of the assistant.

6. The radiographer's assistant did not experience any high degree of serious radiation injury as evidenced by examinations, blood tests, and chromosome studies.

7. The licensee quotes the Enforcement Policy, page 8585 of the Federal Register, dated March 8, 1984 which states, "a civil penalty can be fully mitigated for a first offense in an area of concern or for an offense in an area in which no previous offense had occurred for a period of at least two years." The licensee also notes, "the two incidents were just eight hours shy of being two years apart."

8. The licensee had to write off a significant amount in bad debts and expects this amount to be even higher in 1985. The licensee stated, "[a] large penalty would cause considerable hardship as we are still in a difficult economic environment."

NRC Evaluation. The following evaluation will separately address each of the eight reasons set forth by the licensee in support of mitigation.

1. The NRC agrees that the licensee promptly reported the overexposure (the day after the overexposure occurred). However, in considering whether to reduce a civil penalty based on a licensee's prompt identification and reporting, the NRC Enforcement Policy, 10 CFR Part 2, Appendix C (1985), Section V.B.1 states that "[n]o consideration will be given to this factor if the licensee does not take immediate action to correct the problem upon discovery." The NRC's concern regarding this proviso was initially based on statements made by the President, Calumet Testing Services, Incorporated at the July 8, 1985 enforcement conference. The president stated that immediate corrective action was limited to meeting with the radiographers and radiographer's assistants involved during which he emphasized the importance of following safety procedures and NRC regulations. The NRC considers such immediate corrective action to be adequate and we have consequently reduced the proposed civil penalty as described below in section III, NRC Conclusion.

2. The NRC acknowledges that the licensee cooperated with NRC requests. However, corrective action is always required when there is a violation, and the licensee's compliance with NRC's request that additional corrective action be initiated was an expected response.

Regarding the licensee's corrective actions, our elevation indicates that on the whole the corrective actions are only what NRC would expect. In addition, training of personnel, modification of locks on radiographic exposure devices, and the program of disciplinary action against employees who violate NRC regulations and CTS procedures are corrective actions which were implemented only after the NRC emphasized the importance of such actions at the enforcement conference (more than three weeks after the overexposure occurred).

Under the enforcement policy a civil penalty may be reduced where a licensee's corrective actions are found to be unusually prompt and extensive. However, in this case the licensee's corrective actions were neither prompt nor extensive. Accordingly, no adequate basis exists in the licensee's response for reducing the civil penalty amount.

3. The NRC did not issue a citation for an inadequate training program in this case. However, two similar incidents in the last two years involving radiation overexposure to a radiographer's assistant would seem to indicate a weakness in the licensee's training program. Further, that inspections of two of the licensee's job sites did not result in cited violations involving training does not necessarily demonstrate that training at other job sites or the licensee's training program as a whole are adequate.

4. The licensee was not cited for failure to have an adequate training program. The NRC agrees that the incident itself is not conclusive as to the adequacy of the licensee's training program. However, as stated above, two such similar incidents within a fairly short time period suggest inadequate training was a possible contributing factor.

5. The NRC agrees that the principal cause of the 1983 overexposure was the failure to perform an adequate survey of the exposure device. However, it should be noted that at the time the radiographer's assistant was making the inadequate survey, the radiographer was inside the boiler and was not observing the assistant. Consequently, as in the present case, failure to adequately supervise the radiographer's assistant contributed to the violation. Therefore, the radiographer's assistants' failures to perform surveys and the radiographers' failure to adequately supervise were contributing factors in both cases—thus the similarity.

6. The NRC believes that any radiation dose in excess of regulatory limits is a matter of serious concern and does not rely on physical damage as a criterion for evaluating overexposures.

7. The NRC Enforcement Policy provides that a civil penalty can be fully mitigated for an offense in an area in which no previous offense has occurred for a period of at least two years. Conversely, the Policy provides for up to 100% escalation for poor performance in the area of concern. The NRC staff acknowledges that almost two years had elapsed since issuance of the last civil penalty to the licensee. However, because the two year criterion is a guideline and because the 1983 violation was so similar to the present violation, the NRC considers the present violation to fit a situation of prior poor performance in the area of concern.

8. It is not the NRC's intention that the economic impact of a civil penalty be such that it puts a licensee out of business. The NRC staff has reviewed the licensee's financial statements submitted with its October 18, 1985 response and is unable to conclude, from the information presented by the

licensee, that payment of the civil penalty as reduced would create an undue hardship for the licensee.

III. NRC Conclusion

The NRC staff has determined that all violations did occur as originally stated in the September 9, 1985 Notice of Violation and Proposed Imposition of Civil Penalties. The licensee's October 18, 1985 response did not provide a sufficient basis for withdrawal of the violations. However, the NRC staff has concluded that a $4,000 reduction in the proposed base civil penalty is appropriate because the licensee promptly identified and reported the overexposure violation. Therefore, the NRC staff has concluded that a $12,000 civil penalty should be imposed. This amount reflects 50% of the base civil penalty of $8,000 for prompt identification and reporting which was balanced against 100% escalation for prior poor performance.

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[Docket Nos. 030-01993, 070-01396 Licenses No. 21-00338-02, SNM-1393, and EA85-89]

Hurley Medical Center; Order Imposing Civil Monetary Penalties

I

Hurley Medical Center, One Hurley Plaza, Flint, MI 48502 (the licensee) is the holder of License Nos. 21-00338-02 and SNM-1393 issued by the Nuclear Regulatory Commission (the Commission). The licenses authorize the licensee to operate Hurley Medical Center in accordance with the conditions specified therein.

II

A routine NRC safety inspection of the licensee's activities was conducted on May 2, 3, and 24, 1985. The results of this inspection indicated that the licensee had not conducted its activities in full compliance with Commission requirements and the conditions of its licenses. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated August 22, 1985. The Notice states the nature of the violations, the requirements of the Commission's regulations or license conditions that were violated, and the amount of civil penalties proposed for the violations. The licensee responsed to the Notice of Violation and Proposed Imposition of Civil Penalties with two letters dated October 4, 1985.

III

After consideration of the licensee's responses and the statements of fact, explanation, and arguments regarding remission or mitigation contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement, has determined that the violations occurred as stated and that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the amount of Two Thousand Five Hundred Dollars ($2,500) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, DC 20555. A copy of the hearing request also shall be sent to the Executive Legal Director, USNRC, Washington, DC 20555 and to the Regional Administrator, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(A) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above and

(b) Whether on the basis of such violation this Order should be sustained.

Dated at Bethesda, Maryland, this 24th day of February 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

The licensee's October 4, 1985 responses to the August 22, 1985 Notice of Violation and Proposed Imposition of Civil Penalties for Hurley Medical Center admit the facts as stated in 13 of the 14 violations in the Notice. The licensee can neither confirm nor deny the violation concerning the licensee's participation in the explant, recovery, or return of a nuclear pacemaker. The licensee's responses provide its reasons why the penalties are not appropriate. Provided below are (1) a restatement of each violation, (2) a summary of the licensee's responses, and (3) the NRC's evaluation of the licensee's responses.

A. Restatement of the Violation

Licensee Condition No. 24 of License 21-00338-02 requires that all licensed material be possessed and used in accordance with statements and procedures in the application dated September 23, 1983. The application dated September 23, 1983 states that the Medical Isotope Committee shall meet no less than once in each calendar quarter.

Contrary to the above, the Medical Isotope Committee did not meet quarterly. Specifically, the Medical Isotope Committee failed to meet during the first, third, and fourth quarters of 1981 and 1982; the second and third quarters of 1983; the first and second quarters of 1984; and the first quarter of 1985.

Licensee's Response. During the specified period, Hurley Medical Center's Medical Isotope Committee did not meet quarterly because of a lack of understanding on NRC requirements. After the Medical Isotope Committee was reestablished as the hospital's Radiation Safety Committee in November of 1982, it was the understanding of the Committee representatives that the requirement was to meet semiannually. Following the NRC inspection of May 2, 3, and 24, 1985, an administrative directive was distributed which created standing quarterly meetings. Meetings have been held regularly since that time, and special monthly meetings have been held to monitor progress and compliance with other NRC requirements.

"In addition, committee membership has been strengthened to include additional representatives from the Department of Pharmacy, administrative

and medical representatives from Cardiovascular Services, technical representation from the Divisions of Nuclear Medicine and Radiation Therapy, and additional medical staff representation from the Department of Radiology."

"Full compliance was achieved immediately following the most recent NRC inspection."

NRC Evaluation. The licensee admits the violation. The NRC staff acknowledges the licensee's position that noncompliance resulted from a misunderstanding of NRC requirements. However, the NRC review shows that the requirement to meet once in each calendar quarter is clear and should not have been subject to any misunderstanding.

B. Restatement of the Violation

License Condition No. 24 of License 21–00338–02 requires that licensed materials be used in accordance with the application received February 8, 1978, the application dated September 23, 1978 and the application dated September 23, 1983. These applications describe Room 22, equipped with a ventilation system, as the area where xenon-133 would be used.

Contrary to the above, on several occasions since November 1984, xenon-133 was used in a room other than Room 22. Specifically, xenon-133 was used in Room 20, an area not authorized by the license. Although Room 20 was equipped with an exhaust fan, the air flow rates and xenon-133 concentrations had not been evaluated or approved by NRC.

Licensee's Response. "Hurley Medical Center did not amend its license to reflect that the room used for xenon-133 procedures had been changed. Although failure to amend the license was an oversight, the Radiation Safety Officer was aware that the air flow was sufficient in the room in question. The health and safety of patients and staff occupying these areas was not compromised."

"The xenon procedures imaging room license amendment and accompanying floor plan were forwarded to the NRC on June 6, 1985."

NRC Evaluation. The licensee admits the violation in that the license was not amended to reflect a change in the room used for xenon-133 procedures. The licensee does state that the RSO was aware that the air flow was sufficient in the room where xenon-133 was used. Notwithstanding the licensee's evaluation, areas where radioactive materials is used or stored are not in accordance with NRC regulatory requirements unless and until the area is specifically authorized in an NRC license.

C. Restatement of the Violation

License Condition No. 24 of License 21–00338–02 requires licensed material be possessed and used in accordance with the application received February 8, 1978. The application received February 8, 1978 contains precautions and procedures to be followed when caring for patients treated with therapeutic quantities of radionuclides. Item 8 states nursing personnel entering the patient's rooms are to wear film badges.

Contrary to the above, nursing personnel entering therapy patients' rooms did not always wear film badges. Nursing personnel did not wear film badges in cases where brachytheraphy (cesium-137) implants were performed on October 8 and 29, November 13 and 19, December 3, 1984, and January 22 and March 19 and 26, 1985.

Licensee's Response. Hurley Medical Center did not provide film badges to nurses entering therapy rooms. The Radiation Safety Officer stated:

> The number of Cs–137 Sealed source therapies performed has decreased to 30 in 1983 and 14 in 1984. Each treatment lasts about three days. Nursing involvement with these patients is minimal, about 14 minutes per day or 45 minutes to one hour total. The measured exposure rate at bedside of these patients is about 10Mr/hr@ 1 Meter, so that the probable exposure to nurses is 10mR. If the same nurse attended three patients per month, she would receive 10mR per month or 90mR per quarter. This is less than one quarter of the maximum allowed dose of 1200mR per quarter. According to 10 CFR 20.202a(1), film badges are not necessary under these conditions. Our results of monitoring nurses' radiation exposure confims these calculations. In accordance with license conditions, badges are assigned to nursing personnel attending radioactive implants and radioiodine therapies.

"Since the most recent NRC inspection, a new standard practice has been developed to ensure assignment and monitoring of nursing personnel assigned to the care of radioactive implant patients. This policy states that badges will be ordered and assigned by the Radiation Safety Officer. The supervisor of the Radiation Therapy Department will provide the badges and be responsible for the evaluation of personnel for the duration of the patient's impact."

Full compliance with this license condition was achieved June 7, 1985."

NRC Evaluation. The licensee admits that film badges were not issued to nursing personnel but explains that film badges were not necessary according to 10 CFR 20.202(a)(1). While the NRC staff acknowledges that 10 CFR 20.202(a)(1) would not require the issuance of film badges, the violation is against the licensee's license condition which required film badges to be issued for nursing personnel. The more restrictive statement in the license is controlling. Part of License Condition 24 states that the NRC's regulations shall govern the licensee's statements in application or letters, unless the statements in the application or letters are more restrictive than the regulations.

D. Restatement of the Violation

License Condition No. 24 of License 21–00338 requries that licensed material be possessed and used in accordance with statements and procedures in the application received February 8, 1978. The application received February 8, 1978 contains precautions and procedures to be followed when caring for patients treated with therapeutic quantities of radionuclides. Item 4 states that surveys of exposure rates in the patient's room and adjacent areas will be performed.

Contrary to the above, surveys were not always perfomed of the patients' rooms and adjacent areas. Specifically, 14 cesium-137 sealed source implants were performed between February 6, 1984 and March 26, 1985 and only two surveys were conducted. No patient room surveys were conducted during 14 cesium-137 sealed source implants between April 5 and September 28, 1982.

Licensee's Response. Hurley Medical Center acknowledges that it did not perform surveys of patients' rooms and adjacent areas following treatment with radionuclides. The Radiation Safety Officer stated:

> State of Michigan Radiation Rule 465(2) states "Calculations based on previous surveys will comply with this subrule," i.e., a survey performed for each patient. A series of surveys of patients' rooms and adjacent areas were taken to determine the radiation levels present during treatment. No excessive radiation levels were recorded. Calculations were made of exposure rate per mCi of activity used in treatment: 0.30 mR/hr @ 1 Meter. The exposure rates in subsequent therapies were calculated from this value. This complies with State of Michigan Radiation Rules. No excessive radiation levels or exposures were measured or calculated.

"Since the last NRC inspection, a new standard practice has been developed and implemented to assure compliance with this condition. It is the responsibility of the Radiation Physicist to perform these surveys, and the responsibility of the Radiation Therapy Supervisor to monitor compliance with this practice. These actions will be

reported at the quarterly Radiation Safety Committee meeting."

"Compliance was achieved by June 7, 1985."

"NRC Evaluation. The licensee admits the violation, although it contends that it was complying with the State of Michigan's radiation rules. If the licensee was implementing the less restrictive survey requirement imposed by the State of Michigan, the licensee was not complying with the requirement in its NRC license.

E. Restatement of the Violation

License Condition No. 16 of License SNM–1393 requires that licensed material be possessed and used in accordance with statements, representations, and procedures in a letter dated April 24, 1973. The letter dated April 24, 1973 states the physician responsible for nuclear pacemaker studies was William J. Weber, M.D.

Contrary to the above, licensee personnel other than the physician listed in the April 24, 1973 letter as the responsible individual are currently responsible for the nuclear pacemake program.

Licensee's Response. "Hurley Medical Center did not amend its license properly to reflect physicians in charge of the nuclear pacemaker program. While Hurley Medical Center did recognize the need to renew its nuclear pacemaker license, amending the physician's name responsible for the new pacemaker program was overlooked. Hurley Medical Center has not implanted a nuclear pacemaker in a number of years. As a result, it was understood that no physician needed to be authorized for the implant of these pacemakers. On June 7, 1985, Hurley Medical Center provided a new amendment to this license which was incorrect. Hurley Medical Center is providing a corrected amendment to its license naming a responsible physician so that the three remaining nuclear pacemaker patients may be monitored appropriately."

"It is the responsibility of the Director of Cardiovascular Services to assure that any change in physician control or responsibility for this program be communicated to the Radiation Safety Officer and to Administration for appropriate amendment of the license."

"Hurley Medical Center will be in compliance with this condition when the NRC acknowledges this license amendment request."

NRC Evaluation. The licensee admits the violation. Although Hurley Medical Center personnel did not implant a nuclear pacemaker over the last few years, there was still a nuclear pacemaker program in effect. The license failed to inform the NRC of the name(s) of the individual(s) responsible for nuclear pacemaker studies.

F. Restatement of the Violation

Item 9A of License SNM–1393 authorizes the possession of nuclear pacemakers for purposes of explantation, recovery and disposal. License Condition No. 16 (License SNM–1393) requires that licensed material be possessed and used in accordance with statements and procedures contained in a letter dated April 24, 1973. The letter states that William J. Weber, M.D. is the individual responsible for nuclear pacemaker studies.

Contrary to the above, the licensee failed to explant, recover, and return for disposal a nuclear pacemaker from a patient who died in February 1985. Specifically, licensee personnel other than the responsible individual listed in the April 24, 1973 letter requested that a funeral director remove a nuclear pacemaker from the body of a patient after realizing that the patient had been the recipient of a nuclear pacemaker. The funeral director, who was not authorized by this license, was also requested to return the nuclear pacemaker to the manufacturer for disposal. The licensee did not participate in or supervise the explant, recovery, or return of the nuclear pacemaker.

Licensee's Response. "Hurley Medical Center can neither confirm nor deny violation of this license condition. Conversations held with the funeral director in question indicate that he cannot recall whether the pacemaker was removed prior to contacting Hurley Medical Center personnel or whether Hurley Medical Center personnel instructed him to remove the pacemaker. Hurley Medical Center personnel state that the pacemaker was removed prior to being contacted by the funeral home director and that at no time were instructions given to explant the pacemaker."

"A standard practice has been developed which outlines the proper procedure to be followed upon the death of a pacemaker patient * * * All Cardiovascular Study Unit staff have been informed of proper procedure, and it is the responsibility of the supervisor of this unit to monitor compliance. This activity will be monitored on a quarterly basis by the Radiation Safety Committee."

"Hurley Medical Center cannot determine whether or not a violation of this nature occurred."

NRC Evaluation. The licensee does not confirm or deny a violation of this license condition. In response to the licensee's comments, the furneral director was again contacted by the NRC staff on October 29, 1985 by telephone. The funeral director, who removed the pacemaker, stated that the patient had died at the hospital. He further stated the hospital staff called the funeral director and instructed him to remove the pacemaker and that the hospital then sent the funeral director the package in which to return the pacemaker. Although the statements presented by the licensee and the NRC do not agree as to how the violation transpired, the NRC staff continues to believe that a violation occurred. Neither the statements presented by the NRC or by the licensee contradict the fact that the licensee failed, for some reason, to participate in or supervise the explant, recovery, or return to the manufacturer of the nuclear pacemaker. The NRC staff has concluded that a violation of the license condition occurred even though disagreement remains concerning who initiated the removal of the nuclear pacemaker.

G. Restatement of the Violation

License Condition No. 13 of License SNM–1393 states that the licensee shall report to the NRC, within 24 hours of occurrence, the death of any nuclear pacemaker patient.

Contrary to the above, the licensee failed to report to the NRC that nuclear pacemaker patients died in November 1984 and January 1985.

Licensee's Response. "Hurley Medical Center did not notify the NRC within 24 hours of discovering the death of two pacemaker patients. At the time of the deaths of these patients, it was thought that it was the responsibility of the physician following the patient to notify the NRC. However, since this time, Hurley Medical Center has officially notified the NRC of these deaths in a memorandum dated May 30, 1985."

Hurley Medical Center has since developed a standard practice to ensure regular followup for its pacemaker patients at 6-month intervals and to include provisions to contact the NRC within 24 hours of the death of a patient. The supervisor of the Cardiovascular Study Unit has the responsibility to notify the NRC of these deaths. This standard practice will be monitored by the Director of Cardiovascular Services and reviewed by the Radiation Safety Committee at its quarterly meetings.

Hurley Medical Center was in full compliance with the condition on June 7, 1985.

NRC Evaluation. The licensee admits the violation.

H. Restatement of the Violation

License Condition No. 14 of License SNM-1393 states that the licensee shall contact the NRC within 10 days after loss of contact with a nuclear pacemaker patient.

Contrary to the above, the licensee failed to report the loss of contact with nuclear pacemaker patients in March, April, and November 1982, and in March 1984.

Licensee's Response. "Hurley Medical Center did not report the loss of contact with a nuclear pacemaker patient as required. This occurred as a result of failing to comply with the condition of contacting pacemaker patients at predetermined intervals. Since that time, Hurley Medical Center has contacted all current nuclear pacemaker patients and determined their whereabouts."

"A standard practice has been developed that includes the provision that loss of contact will be reported within [10] days. It is the responsibility of the supervisor for the Cardiovascular Study Unit to initiate this contact. It will be the responsibility of the Director of Cardiovascular Services to monitor this activity with quarterly reports to be made to the Radiation Safety Committee."

"Hurley Medical Center was in compliance with this condition on June 7, 1985."

NRC Evaluation. The licensee admits the violation.

Restatement of the Violation

I. License Condition No. 16 of License SNM-1393 requires that all licensed material be possessed and used in accordance with statements, representations, and procedures contained in a letter dated April 24, 1973. The letter dated April 24, 1973 states that nuclear pacemaker patients shall be contacted each month.

Contrary to the above, nuclear pacemaker patients were not contacted each month. Specifically, the licensee failed to contact pacemaker patients approximately 5 times in 1982, 11 times in 1983 and 11 times in 1984.

Licensee's Response. "Hurley Medical Center did not contact all nuclear pacemaker patients monthly, as required. This occurred because Cardiovascular Study Unit staff were not properly trained in that they were unaware of the necessity for this contact. An amendment request has been filed to allow contact to be made semiannually."

"In addition, a standard practice has been developed which ensures that this activity will take place at regularly scheduled intervals. It is the responsibility of the supervisor of the Cardiovascular Study Unit to make this contact. The Director of Cardiovascular Services will monitor this activity and will report to the Radiation Safety Committee on a quarterly basis."

"Full compliance with this license condition was achieved June 7, 1985."

NRC Evaluation. The licensee admits the violation.

Restatement of the Violation

J. 10 CFR 35.14(b)(5)(v) states that the licensee shall conduct a quarterly physical inventory to account for all Group VI sources and devices received and possessed.

Contrary to the above, the licensee failed to conduct a quarterly physical inventory to account for all Group VI sources and devices received and possessed. Specifically, Group VI sources such as the 3M cesium-137 needles, the Nuclear Associates cesium-137 microrad after loading sources, and the cobalt-60 needles were not inventoried quarterly. The last inventory was September 1983.

Licensee's Response. The licensee did not conduct quarterly physical inventories to account for all Group VI sources and devices. The Radiation Safety Officer stated:

> The Co-60 and Cs-137 needles have not been used in four years and are in storage. [10 CFR 35.14(e)(1)(i)(B)] states: 'no wipe tests are needed on sources which are being stored and not used.' This was confirmed by verbal communication the NRC Region III Office in Chicago and the Inspector pointed out that the regulation cited concerns calibration sources only.
>
> Also, the Co-60 needles had not been wipe tested during previous NRC inspection of June 23, 1981. We were not cited at that time nor were we informed of the required wipe testing even if source is in storage.

"Full compliance with this license condition was achieved June 7, 1985."

NRC Evaluation. The licensee admitted this violation. The additional information provided by the licensee does not have any bearing on this citation. The licensee was cited for not conducting a quarterly inventory. The regulation cited by the licensee (10 CFR 35.14(e)(1)(i)(B)) has no relevance to this citation since it involves leak testing of sealed sources used as calibration or references sources. The NRC staff concludes that the violation occurred as stated. The licensee's additional comments, while not relevant here, have been addressed under violation L.

K. Restatement of the Violation

10 CFR 35.14(f)(2) states that quarterly physical inventories shall be performed to account for all calibration sources received and possessed.

Contrary to the above, quarterly inventories of calibration sources were not performed. Specifically, a barium-133 source and a cobalt-60 source had not been inventoried since the last inspection on June 23, 1981.

Licensee's Response. "Quarterly inventory of calibration sources was not performed. However, this was due to an oversight by the Radiation Safety Officer who believed that annual inventories (that were conducted in December 1981, December 1982, December 1983 and December 1984) and wipe test[s] that were also conducted semiannually since June 23, 1981 (and are in effect an inventory), satisfied the intention of this requirement."

"A standard practice has been developed in order to ensure that quarterly inventories are now performed * * *."

"Hurley Medical Center has been in full compliance with this requirement since June 7, 1985."

NRC Evaluation. The licensee admits the violation. The NRC staff agrees that a wipe test can satisfy the inventory requirement depending on the type of documentation retained. However, using the semiannual wipe test dates in conjunction with the annual inventory date would still leave a 6-month gap between inventory dates. The NRC staff has concluded that this violation did occur.

L. Restatement of the Violation

10 CFR 35.14(5)(i) states that Group VI sealed sources shall be tested for contamination and/or leakage at intervals not to exceed 6 months.

Contrary to the above, Group VI sources had not been leak tested since the last inspection on June 23, 1981.

Licensee's Response. Hurley Medical Center did not conduct 6-month leak tests at specified intervals.

"Since the last NRC inspection, the Co-60 and Cs-137 sources have been scheduled to be wipe tested at 6-month intervals. All other Group VI sources except the 3M Cs-137 tubes have been wipe tested at the required 6-month intervals. The 3M Cs-137 tubes have a 3-year interval. A standard practice which outlines these procedures has been developed * * * and specifies that the Radiation Safety Officer will perform these tests. This policy also states that the supervisor of Radiation Therapy will monitor compliance and will report the results of these tests at the quarterly scheduled Radiation Safety Committee meetings."

"Hurley Medical Center has been in compliance with this requirement since June 7 1985."

NRC Evaluation. The licensee admits the violation. The NRC's evaluation of the licensee's responses to violation J are addressed here because they pertain to leak testing. The licensee is correct in stating that under the provisions of 10 CFR 35.14(e)(1)(i)(B) certain sources do not need to be wipe tested if they are in storage. However, the sources at issue here, Co-60 and Cs-137 needles, are not calibration or reference sources and therefore are not exempt from leak testing while in storage. Indeed, this was pointed out to the licensee by the inspector during the phone call mentioned by the licensee.

Concerning the licensee's comment that the licensee was not previously cited for lack of Co-60 wipe tests, NRC inspections consist of selective sampling techniques and may not have covered this area during the June 23, 1981 inspection. The licensee is held responsible for understanding and implementing all applicable regulations for which the license was granted.

M. Restatement of the Violation

10 CFR 71.5 states that no licensee shall transport licensed material out of his facility unless the licensee complies with 49 CFR Parts 170–189.

49 CFR 173.475(i) states that before each shipment of any radioactive materials package, the shipper shall ensure by examination or appropriate tests that external radiation and contamination levels are within the allowable limits specified in this chapter.

Contrary to the above, the licensee failed to ensure that the external radiation and contamination levels were within allowable limits for packages containing molybdenum/technetium returned to the manufacturer for disposal. Since the date of license issuance, the licensee had not performed direct radiation surveys and wipe tests for removable contamination on packages returned to the manufacturer.

Licensee's Response. "Hurley Medical Center did not document that it performed required tests of external radiation and contamination levels of packages that were returned to manufacturers for disposal. These tests, however, were performed during the past review period. It should be noted that all generators undergo a 6-week decontamination period equivalent to 15 half lives. For this reason, it is not felt that 'hot' radioactive material is being transported."

"A standard practice has been developed which outlines the required testing which must be performed and the fact that this activity must be documented. It is the responsibility of the Nuclear Medicine technologist to perform these tests, and the responsibility of the Nuclear Medicine supervisor to assure that these activities are performed. The results will be reviewed at the quarterly Radiation Safety Committee meetings."

"Full compliance with this license condition was achieved June 7, 1985."

NRC Evaluation. The licensee admits the violation. The licensee states that during the past review period the tests were performed but not documented. However, in interviews during the inspection licensee personnel indicated that direct radiation surveys and wipe tests were not always performed on generator shipments returned to the manufacturer. The licensee's practice of storing generators during a 6-week decontamination period is a good method of operation; however, unless absolute inventory control is achieved, the only way of ensuring contamination levels is by direct radiation surveys.

N. Restatement of the Violation

10 CFR 20.401(b) requires that the licensee maintain records showing the results of surveys made to assure compliance with 10 CFR 20.201(b).

Contrary to the above, the licensee failed to maintain records of surveys of technetium-99m contaminated waste to document that no measurable radiation above background was present before disposal. Records of surveys have not been maintained since the date of license issuance.

Licensee's Response. "Hurley Medical Center did perform the appropriate waste disposal activities, but did not maintain records of these surveys. It should be noted that waste is stored a minimum of 28 half lives (i.e., one week) prior to disposal. At this time, waste is surveyed to ensure that non-technetium radioisotopes have not been inadvertently mixed with technetium waste."

"Our license renewal application of 1978 includes the procedures or radioactive waste disposal. These procedures explicitly describe the waste disposal methods we will follow and did not mention recording results. These procedures were approved by the NRC and we were not cited for these methods during the previous inspection of June 1981."

"Since the most recent inspection, a standard practice has been developed which outlines that survey results will be recorded * * * It is the responsibility of the Nuclear Medicine technologist to perform these activities. The supervisor of the division of Nuclear Medicine will monitor these activities and report quarterly to the Radiation Safety Committee meeting."

"Hurley Medical Center has been in full compliance with this condition since June 7, 1985."

NRC Evaluation. The licensee admits the violation. The licensee did not maintain records of waste disposal surveys and states that the procedure submitted by the hospital to the NRC concerning waste disposal activities did not discuss maintenance of survey results. The NRC staff agrees with the licensee that maintenance of survey results was not addressed. However, 10 CFR 20.401(b) requires records be kept and, unless explicitly exempted, a licensee must comply with all NRC regulations applicable to its licensed activities.

NRC inspections are a selective sampling of records, operating procedures, independent measurements, and interviews with personnel. It is possible that violations identified during the May 1985 inspection were not found during the June 1981 inspection. It is also possible that the next inspection may identify violations not found during the May 1985 inspection. It is the licensee's responsibility to ensure that the program is in compliance with NRC requirements and regulations.

NRC Conclusion. For the above reasons, the NRC staff believes that the violations occurred as stated. The NRC has reviewed Hurley Medical Center's response to the proposed imposition of civil penalties and agrees with the licensee that management initiatives were undertaken in the area of Radiation Safety. The staff acknowledges that an Administrative Director was hired in July of 1984 and that the position of Nuclear Medicine Supervisor was also created. In addition to these newly created positions, a contract between Medical Physics Consultants, Incorporated and Hurley Medical Center for services starting October 1, 1984 was signed to monitor and evaluate the Diagnostic Radiology and Nuclear Medicine Departments.

The NRC staff believes that all of the above steps are indications of the sincerity and willingness of top level management representatives at the Medical Center to improve the radiation safety program. However, the Nuclear Medicine Supervisor and the Administrative Director had been in their respective positions for some time before the NRC inspection, the latter for 10 months before the discovery of the 14 violations. The consulting firm, according to the contract, should have

visited the facility seven times before the NRC inspection. Many of the violations identified by the inspector are clear violations of the license conditions and NRC regulations for which misunderstandings and oversight by personnel should not have occurred.

The NRC staff has concluded that the 14-violations collectively represent a significant breakdown in day-to-day management oversight and control of the radiation safety program. The additional personnel retained by the licensee are indications of management's willingness and desire to improve the radiation safety program. Notwithstanding the sincerity of the licensee's efforts, the NRC staff believes that such actions (taken 7 to 9 months before the NRC inspection) should have identified many of the violations. The effectiveness of these actions is not apparent to the NRC staff. In fact, the licensee should determine how these actions can be strengthened or better administered. Upon consideration of the licensee's arguments concerning mitigation of the civil penalty, the NRC staff has concluded that the licensee's actions were not effective in preventing noncompliance with the license conditions or NRC regulations. For this reason, the licensee's argument concerning management action does not warrant mitigation of the civil penalties.

[FR Doc. 86-4583 Filed 2-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8027-MLA-2; ASLBP No. 86-524-01-MLA-2]

Appointment of Presiding Officer To Conduct Informal Proceeding; Sequoyah Fuels Corp.

Pursuant to the Commission's Order dated Febraury 20, 1986, a presiding officer is hereby appointed to conduct an informal proceeding to consider and decide, in accordance with the Commission's Order, all issues related to the request for authorization for onsite disposal or storage of certain waste materials filed on May 24, 1985 by:

Sequoyah Fuels Corporation, Sequoyah Facility, Source Material License No. Sub-1010

The name and address of the Presiding Officer is:

John H Frye III, Adminstrative Judge, Atomic Safety and Licensing Board, U S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 25th day of February, 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-4548 Filed 2-28-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346-ML; ASLBP No. 86-525-01-ML]

Appointment of Presiding Officer To Conduct Informal Proceeding; Toledo Edison Co., et al.

Pursuant to the Commission's Order dated February 20, 1986, a presiding officer is hereby appointed to conduct an informal proceeding to consider and decide, in accordance with the Commission's Order, all issues related to the request for authorization for onsite disposal of by-product material filed on July 14, 1983 by:

Toledo Edison Company, *et al.* (Davis-Besse Nuclear Power Station, Unit No. 1)

The name and address of the Presiding Officer is:

Helen F. Hoyt, Administrative Judge, Atomic Safety and Licensing Board, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Bethesda, Maryland, this 25th day of February, 1986.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 86-4549 Filed 2-28-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Steamlining Project Procedures; Combined Road Plan Demonstration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of demonstration program.

SUMMARY The Federal Highway Administration will conduct a demonstration program using modified Federal-aid procedures to simulate as closely as possible a block grant program for certain highway projects.

EFFECTIVE DATE: March 3, 1986.

Termination of demonstration program: Minimum of two years after plan approval with possible extension to a maximum of four years with FHWA approval.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin E. Heanue, Director, Office of Planning, (202) 426-2951 or Mr. Ronald E. Heinz, Director, Office of Engineering, (202) 426-4853 or Ms. Ruth R. Johnson, Office of the Chief Counsel (202) 426-0780, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590. Office hours are 7:45 a.m. to 4:51 p.m., et., Monday through Friday, except legal holidays.

Background

The Federal Highway Administration's efforts to cut red tape have been ongoing from the Secondary Road Plan (started in 1954). The minimization of paperwork section, 23 U.S.C. 101(e), added by section 108 of the 1973 Highway Act (Pub. L. 93-87, 87 Stat. 250, 255) added a broad effort to reduce paperwork on Federal highway projects. Section 129 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424, 96 Stat. 2097, 2118) allowed alternative methods for processing projects and led to the Facilitate Acceleration through Special Techniques (FAST) program for accelerated project procedures (48 FR 25181, June 6, 1983).

Experience with these efforts plus changing economic and governmental conditions caused the Federal Highway Administration to rethink basic Federal Highway responsibilities for highways and resulted in a legislative proposal for a block grant approach to projects for selected program categories. Such a departure from the traditional highway program has raised questions about program management, administration, and the changes to the existing relationship among the Federal, State, and local agencies involved in the Federal-aid program.

The purpose of this demonstration is to use existing authority to modify normal Federal-aid procedures so as much responsibility as possible rests with the State and local governments and then to apply the revised procedures in carefully selected situations to test whether the procedures are workable and the governmental arrangements are satisfactory.

Funding for the projects under this demonstration will come from regular apportionments to the States for the Federal-Aid Secondary (FAS) system, the Federal-Aid Urban (FAU) system and the Highway Bridge Replacement and Rehabilitation (HBRR) program. There are no special demonstration funds involved. Normal Federal-aid payment procedures will be used.

Description of Demonstration

Combined Road Plan

The following concepts outline a Combined Road Plan (CRP) which puts together the same projects intended to be included under the block grant being proposed by FHWA and UMTA. It uses existing regulations, such as those relating to the Secondary Road Program (23 CFR 642) and Certification Acceptance (23 CFR 640), but also reflects a modified responsibility for these projects. The demonstration will be conducted in selected States, not to exceed 10, chosen by FHWA based on the needs of the demonstration and the States' expressed interest. Interested States may contact their FHWA Division office.

A. Projects Covered

1. All highway projects funded with FAS and FAU funds;
2. HBRR projects on the FAS and FAU systems and HBRR projects on off-system routes; and
3. Other special projects as negotiated during plan approval.

B. Authority

1. 23 U.S C. 307, Research and Planning;
2. 23 U.S C. 117, Certification Acceptance;
3. 23 U.S C. 101 (e), Minimization of Paperwork; and
4. Surface Transportation Assistance Act of 1982, section 129, Acceleration of Projects. FHWA's policy statement on the Acceleration of Projects published at 48 FR 25181 on June 6, 1983.

C. Format and Contents of CRP

The format and contents of the CRP are essentially the same as those in existing secondary road plans. The procedures and standards included will have to be broadened to cover the additional types of projects eligible under the FAU and HBRR programs. The selected States will work with the FHWA Division Office to develop a CRP tailored to their situation.

D. Action Agencies

1. The FHWA at all levels;
2. The State highway agency; and
3. Local agencies, if included in the CRP.

E. State or Local Actions

1. Surveys;
2. Design;
3. Plans, specifications, and estimates (PS&E) preparation and approval;
4. Contract award;
5. Construction supervision and inspection; and
6. Other actions as negotiated during plan approval.

F. FHWA Actions

1. Program approval, authorization, project agreement, fiscal review (including claim settlement), process reviews, final acceptance;
2. Review and approval of preliminary plans for major structures (FHPM 6–1–2–1);
3. As applicable: Non-Title 23 requirements such as environment, right-of-way relocation or acquisition, civil rights, etc.; and
4. CRP approval: By FHWA Regional Office after Washington review.

The following paragraphs describe how the CRP can or cannot modify the regular Federal-aid procedures for FHWA actions.

G. Federal-Aid Systems

The CRP may provide that some or all of the routes functionally classified in the categories specified in 23 U.S.C. 103(c) and (d), Federal-Aid systems, are automatically included on the corresponding Federal-aid system with no further Federal approval required. The State is responsible for approving the functional classification and obtaining agreement from appropriate local officials when required by law.

H. Project Selection

FAS projects will continue to be selected by the State highway agency and appropriate local officials. FAU projects will continue to be selected by appropriate local officials with State highway agency concurrence. The State highway agency may waive its separate concurrence for FAU projects in urbanized areas when the projects are developed through a transportation planning process with State participation. Off-system bridge projects will continue to be selected by the State highway agency based on the selection lists furnished by FHWA (23 CFR Part 650).

I. Program Submittal

The CRP may provide that the State submittal under 23 U S C. 105, Programs, be whatever document the State and the Division Office agree meets their needs. Existing project grouping authority is available and new ways to group projects may be negotiated during plan approval.

J. Authorization

FHWA will continue to authorize projects to commit Federal funds. The CRP may allow concurrent program approval and authorization as is done now under secondary road plans.

K. Matching Ratio

Regular matching ratios will apply but the CRP may provide that the State will approve less than normal Federal share for CRP projects where this is allowed by current Federal regulations. (23 CFR Part 630, Subpart A and subsequent instructions).

L. Design Standards

Regular Federal-aid design standards will be used but the CRP may provide that the State will approve exceptions to the design standards included in the CRP. If this is done, the CRP must include provisions for full satisfaction of the safety aspects of highways and bridges when exceptions are approved.

M. Environment

As joint lead agencies with FHWA, States already have a major role in managing the processes required under various environmental laws and regulations. However, Federal involvement is still under most of these regulations and statutes. Should additional flexibility become available in these requirements, it will be incorporated into the CRP.

N. Right-of-Way Acquisition and Relocation

The current regulations (49 CFR Part 25) provide for a process where the State, in response to Federal requirements, develops procedures for acquisition and relocation. FHWA then approves those procedures and the State manages the program subject to FHWA evaluation (process reviews). Since this meets the goal of minimal FHWA involvement while serving the objectives of the law, the CRP will simply incorporate the existing process.

O. Nondiscrimination, Davis Bacon, Buy America

Informal analysis indicates these items are being handled efficiently. The CRP will incorporate existing practices or negotiate specific ones during development.

P. Final Inspection

The CRP may provide that the on-site inspection of completed projects will be performed by State project personnel and a report submitted to FHWA. FHWA will review the State reports and spot check as part of the process reviews.

Q. Records Access, Audit

Current regulations (23 CFR Part 17 and 23 CFR Part 12) place responsibility on the State to see that access to records is maintained and that audits

are performed. The cognizant Federal agency then coordinates settlement of audit findings. The CRP should incorporate this process by reference.

R. Time Schedule

Since the demonstrations will last for a minimum of two years and could be extended to a maximum of four years after individual plan approval, there will be a staggered implementation and termination schedule. This is necessary to give each demonstration time to be developed and a period of project activity long enough to show results. Projects started under the demonstration will normally be completed using demonstration procedures.

S. Evaluation

The State shall submit annual reports and a final summary report within six months after completion of the demonstration period giving an evaluation of its effectiveness. These reports shall be submitted to the FHWA Division Office.

T. Oversight

FHWA will conduct process reviews at periodic intervals and report the results. If discrepancies are noted, corrective action will be taken up to and including termination of the demonstration.

Issued on: February 25, 1986.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-4533 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-22-M

Office of the Secretary

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed; Week Ended February 21, 1986

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 18, 1986	43806	B.C.A. Limited, d/b/a British Caribbean Airways, c/o William A. Nelson, Shea & Gould, 1627 K Street NW., Washington, DC 20006. Application of B.C.A. Limited, d/b/a British Caribbean Airways pursuant to Section 402 of the Act and Subpart Q of the Regulations requests issuance of a foreign air carrier permit to operate scheduled foreign air transportation of passengers, cargo and mail between British Virgin Islands, various Caribbean points and Miami. Answers may be filed by March 18, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-4501 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket No. S-785]

Lykes Bros. Steamship Co., Inc.; Application To Perform Subsidized Service on TRs 15-A and 20

Lykes Bros. Steamship Co., Inc. (Lykes) by application dated January 13, 1986, has requested an amendment to the Appendix A of Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451, to provide service on TRs 15-A and 20 (U.S. Atlantic/South and East Africa) and (U.S. Gulf/East Coast South America), respectively.

United States Lines (S.A.) Inc. (USL(S.A.)) currently holds operating rights on TRs 15-A and 20. It has recently temporarily suspended direct service from the U.S. Atlantic to South and East Africa (TR 15-A). Instead, it has substituted a U.S.-flag relay service to Rotterdam with oncarriage by foreign-flag vessel to South and East Africa. USL(S.A.) has also substituted minibridge service over U.S. Atlantic ports for direct water service on TR 20 between U.S. Gulf ports and the east coast of South America.

As a result of recent actions of USL(S.A.), by letter dated January 13, 1986, Lykes has requested permission to assume the performance of subsidized services between ports in the U.S. Gulf and east coast of South America (TR 20) and between ports in the U.S. Atlantic and South and East Africa (TR 15-A). Lykes proposes to provide these services on a privilege call basis up to the maximum number of sailings established in USL(S.A.)'s Operating-Differential Subsidy Agreement. These calls are to be made by Lykes with existing vessels and within the existing maximum established in its current Operating-Differential Subsidy Agreement, Contract No. MA/MSB-451 covering TR 15-B (U.S. Gulf/South and East Africa).

Lykes points out that it is seeking to continue the subsidized liner services, heretofore performed by Delta Lines and presently authorized to be conducted by USL(S.A.), in the event and only to the extent that USL(S.A.) has terminated or suspended its service as a subsidized operator. Moreover, Lykes indicates that if such were to occur, U.S.-flag service on TRs 15-A and 20 would no longer exist.

Lykes further points out that it is proposing simply to increase the geographic areas served by vessels within its contract authority on a privilege basis, no additional subsidy obligations will be incurred by the United States.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington DC 20590. Comments must be received no later than 5:00 p.m. on March 18, 1986. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Subsidy Board will consider any comments submitted and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Subsidy Board

Dated: February 26, 1986.

Georgia P. Stamas,

Secretary.

[FR Doc. 86-4542 Filed 2-28-86; 8:45 am]

BILLING CODE 4910-81-M

Urban Mass Transportation Administration

Dispute Resolution Involving Advanced Design Bus Specification

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice.

SUMMARY: The purpose of this Notice is to clarify the position of the Urban Mass Transportation Administration (UMTA) pertaining to UMTA's role in contract disputes arising from procurements of buses by UMTA grantees.

FOR FURTHER INFORMATION CONTACT: Theodore A. Munter, Assistant Chief Counsel for Programs, UMTA, Room 9223, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426–1936.

SUPPLEMENTARY INFORMATION: On October 7, 1982, UMTA published a Notice in the **Federal Register** announcing that, effective October 1, 1982, UMTA's Baseline Advanced Design Transit Coach Specifications (White Book), with the exception of certain safety-related features, would no longer be mandatory for UMTA grantees. 47 FR 44457 (1982). Thereafter, grantees were permitted to use the non-safety related provisions of the White Book on a voluntary basis.

On November 5, 1985, the United States Court of Appeals for the District of Columbia Circuit decided that inclusion of a White Book Disputes Clause in a contract between an UMTA grantee and a vendor, where UMTA is not a party to the contract, does not obligate UMTA to provide a forum for resolution of all disputes that may arise in the course of that contract, nor does it obligate UMTA to provide de novo review of disputes. *Grumman Ohio Corp.* v. *Dole*, 776 F.2d 338 (D.C. Cir. 1985).

The purpose of this Notice is to make it clear that continued use of the White Book on a voluntary basis by UMTA grantees does not commit UMTA to review contract disputes. Issues raised concerning bid specifications and contract awards (including safety and other matters), will continue to be resolved in accordance with the review standards set forth in the Office of Management and Budget (OMB) Circular A–102, and UMTA Circular 4220.1A, Third Party Contracting Guidelines. Post-award disputes involving contract performance or administration (whether they concern safety or other matters) will not be reviewed by UMTA and should be addressed to and resolved by the appropriate local entity.

Furthermore, it should be emphasized that UMTA, as a grantor agency, is not a party to contracts entered into between its grantees and third parties. The White Disputes Clause was never intended to apply to issues relating to performance or damages arising out of post-delivery problems. Disputes concerning such issues should be resolved by local entities in conformance with applicable State law.

Although UMTA will not entertain any appeals under the White Book Disputes Clause where use of the non-safety related provisions was voluntary, UMTA encourages all grantees using the White Book to consider including in the specification a dispute resolution provision designating a local arbiter or forum.

Issued on: February 24, 1986.

Ralph L. Stanley,

Administrator, Urban Mass Transportation Administration.

[FR Doc. 86–4584 Filed 2–28–86; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86–14]

Revision of Criteria for Establishing Ports of Entry and Stations

Correction

In FR Doc. 86–2400 appearing on page 4559 in the issue of Wednesday, February 5, 1986, make the following correction:

In the first column the last line should read, "Customs value), informal (under $250 in Customs value));"

BILLING CODE 1505–01–M

VETERANS ADMINISTRATION

Advisory Committee on Women Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Women Veterans will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC, on March 24 through March 26, 1986. The purpose of the Advisory Committee on Women Veterans is to advise the Administrator regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach and other programs administered by the Veterans Administration; and the activities of the Veterans Administration designed to meet such needs. The Committee will make recommendations to the Administrator regarding such activities.

The session will convene at 9:00 a.m. all three days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Barbara Bandau, Program Assistant, Office of the Administrator, Veterans Administration Central Office (phone 202/389–5518) prior to March 19, 1986.

Dated: February 20, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–4494 Filed 2–28–86; 8:45 am]

BILLING CODE 8320–01–M

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration 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). This document contains a new collection and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

DATED: February 25, 1986.

By direction of the Administrator.

Randall H. Bryant,

Executive Assistant to the Associate Deputy Administrator for Management.

Nev

1 Department of Veterans Benefits.
2 Mortgage Loan Information.
3 VA Form 26-8982.
4 On occasion; One time report.
5. Individuals or households.
6. 95,000 responses.
7. 7,917 hours.
8. Not applicable.

[FR Doc. 86-4495 Filed 2-28-86; 8:45 am]

BILLING CODE 8320-01-M

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Veterans Administration Medical Center, 150 South Huntington Avenue, Boston, MA 02140, on April 15 and 16, 1986. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adquacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 7:30 to 8:00 a.m., on April 15 and 16, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping C. Huang, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202-389-2861), prior to April 10, 1986.

The meeting will be closed from 8:00 a.m. to 5:30 p.m. on April 15, and from 8:00 a.m. to 4:00 p.m. on April 16, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Pub. L. 92-463, as amended by section 5(c) of Pub. L. 94-409, and subsection (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: February 24, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86-4589 Filed 2-28-86; 8:45 am]

BILLING CODE 8320-01-M

Medical Research Service Merit Review Boards; Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of the meetings of the following Merit Review Boards.

Merit Review Board	Date	Time	Location
Hematology	Mar. 28, 1986	8 a.m. to 5 p.m.	Room 119, VA Central Office.[1]
Respiration	Apr. 6, 1986	7 p.m. to 10 p.m.	Washington Plaza Hotel.[2]
Do	Apr. 7, 1986	8 a.m. to 5 p.m.	Do.
Basic Sciences	Apr. 7, 1986	do	Room 119, VA Central Office.
Do	Apr., 8, 1986	do	Do.
Surgery	Apr. 11, 1986	do	Washington Plaza Hotel.
Do	Apr. 12, 1986	do	Do.
Gastroenterology	Apr. 18, 1986	do	Room 119, VA Central Office.
Mental Health and	Apr. 28, 1986	do	Room 119, VA Central Office.
Behavioral Sciences	Apr. 29, 1986	do	Do.
Cardivascular Studies	May 1, 1986	do	Washington Plaza Hotel.
Do	May 2, 1986	do	Do.
Oncology	May 2, 1986	do	Washington Plaza Hotel.
Infectious Diseases	May 5, 1986	7 p.m. to 10 p.m.	Presidential Room, Holiday Inn.[3]
Do	May 6, 1986	8 a.m. to 5 p.m.	Do.
Do	May 7, 1986	8 a.m. to 1 p.m.	Do.
Alcoholism and Drug Dependence	May 5, 1986	8 a.m. to 5 p.m.	Jackson Room, Holiday Inn.
Endocrinology	May 6, 1986	do	Caucus Room, Holiday Inn.
Do	May 7, 1986	do	Do.
Neurobiology	May 8, 1986	do	Washington Plaza Hotel.
Do	May 9, 1986	do	Do.
Immunology	May 9, 1986	do	Caucus Room, Holicay Inn.
Do	May 10, 1986	do	Do.
Nephrology	May 12, 1986	do	Washington Plaza Hotel.
Do	May 13, 1986	do	Do.

[1] Veterans Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420.
[2] Washington Plaza Hotel, Massachusetts and Vermont Avenue NW., Washington, DC 20005.
[3] Holiday Inn, 1501 Rhode Island Avenue NW., Washington, DC 20005.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration Medical Centers and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. All of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, and renewal research projects.

The closed portion of the meeting involves: Discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action regarding such research projects. As provided by

subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, closing portions of these meetings is in accordance with 5 U.S.C., 552b(c)(6) and (9)(B). Because of the limited seating capacity of the rooms, those who plan to attend should contact Mr. Howard M. Berman, Chief, Program Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389–5065 at least five days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

Dated: February 24, 1985.

By direction of the Administrator

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–4540 Filed 2–28–86; 8:45 am]

BILLING CODE 8320-01-M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration facilities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue, NW., Washington, DC on April 4, 1986, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202–389–2864) prior to March 25, 1986.

Dated: February 20, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–4493 Filed 2–28–86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 41
Monday, March 3, 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).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, March 4, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 5th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Application of the Chicago Board of Trade for Designation in European Currency Unit Options
—Application of the Chicago Mercantile Exchange for Designation in Japanese Yen Options
—Affiliation of MidAmerica Commodity Exchange with the Chicago Board of Trade

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4620 Filed 2–27–86; 11:33 am]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 7, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Market Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4621 Filed 2–27–86; 11:34 am]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 14, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Market Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4622 Filed 2–27–86; 11:35 am]

BILLING CODE 6351-01-M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 21, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Market Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4623 Filed 2–27–86; 11:36 am]

BILLING CODE 6351-01-M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, March 28, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Market Surveillance Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4624 Filed 2–27–86; 11:37 am]

BILLING CODE 6351-01-M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, March 11, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Judicial Session

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4639 Filed 2–27–86; 2:20 p.m.]

BILLING CODE 6351-01-M

7

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, March 14, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Rule Enforcement Reviews

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4640 Filed 2–27–86; 2:21 p.m.]

BILLING CODE 6351-01-M

8

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 9:00 a.m., March 21, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Rule enforcement review

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4641 Filed 2–27–86; 2:22 p.m.]

BILLING CODE 6351-01-M

9

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., March 21, 1986.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Application of the Chicago Board of Trade for Designation in Long Term Municipal Bond Options
—Application of the Chicago Mercantile Exchange for Designation in Three-Month Treasury Bill Options
—Application of the Commodity Exchange, Inc. for Designation in Copper Options
—Settlement Price Rules/Commodity Exchange, Inc.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4642 Filed 2–27–86; 2:23 pm]

BILLING CODE 6351-01-M

10

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., March 25, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Proposed Foreign Options and Futures Regulations
—National Futures Association's proposed Compliance Rule 2–30 (Customer Information and Risk Disclosure) and Guideline for Disclosure of Costs Associated with Futures Transactions
—Expansion of the Agricultural Option Pilot Program
—Registration Application of First Asset Corporation

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–4643 Filed 2–27–86; 2:24 pm]

BILLING CODE 6351-01-M

11

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" ANNOUNCEMENT OF PREVIOUS CITATION: Vol 51, No. 36, Page 6489.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Feb. 27, 1986, 9:30 a.m.

CHANGES: Agenda revised to delete previous item—Monitoring Voluntary Standards, and substitute item on Methylene Chloride.

Listed below is the item which was deleted:

Commission Meeting, Thursday, February 27, 1986, 9:30 a.m.
Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

Open to the Public

Monitoring Voluntary Standards

The staff will brief the Commission on recent comments received on efforts by staff to monitor industry enforcement of voluntary standards. The staff will also present options for carrying out this effort in the future.

The new item added is:

Open to the Public

Methylene Chloride

The Commission will consider various options available to them on methylene chloride in paint strippers and spray paints.

The Commission decided that Agency business required scheduling this meeting without normal advance notice.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301—492–6800.

Sheldon D. Butts,

Deputy Secretary.

February 26, 1986.

[FR Doc. 86–4634 Filed 2–27–86; 12:18 pm]

BILLING CODE 6355-01-M

12

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" ANNOUNCEMENT OF PREVIOUS CITATION: Vol. 51, No. 36, Page 6489.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Feb. 25, 1986, 9:30 a.m.

CHANGES: Meeting Canceled.

Listed below is the canceled meeting:

Commission Meeting, Tuesday, February 25, 1986, 9:30 a.m.
Third Floor Hearing Room, 1111—18th Street, NW., Washington, DC.

Open to the Public

1. Pressed Wood Project/Petition CP 82–6

The Commission will consider the Consumer Federation of America's petition CP 82–6 requesting a mandatory standard on formaldehyde emissions from pressed wood products.

2. ATVs: Preliminary Hazard Analysis

The staff will brief the Commission on the preliminary injury survey of all-terrain vehicles.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

February 26, 1986.

[FR Doc. 86–4635 Filed 2–27–86; 12:18 pm]

BILLING CODE 6355-01-M

13

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time), Monday, March 10, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

Litigation Authorization: General Counsel Recommendations
Discussion of Certain Commissioners' Charges

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: February 26, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86–4599–06 Filed 2–27–86; 10:03 am]

BILLING CODE 6750-06-M

14

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: February 24, 1986, 51 FR 6489.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: February 26, 1986, 10:00 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CAC–6

TA85-3-25-002, Mississippi River Transmission Corporation

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-4607 Filed 2-27-86; 10:43 am]

BILLING CODE 6712-02-M

15

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 3, 1986.

A closed meeting will be held on Wednesday, March 5, 1986, at 2:30 p.m. An open meeting will be held on Thursday, March 6, 1986, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, March 5, 1986, at 2:30 p.m., will be:

Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Institution of injunctive actions.
Institution of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, March 6, 1986, at 10:00 a.m., will be:

1. Consideration of whether to adopt amendments to Rule 10a-1 ("short sale rule") under the Securities Exchange Act of 1934 that exclude from its application transactions in National Market System securities that are traded on an exchange on a listed or unlisted trading privileges basis. For further information, please contact Andrew E. Feldman at (202) 272-2414.

2. Consideration of whether to adopt Rule 3a12-9 under the Securities Exchange Act of 1934. Rule 3a12-9 provides an exemption from the arranging for credit provisions of Sections 7(c) and 11(d)(1) of the Exchange Act, for public offerings of direct participation programs with mandatory deferred payment features. In general, the Rule will allow broker-dealers to participate in public offerings of direct participation program securities with mandatory deferred payments, provided that the securities are sold pursuant to a business development plan, minimum down payments are made by investors, and certain other conditions are satisfied. For further information, please contact Edward L. Pittman at (202) 272-2848.

3. Consideration of whether to terminate pursuant to Rule 6 under the Public Utility Holding Company Act of 1935 ("Act") the exemption that K N Energy, Inc. has claimed under Rule 2 under the Act. For further information, please contact Lewis B. Reich at (202) 272-7699.

4. Consideration of whether to adopt a revision of Rule 70 and an amendment to Rule 50 under the Public Utility Holding Company Act of 1935. The revision of Rule 70 would simplify and expand the exemptions now available under the existing rule which permit persons affiliated with investment bankers and commercial banking institutions to serve as officers or directors of registered holding companies and their subsidiaries. The amendment to Rule 50 would address potential conflicts of interest. For further information, please contact Denis R. Molleur at (202) 272-2073 or Elizabeth Norsworthy at (202) 272-2048.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Mahaffey at (202) 272-2091.

Dated: February 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-4625 Filed 2-27-86; 11:38 am]

BILLING CODE 8010-01-M

federal register

Monday
March 3, 1986

Part II

Pacific Northwest Electric Power and Conservation Planning Council

Northwest Conservation and Electric Power Plan; Notice of Final Model Conservation Standard Amendments

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan; Final Model Conservation Standard Amendments

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of final amendments regarding model conservation standards.

SUMMARY: On July 10, 1985, the Pacific Northwest Electric Power and Conservation Planning Council (Council) voted to enter rulemaking to amend portions of its 1983 Northwest Conservation and Electric Power Plan (Plan) relating to model conservation standards (MCS). After holding public hearings and consultations and accepting public comments regarding the proposed MCS amendments, the Council adopted final MCS amendments at its December 4, 1985 meeting in Portland, Oregon. This notice provides the text of the final amendment. Although the public comment period on the proposed MCS amendments overlapped in part with the comment period held by the Council to consider the 1985 draft revision of the Plan, the two rulemakings were separate processes. Because the Council intends to publish these MCS amendments along with its revised Plan, some technical, nonsubstantial amendments may be necessary to conform these amendments to the format of the Plan.

ADDRESS: Copies of this notice and the Council's response to public comments will be mailed to all those who commented on the proposed amendments. Others may obtain copies upon request by writing Division of Public Information and Involvement, Suite 1100, 850 S.W. Broadway, Portland, Oregon 97205.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, Director of Public Information and Involvement, at Suite 1100, 850 S.W. Broadway, Portland, Oregon, 97205, or (503) 222-5161, (toll-free) 1-800-222-3355 (in Montana, Idaho or Washington) or 1-800-452-2324 in Oregon.

SUPPLEMENTARY INFORMATION:

Background

As directed by the Northwest Power Act (16 U.S.C. 839 *et seq.*, "the Act"), the Council in 1983 adopted its Plan including MCS for new structures and for existing structures which are converted to electric space heating/conditioning. (48 FR 24493, June 1, 1983). The Act also authorized the Council to recommend that the Administrator of the Bonneville Power Administration (Bonneville) impose a 10-50 percent rate surcharge upon Bonneville customers for those portions of their loads within jurisdictions which do not, or upon Bonneville customers which do not, implement the MCS or achieve comparable savings of electricity. In the 1983 Plan, the Council set a January 1, 1986 deadline for adoption of the MCS through building codes or alternative programs for achieving comparable energy savings and recommended that Bonneville impose a surcharge after that date. This deadline applied to the MCS for new residential and commercial structures and for existing structures converted to electric heating or space conditioning.

The Plan also called on Bonneville to implement various educational, technical and financial assistance programs to further adoption of the MCS. One of these programs, the Residential Standards Demonstration Program (RSDP) was designed to provide designers, builders, subcontractors, materials suppliers and building code officials with experience in the construction of residences meeting the MCS. The RSDP involves more than 400 residences across the region built to the energy efficiency requirements of the MCS, as well as a "control group" of homes built to current practice. All RSDP buildings are metered to allow comparison of the amount of electricity each consumes for space heating, water heating and other uses.

As a result of incentive efforts called for in the Plan and implemented by Bonneville, several jurisdictions in the region (including the City of Tacoma, Washington) have already adopted and have begun to enforce the MCS.

Bonneville has initiated a marketing program, Super Good Cents, aimed at achieving a target of 5,000 houses built to the MCS during fiscal year 1986. Also, through development of a surcharge policy, Bonneville is establishing a procedure to test the compliance of utility-designed programs in gaining savings of electricity equivalent to those expected under the MCS. Finally, Bonneville has a continuing program to help train and educate the building industry to construct more energy-efficient buildings.

Based upon its review of preliminary data and builder experience resulting from the RSDP and the early-adopting jurisdictions, the Council determined that some amendment of the Plan was necessary to permit additional time for the regional transition from current building practice to the levels of energy efficiency called for in the MCS.

At a Council meeting held in Missoula, Montana on July 10, 1985, the Council decided to enter rulemaking to amend portions of the Plan relating to the MCS. The Council released a proposed rule for public comment shortly after that meeting (50 FR 30654, July 26, 1985).

A principal feature of the proposed amendments was an extension of the deadline for adopting the MCS for new electrically-heated residences from January 1, 1986 to January 1, 1989, with an interim level of electrical savings required by January 1987. The July 26, 1985 proposed amendments also called for Bonneville to provide incentive payments to new homebuyers or builders to offset some of the difference in construction costs between that level which is optimal for the consumer and that increased level which represents a cost-effective resource for the region. The proposed amendments also called for delaying the MCS for new commercial buildings from January 1, 1986 to January 1, 1987 and for delaying from January 1, 1986 to January 1, 1989 the MCS for buildings that convert to electric heating/conditioning.

In the July 26, 1985 proposed rule, the Council encouraged submission of comments addressing the following issues in particular:

- The MCS as "lost opportunity resources" (i.e., the value to the region of acting promptly to acquire cost-effective electric power savings that may not be available as inexpensively later, if at all);
- Indoor air quality;
- Achievable market share rates for the MCS for new residences, both before and after the January 1, 1989 deadline contained in the July 26, 1985 proposed amendments; and
- Appropriate levels of incentive payments for construction of new residences to the requirements of the MCS.

The Council initially set 5 p.m., August 26, 1985 as the deadline for submission of public comments on the proposed MCS amendments. In response to requests from interested members of the public, however, the Council at its August 7, 1985 meeting in Portland, Oregon voted to extend that deadline to 5 p.m., September 13, 1985 (50 FR 33435, Aug. 19, 1985). Between August 6, 1985 and September 13, 1985, the Council held public hearings in Portland, Oregon; Seattle and Spokane, Washington, Missoula, Montana; and Burley, Idaho. The Council also held an

informal consultation in Portland on August 6, 1985, during which members of the public were provided an opportunity to question the Council and staff regarding the proposed amendments. The Council also distributed to 1,354 individuals and groups copies of two documents providing updated technical background information from the RSDP relevant to the proposed MCS amendments (see 50 FR 37099, Sept. 11, 1985).

In response to public comments received and ongoing study and analysis conducted by Council staff, the Council voted at its September 19, 1985 meeting in Portland to reopen the public comment period to take additional comment from September 19 through October 21, 1985 on the Council's latest formulation of its proposed MCS amendments (50 FR 40091, Oct. 1, 1985). Noting that the proposed amendments had evolved through the rulemaking process, the Council invited comment on several particular aspects of the proposed amendments:

- The appropriate deadline for implementation of the standards;
- The appropriate interim progress to be required to insure compliance with the standards;
- Financial assistance to home buyers or builders required to achieve the standards, and allocation of such payments between utilities and Bonneville;
- Surcharges for failure to achieve compliance with the standards or failure to adopt programs designed to achieve the standards; and
- The need for the standards to insure indoor air quality comparable to that achieved under current building practices.

This formulation of the proposed amendments, released on September 23, 1985, eliminated the interim prescriptive path contained in the July 26, 1985 formulation of the proposed amendments. Instead, in order to achieve progress toward the MCS, it required a shared Bonneville and local utility payment program to be in place by January 1, 1987 and be designed to purchase energy savings from new home construction (or fund an alternative that achieves equivalent progress). It also required state or local government or utilities to achieve MCS levels of construction in 85 percent of the new, electrically heated homes constructed in the region by January 1, 1989. This formulation of the proposed amendments provided for a 1987 surcharge for failure to adopt the MCS interim progress program, implement an alternative plan, participate in a Bonneville program, or allow Bonneville to operate a payment program, and a 1989 surcharge for failure to adopt the MCS as codes, offer financial assistance or obtain equivalent savings by other means. This formulation of the proposed amendments also contained provisions designed to prevent fuel switching and set 1989 as the deadline for achievement of the MCS for all sectors. Comments on this later formulation of the proposed MCS amendments were taken at hearings in Salem, Oregon; Seattle, Washington; Missoula, Montana; and Boise, Idaho.[1] Also, two additional consultations were held in Portland regarding the proposed amendments (50 FR 40655–40669, Oct. 4, 1985). Written comments were accepted through 5 p.m. October 23, 1985. [2]

After considering all public comments received, the Council adopted final MCS amendments at its December 4, 1985 meeting in Portland, Oregon. The text of the final amendments is provided below. Note that:

- Footnote 4 in Table 1 of the final amendments in this notice (regarding exterior walls in multifamily structures) was not included in the pre-publication version of the amendments distributed previously; and
- The final amendments in this notice properly include a heading entitled "The Minimum Performance Standard for Commercial Programs", which was improperly listed in the pre-publication version of the amendments as "The Maximum Performance Standard for Commercial Programs."

The Council has used the word "should" in the final MCS amendments, when referring to actions to be carried out by Bonneville, to express the Council's expectation that Bonneville will implement these final amendments and will consult with the Council on a regular basis regarding such implementation. The use of the word should does not imply any limitation on or interpretation of the Council's statutory relationship with Bonneville. The Act provides that all conservation and resource acquisitions by Bonneville shall be consistent with the Plan, except as otherwise specifically provided in the Act. (16 U.S.C. 839b(d)(2)). The Council has determined that these actions are cost effective and prudent and must be taken now for Bonneville to acquire the lowest-cost resources over the next 20 years. These key activities should be part of any work plan designed to meet the goals and objectives of the Council's Plan. If significant changes in circumstances occur, the Plan can be amended at any time by Council action.

[1] These hearings had already been scheduled to take comment on the Council's draft revised Plan (50 FR 37100, September 11, 1985). Although comments on both the draft Plan and the MCS amendments were taken at these hearings, the rulemakings followed different schedules. The Council did, however, recognize that certain issues in the two proceedings were interrelated. The Council specifically noted in its notice of reopening the MCS comment period that the role of the MCS in relation to the resource portfolio of the 1985 Plan is an issue on which comments would be appropriately received in the revised Plan rulemaking (50 FR 40091, Oct. 1, 1985).

[2] Although the Council's notice of the reopening of the MCS comment period set October 21, 1985 as the deadline for receipt of public comment, the Council on October 21 voted to extend that deadline until October 23, 1985. (50 FR 43822, Oct. 29, 1985). Because an unexpectedly large number of commenters asked to present comments at a public hearing in Seattle on October 21, the Council extended the comment period to allow some of those persons to present comments on October 23 at a second day of hearings.

Final Amendments

For the reasons set out in this notice and under authority given the Council under the Act (16 U.S.C. 839b(d)(1)), the Northwest Conservation and Electric Power Plan (48 FR 24493, June 1, 1983) as amended, is amended further by deleting the existing text of Volume I, Chapter 10, Section 2, "Residential Sector-New Building Standard"; Section 3, "Residential Sector-Conversion Standard"; Section 6, "Commercial Sector-New Building Standard"; Section 7, "Commercial Sector-Conversion Standard"; Section 8, "Commercial Sector-Demonstration Program"; Action Item 12.1, dealing with Bonneville reimbursement to state and local governments for the cost of adopting and enforcing the MCS; Action Item 25, "Method for Calculating Surcharges" and Appendices D, J and L, and replacing them with the following:

1.0 Model Conservation Standards for New Residential Buildings, New Commercial Buildings, Conversions, and Utility Residential and Commercial Conservation Programs and Surcharge Methodology

As directed by the Northwest Power Act, the Council designed the model conservation standards (MCS) to produce electricity savings that are both cost-effective for the region and economically feasible for consumers. Since most residential and commercial buildings constructed today are likely to last considerably longer than the current surplus of electricity, all cost-effective conservation should be captured at the time the buildings are constructed. Where such cost-effective measures are not installed at the time of construction, it can be prohibitively expensive if not impossible to return to the structure and add the measures later. The result is

that a cost-effective resource is lost to the region forever.

Sector Objective

To improve the efficiency with which new residential and commercial buildings use electricity and to assure that buildings converting from other fuels also use electricity efficiently.

Status and Review: Model Conservation Standards

Since the Council's first regional power plan was adopted on April 27, 1983, the Council and Bonneville have made substantial progress in their efforts to improve the energy efficiency of new buildings. Several local jurisdictions in Washington State have adopted the MCS as codes. In addition, statewide code improvements have been achieved in Oregon and Washington, although not to the full levels of the MCS. Over 400 houses have been built to the MCS through the Residential Standards Demonstration Program (RSDP), a training program for builders and code officials, and other interested parties in the shelter industry. Even though the data from the RSDP have statistical limitations, the Council is encouraged by the fact that costs reported by the majority of RSDP builders were in accord with the Council's 1983 cost estimates. This result is remarkable in that most RSDP builders were constructing an MCS home for the first time.

Bonneville has initiated a marketing program, Super Good Cents, aimed at achieving 5,000 houses built to the MCS in fiscal year 1986. Houses built and marketed through the Super Good Cents program will be certified energy efficient by electrical utilities. The goal of certification is to get lenders, sellers and buyers to recognize the added value of an MCS home because it is less expensive to own and heat. Bonneville also has a continuing program to help train and educate the shelter industry, including lenders, about the advantages of building more efficient buildings.

The Council adopted the MCS in its 1983 power plan for the region (48 FR 24493, June 1, 1983). On July 26, 1985, the Council published proposed amendments to those standards (50 FR 30654, July 26, 1985). Hearings were held in the four Northwest states to receive oral public comment on the proposed amendments. Consultations were held with interested persons and groups. Extensive written public comments were also received. After review of the comments received, the Council published a reformulated version of the proposed rule and reopened the comment period (50 FR 40091, Oct. 1, 1985). Additional consultations and hearings in each of the Northwest states were held. The MCS are the result of that process.

The MCS savings levels for both new residential and commercial buildings are equivalent to the MCS set forth and as amended by the Council in its 1983 plan. The savings resulting from the MCS will help the region avoid the construction of more expensive resources.

The MCS protect indoor air quality by including requirements to maintain air quality at levels common in 1983 in new non-MCS residential buildings. The Council also has included action items in this plan for the development by Bonneville of design, installation, and inspection standards for mechanical ventilation.

The MCS are also designed to meet the Northwest Power Act's requirements that they produce all electrical energy savings that are cost effective for the region and economically feasible for consumers, taking into account financial assistance made available pursuant to the Act. The Council will continue to monitor the cost and performance of all the Model Conservation Standards and will revise the MCS as appropriate.

The Council's 1983 approach to the MCS emphasized the use of building codes as the least expensive way for the regional power system to acquire cost-effective conservation. State and local jurisdictions are still strongly encouraged to adopt the MCS for new residential and commercial buildings and conversions as building codes. This reformulation of the MCS, however, also focuses on utility residential and commercial conservation programs. The new MCS for utility programs are designed to encourage through marketing and financial assistance improved building practice and ultimate adoption of building codes at MCS levels by reducing the cost of the MCS.

Compliance with the MCS for utility programs is determined by an annual evaluation of the performance of all utilities. The poorest performing utilities will be subject to a surcharge as detailed below.

To help jurisdictions and utilities prevent inefficient buildings from being converted to electricity for space heating and/or conditioning, the Council has included an MCS for conversions that calls upon state and local jurisdictions and utilities to require all regionally cost-effective conservation measures to be installed at the time of conversion.

The Model Conservation Standards

The Council has adopted five model conservation standards. The MCS include the MCS for new residential buildings, the MCS for utility residential conservation programs, the MCS for new commercial buildings, the MCS for utility commercial conservation programs, and the MCS for conversions.

The MCS for New Residential Buildings

The Council's model conservation standard for new single and multifamily electrically heated residential buildings is as follows: new buildings are to be built to energy efficiency levels equal to those which would be achieved by using the illustrative component performance paths displayed in Table 1 for each of the Northwest climate zones.[1]

[1] Single family residences are defined to include duplexes. Multifamily residences include triplexes and larger structures up to and including 4-story low-rise residential structures. The standard applies to site-built residences and not to residences which are regulated under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.* (1983).

TABLE 1.—ILLUSTRATIVE PATHS FOR RESIDENCES BUILT TO THE MCS LEVEL

Component	Climate zone [2]		
	Zone 1	Zone 2	Zone 3
Ceilings:			
Attic	R-38(U-0.032) [3]	R-38(U-0.032)	R-38(U-0.032).
Vaults	R-38(U-0.028)	R-38(U-0.028)	R-38(U-0.028).
Walls			
Above grade	R-19(U-0.057)	R-25(U-0.045)	R-31(U-0.035). [4]
Below grade	R-19 [5]	R-19	R-25.
Floors:			
Crawl Spaces & Unheated Bsmts	R-19(U-0.040)	R-30(U-0.030)	R-30(U-0.030).

TABLE 1.—ILLUSTRATIVE PATHS FOR RESIDENCES BUILT TO THE MCS LEVEL—Continued

Component	Climate zone [2]		
	Zone 1	Zone 2	Zone 3
Slab-on-grade Perimeters	R-10	R-12	R-15.
Glazing [4]	R-2.5(U-0.40)	R-2.5(U-0.40)	R-2.5(U-0.40).
Maximum Glazed Area (% floor area)	15	15	15.
Exterior Doors	R-7(U-0.16)	R-7(U-0.16)	R-7(U-0.16).
Infiltration Control	0.1 ach[7]	0.1 ach	0.1 ach.
Mechanical Ventilation w/Heat Recovery	0.5 ach	0.5 ach	0.5 ach.

[2] The Council has established climate zones for the region based on the number of heating degree days as follows: Zone 1—4–6,000 heating degree days; Zone 2—6–8,000 heating degree days; and Zone 3—over 8,000 heating degree days.
[3] R-values listed in this table are for the insulation only. U-values listed in this table are for the full assembly of the respective component.
[4] Multifamily exterior walls above grade in Zone 3 should be insulated to a nominal R-25 (U-0.045).
[5] Only the R-value is listed for below grade insulation. The corresponding U-value is not known with precision.
[6] U-values for glazing shall be the tested values for thermal transmittance due to conduction resulting from either the American Architectural Manufacturers Association (AAMA) 1503.1-1980 test procedure or the American Society for Testing and Materials (ASTM) C236 or C976 test procedures. Testing shall be conducted under established winter horizontal heat flow test conditions using a 15 mph wind speed and product sample sizes specified under AAMA 1503.1-1980. Testing shall be conducted by a certified testing laboratory. *EXCEPTION:* Site-built fixed glazing shall be exempt from the thermal testing requirements; provided the insulating glass is tested and certified under a Society of Insulated Glass Manufacturers of America (SIGMA) approved certification program as class "A" in accordance with ASTM E-744-81 and this insulating glass is installed either in an aluminum frame having a minimum 0.25 inch low conductance thermal break or in wood framing in accordance with SIGMA glazing specifications; and provided further, that site-built double glazed units with fixed panes shall have a dead air space between panes of not less than ½ inch and site-built triple glazed units with fixed panes shall have a dead air space between panes of not less than ¼ inch.
[7] Air changes per hour.

The electric power savings represented by the measures in Table 1 are estimated to result in savings equivalent to those which would be produced by the performance standards as set forth and as amended in the Council's 1983 Power Plan. Trade-offs among components may be made so long as the overall efficiency and indoor air quality of the building are at least equivalent to a building containing the measures listed in Table 1. Other illustrative approaches to building to this standard are described in those portions of the Council's *Model Conservation Standards Equivalent Code*, dated February 1985, as it will be conformed to this rule and as it may be amended from time to time, which apply to low-rise residential buildings.

The MCS for Utility Residential Conservation Programs

The MCS for utility residential conservation programs is that utilities must implement, in accordance with the requirements detailed below, the Bonneville/utility residential MCS program, an equivalent alternative program, or rely on improved building codes to the MCS level. The Bonneville/utility residential MCS program consists of an agressive marketing [8] and financial assistance program made available by Bonneville and the local utility to homebuilders during 1987 and 1988, and thereafter as set forth below.

Financial Assistance in 1987 and 1988

The amount of financial assistance for the Bonneville/utility residential MCS program during the 1987 and 1988 calendar years should be as stated in Table 2. The local share of financial assistance shown in Table 2 is the minimum required of a utility in order for it to receive the Bonneville share. Utilities may elect to offer more if needed to achieve compliance with the minimum performance or equivalence standard.

TABLE 2.—FINANCIAL ASSISTANCE FOR AN AVERAGE SINGLE FAMILY HOUSE (APPROXIMATELY 1850 Square Feet)

For Full Requirements Customers * of Bonneville

[Calendar Years 1987 and 1988]

State	Climate zone 1		Climate zone 2		Climate zone 3	
	Local	Bonneville	Local	Bonneville	Local	Bonneville
Washington	$130	$2,500	$280	$2,500	N/A	N/A
Oregon	440	2,500	830	2,500	N/A	N/A
Idaho	1,070	2,500	1,970	2,500	$440	$2,500
Montana	N/A	N/A	N/A	N/A	440	2,500

* Financial assistance to generating public utilities, investor-owned utilities not currently placing a load on Bonneville, and other utilities in the region should be set as provided below under "Activities to Achieve Council's Objectives."

Financial Assistance in 1989 and Thereafter

Beginning on January 1, 1989, the level of total financial assistance for the Bonneville/utility residential MCS program should be established by Bonneville within the range of values calculated by the Council. The minimum value for the range will be the difference in net present value of life cycle cost to the consumer between a house built to the minimum life cycle cost level and a house built to the full residential MCS level. The maximum value for the range will be the median builders' costs in the previous year or years for conservation measures more efficient than the level of the 1983 building practice. The Council's current calculation of the minimum and maximum values is shown in Table 3. The financial assistance beyond January 1, 1989, should be provided by Bonneville and local utilities [9] based on shares established in Table 4. The Council may, from time to time, revise these tables based on new information, including, but not limited to, that made available by early adopter jurisdictions and by utilities participating in the Bonneville/utility residential MCS program.

TABLE 3.—MINIMUM AND MAXIMUM FINANCIAL ASSISTANCE LEVELS

Climate zone	Minimum	Maximum
1	$1,400	$5,000
2	1,300	6,000
3	1,000	5,100

TABLE 4.—PERCENTAGE OF FINANCIAL ASSISTANCE TO BE MADE BY LOCAL UTILITIES

[For full requirements customers* of Bonneville]

State	Climate zone 1	Climate zone 2	Climate zone 3
Idaho	30	30	15
Montana	N/A	N/A	15
Oregon	15	25	N/A
Washington	5	10	N/A

* Financial assistance to generating public utilities, investor-owned utilities not currently placing a load on Bonneville, and other utilities in the region should be set as provided below under "Activities to Achieve Council's Objectives."

[8] "Super Good Cents" is the current name given to the Bonneville marketing program to encourage residential construction at the MCS level of efficiency. The Council believes the design and features of the Super Good Cents program will, if implemented regionwide, provide a successful mechanism for advancing building practices to the full residential MCS level of savings throughout the region.

[9] If local utilities determine that higher levels of financial assistance are required to achieve compliance, they should adjust their assistance level as appropriate.

The Minimum Performance Standard for Residential Programs

All utilities must meet the annual minimum performance standard for each performance year or be subject to a surcharge except, in the limited circumstances described below, utilities whose total load is less than 25 average annual megawatts.

The Council has set the annual minimum performance standard for residential programs for calendar year 1987 (the first performance year) to equal 30 percent of the electricity savings that could be saved if all new electrically heated residential buildings in a utility service territory were built to the residential MCS levels. The Council will set the minimum performance standard for calendar year 1988 (the second performance year) by January 1, 1987.

By July, 1988, Bonneville should establish the minimum performance standard for 1989 (the third performance year). By each July thereafter, Bonneville should set the minimum performance standard for the following performance year based on the relative performance of utilities during the past performance year. The minimum performance standard should be set by Bonneville in the following way:

- All utilities including those participating in the Bonneville/utility residential MCS program, those which have had codes adopted in their service territory, and those which have adopted other alternatives (where reliable data is available) will be ranked each year based on their performance in achieving in the previous performance year the electricity savings potential of the MCS. Savings should be measured from existing practice in 1983.[10] Performance will be measured by the percentage of electricity savings achieved out of all the electricity that could have been saved if all new electrically heated residential buildings in a utility service territory had been built to the residential MCS level. Thus, for example, if ten identical single family residences were built in a utility service territory, five of which were built to the residential MCS level and five to 1983 practice, that utility's performance level would be 50 percent. If five were built to the residential MCS level and the remaining five were built to a revised code or building practice that achieved 50 percent of the MCS savings, the utility's performance would be 75 percent.

- Utilities with the highest performance and which represent 80 percent of the new electrically heated residences will be grouped. The performance level of the poorest performing utility in that group is the minimum performance standard for the next performance year. If there is little difference in performance among utilities, the Council may reconsider this minimum performance standard. The Administrator should use caution when evaluating utilities with very few new electrically heated dwellings in their service area and should consider evaluating these utilities over more than one calendar year.

The Equivalence Standard for Residential Programs

The equivalence standard applies only to utilities selecting an alternative program to the Bonneville/utility residential MCS program. The equivalence standard is the average savings achieved by any means by utilities participating in the Bonneville/utility residential MCS program during the previous performance year. Savings are measured as a percentage of all the electricity savings achieved out of all the electricity that could have been saved if all new electrically heated residences were built to MCS levels. Beginning in 1988, Bonneville should announce the equivalence standard for the next performance year by July 1 of each year. Utilities with alternative programs not performing at the level of the equivalence standard when it is announced must, by January 1 of the next performance year: (1) Secure Bonneville's approval of another alternative plan for meeting the equivalence standard; or (2) adopt the Bonneville/utility residential MCS program. If a utility fails to take one of these two corrective actions, and fails to meet the equivalence standard during that next performance year, the utility will be subject to a surcharge.

Submission of Utility Plans for Compliance With the MCS for Residential Programs

Utilities must, by September 1, 1986, submit to Bonneville an initial plan declaring how they intend to meet the MCS for utility residential conservation programs. The ultimate goal for such programs is to obtain, as soon as possible, at least 85 percent of the savings which would have been obtained if all electrically heated residential buildings had been constructed to the residential MCS level.[11] In subsequent years, a utility may change its declaration, subject to the same Bonneville approvals required for the 1986 initial plan submissions.

There are several ways utilities can comply with the MCS for utility residential conservation programs. These are:

1. Submit by September 1 of any year beginning in 1986, and have approved by Bonneville prior to January 1 of the next year, a declaration that the MCS for residential buildings have been or will be met no later than January 1 of that next year, and for each subsequent year through codes at MCS levels adopted and enforced by a state and/or local government, and thereafter in each performance year, achieve and maintain the level of savings required by the annual minimum performance standard;

2. Agree by September 1 of any year beginning in 1986, to adopt and implement the Bonneville/utility residential MCS program by January 1 of the next year, and thereafter in each performance year achieve and maintain the level of savings required by the annual minimum performance standard;

3. For utilities with less than 25 average annual megawatts of load, agree by September 1 of any year beginning in 1986, to adopt and implement the Bonneville/utility residential MCS program by January 1 of the next year, and offer to pay financial assistance throughout each performance year equal to or greater than the maximum value of financial assistance shown in Table 3; or

4. Submit by September 1 of any year beginning in 1986, an alternative program that will be implemented and enforced and is initially approved by Bonneville, prior to the next performance year, as being capable of providing savings equivalent to the Bonneville/utility residential MCS program and which does not duplicate the acquisition of other resources that are already in the Council's plan. In addition, in order to continue to be considered equivalent, an alternative program must comply with the equivalence standard. Further, utilities with an alternative program must achieve and maintain in each performance year, the level of savings annually required by the annual minimum performance standard. Alternative programs may include, but are not limited to, state or local government or utility marketing programs, financial assistance, codes that achieve part of the MCS level of

[10] The Council will work with Bonneville in defining 1983 practice for use as a benchmark and will supply this information to utilities.

[11] 85 percent is the level of compliance that the Council believes is achievable by utility programs.

savings, or other measures to encourage energy efficient construction of new residential buildings or other lost opportunity conservation resources. Each alternative plan should specify at least the following:

—Thermal efficiency specifications per building
—Measures to maintain adequate indoor air quality, by providing no less than 0.5 air changes per hour
—Target market share
—Level of utility payments or other activities to promote residential MCS level construction
—Marketing plan
—Contingency plans for achieving targets with alternative marketing strategies
—Compliance certification strategy (e.g., utility inspection)
—Data gathering to meet Bonneville information needs.

Surcharge Recommendation

The evaluation of utility performance and the annual establishment of the minimum performance standard and equivalence standard should become part of Bonneville's surcharge policy. Bonneville should monitor performance and equivalence during each year beginning with the first performance year (1987).

The Council recommends that a 10 percent surcharge be imposed as of January 1, 1987, on utilities which have not complied with the September 1, 1986, deadline to submit: (1) An initial plan for implementation of the Bonneville/utility residential MCS program; (2) a plan for implementation of an alternative program which is approved by Bonneville as being equivalent as set forth above; or (3) a declaration, approved by Bonneville, that the MCS for residential buildings will be met by building codes. This surcharge continues in effect until a utility has filed an initial plan and has obtained the necessary Bonneville approvals.

The Council recommends that on each January 1, beginning in 1989, a 10 percent surcharge be imposed for one year on all utilities which did not comply with the annual minimum performance standard for the performance year beginning two years earlier. For example, utilities failing to meet the 1987 minimum performance standard should be surcharged commencing January 1, 1989 for one year. Utilities failing to meet the 1988 minimum performance standard should be surcharged commencing January 1, 1990 for one year. However, utilities with a total load of less than 25 average megawatts which participate in the Bonneville/utility residential MCS program and offer throughout each year to which a minimum performance standard is applicable, financial assistance equal to or greater than the maximum value of financial assistance shown in Table 3 should not be surcharged regardless of their performance.

The Council recommends that on each July 1, beginning in 1990, a 10 percent surcharge be imposed for one year on utilities with alternative residential programs that have not taken the corrective actions for alternative programs as set forth above, and which have not met the equivalence standard for the previous performance year beginning in 1989. For example, on July 1, 1988, Bonneville will announce the equivalence standard for 1989 based on performance in 1987. A utility with an existing alternative program not performing to that level when it is announced, which does not by January 1, 1989, either adopt and implement the Bonneville/utility residential MCS program or secure Bonneville's approval of an alternative plan and which fails to meet the equivalence standard during 1989, should be surcharged on July 1, 1990.

The Council's surcharge methodology is set forth below. The total surcharge on a utility for failing to meet the MCS for residential and commercial utility programs should not exceed 10 percent of its rate at any time.

In no event should a utility be surcharged if it achieves and maintains, in any of the ways enumerated above, a level of electrical energy savings equivalent to 85 percent of those which would be achieved if all new electrically heated residences in its service territories were constructed to the level of the residential MCS.[12] A utility operating the Bonneville/utility residential MCS program or a program approved by Bonneville as equivalent should not be surcharged if Bonneville does not offer it financial assistance to be provided to home builders for each residence meeting the standards at least equal to the minimum value of financial assistance shown in Table 3.

Exemptions

The Council finds there is no need for exemptions at this time. If Bonneville finds that hardship exists, Bonneville should, if necessary, fully finance the MCS in those jurisdictions.

[12] A utility relying on codes may, in its declaration, use that portion of savings from any commercial building codes which exceed the commercial MCS level as an offset against the full residential MCS level.

The MCS for New Commercial Buildings

The Council's model conservation standard for new commercial buildings is as follows: new commercial buildings are to be constructed to achieve savings equivalent to those achievable through constructing buildings to the Council of American Building Officials (CABO) 1983 Model Energy Code, which is based on the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) ASHRAE 90–80, with the following modifications. The ventilation requirements are those set forth in ASHRAE Standard 62–81, and the interior lighting standard for all office buildings and for those retail areas containing over 20,000 square feet is 1.5 watts per square foot. The lighting efficiency requirements for all commercial buildings are as shown in Table 5.

The Council recognizes that in some situations the lighting budgets shown in Table 5 may not provide acceptable lighting. Consequently, the Council's lighting standard for new commercial buildings may be met by documenting through the use of ASHRAE/IES (Illuminating Engineering Society) 90R–1986 and/or IES LEM–1–1986 that the lighting power budgets set forth in Table 5 are insufficient to achieve the recommended illuminance values for lighting design specified in the IES 1981 *Lighting Handbook, Applications Volume*. Such documentation must demonstrate that the recommended illuminance values cannot be achieved within the lighting budget when the most efficient equipment and lighting controls suitable for the specific task are used.

Illustrative ways for a commercial building to meet this standard are described in those portions of the Council's *Model Conservation Standards Equivalent Code* dated February 1985, as it will be conformed to this rule and may be subsequently amended from time to time, which apply to all buildings except low-rise residential buildings.

TABLE 5.—INTERIOR LIGHTING POWER BUDGET [1]

Group	Occupancy description	Lighting power budget [2] (W/square feet)
A	Assembly w/stage	1.1
	Stage lighting	([3])
	Assembly w/o stage: other than B and E.	1.1
B	Gasoline service station	2.0
	Storage garages	0.3
	Office buildings, wholesale stores, police and fire stations.	1.5
	Retail stores	
	—less than 1,000 square feet	4.5

TABLE 5.—INTERIOR LIGHTING POWER BUDGET [1]—Continued

Group	Occupancy description	Lighting power budget [2] (W/ square feet)
	—1,000 to 6,000 square feet	3.5
	—6,000 to 20,000 square feet	2.5
	—Over 20,000 square feet	1.5
	Drinking and dining establishments	1.85
	Food preparation task lighting	[3]
	Aircraft hangars	0.7
	Process plants	1.0
	Factories and workshops	2.0
	Storage structures	0.7
E	Schools and daycare centers	2.0
	Audio-visual presentation lighting	[3]
H	Storage structures	0.7
	Handling areas	2.0
	Paint shops	2.5
	Paint spray booths	5.0
	Auto repair booths	2.0
	Aircraft repair hangars	2.0
I	Institutions	2.0
	Administrative support areas	2.0
	Nursing areas	0.9
	Diagnostic, treatment, food service task lighting.	[3]
R	Dwelling units	[3]
	Other areas	1.1
	Food preparation task lighting	[3]

[1] Watts/sq. ft. of room may be increased by 2 percent per foot of height above 20 feet.
[2] Emergency exit lighting is exempt from interior lighting budget.
[3] Exempt.

The Council's MCS for new commercial buildings were developed using the ASHRAE 90–80 standard originally issued in 1980. ASHRAE intends to adopt and issue an updated version of Standard 90 (ASHRAE 90.1) by mid-1986. The ASHRAE standard serves as the basis for the Council of Amercian Building Officials Model Energy Code. Therefore, the Council intends to review the updated standard for potential adoption as its MCS. This review process will commence as soon as the ASHRAE standard has been adopted in its final form.

The MCS for Utility Commercial Conservation Programs

The model conservation standard for utility commercial conservation programs is that utilities must: (1) Implement a joint marketing program with Bonneville, which may contain financial assistance payments to developers, (the Bonneville/utility commercial MCS program); or (2) implement an equivalent alternative program; or (3) rely on improved building codes to the MCS levels and achieve compliance with the annual minimum performance standard calculated as set forth below.

The Minimum Performance Standard for Commercial Programs

All utilities must meet the annual minimum performance standard. All utilities including those participating in the Bonneville/utility MCS program for commercial buildings, those which have had codes adopted in their service territory to the MCS level, and those which have adopted other alternatives (where reliable data is available) will be ranked each year based on their performance in achieving in the previous year the electricity savings potential of the commerical MCS. Savings should be measured from existing practice in 1983.[13] Performance will be measured by electricity savings achieved as a percentage of the electricty savings that could have been saved if all new commercial buildings in a utility service territory had been constructed to MCS levels. Thus, for example, if ten identical commercial buildings were built in a utility service territory, five of which were constructed to MCS levels (through codes or any other means), that utility's performance level would be calculated at 50 percent.

Utilities with the highest performance and which represent 80 percent of the new commercial floorspace will be grouped. The performance level of the poorest performing utility in that group is the annual minimum performance standard. If there is little difference in performance among utilities, the Council may reconsider this minimum performance standard. The Administrator should use caution when evaluating utilities with very few new commercial buildings and should consider evaluating these utilities over more than one calendar year.

The Equivalence Standard for Commercial Programs

The equivalence standard applies only to utilities selecting an alternative program to the Bonneville/utility commercial MCS program.

The equivalence standard is the average savings achieved by any means by utilities participating in the Bonneville/utility commercial MCS program during the previous performance year. Savings are measured as a percentage of all the electricity savings achieved out of all the electricity that could have been saved if all new commercial buildings were built to MCS levels. Beginning in 1988, Bonneville should announce the equivalence standard for the next performance year by July 1 of each year. Utilities with alternative programs not performing at the level of the equivalence standard when it is announced must, by January 1 of the next performance year: (1) Secure Bonneville's approval of another alternative plan for meeting the equivalence standard; or (2) adopt the Bonneville/utility commercial MCS program. If a utility fails to take one of these two corrective actions, and fails to meet the equivalence standard during that next performance year, the utility will be subject to a surcharge.

Submission of Utility Plans for Compliance With the MCS for Commercial Programs

Utilities must, by September 1, 1986, submit to Bonneville an initial plan declaring how they intend to meet the MCS for utility commercial conservation programs. The ultimate goal for such programs is to obtain, as soon as possible, at least 85 percent of the savings which would have been obtained if all commercial buildings had been constructed to the commercial MCS level.[14] In subsequent years, a utility may change its declaration, subject to the same Bonneville approvals required for the 1986 initial plan submission.

There are several ways utilities can comply with the MCS for utility commercial conservation programs. These are:

1. Submit by September 1, of any year beginning in 1986, and have approved by Bonneville prior to January 1 of the next year, a declaration that the MCS for commercial buildings have been or will be met no later than January 1 of the next year and for each subsequent year, through codes at the MCS levels adopted and enforced by a state and/or local government, and thereafter in each performance year achieve and maintain the level of savings required by the annual minimum performance standard;

2. Agree by September 1 of any year beginning in 1986, to adopt and implement the Bonneville/utility commercial MCS program by January 1 of the next year, which may contain financial assistance payments, and thereafter achieve and maintain the level of savings required by the annual minimum performance standard; or

3. Submit by September 1 of any year beginning in 1986, an alternative program that will be implemented and enforced by January 1 of the next year, and is initially approved by Bonneville, prior to the next performance year as being capable of providing savings equivalent to the Bonneville/utility commercial MCS program, and which does not duplicate acquisition of other resources that are already in the Council's plan. In addition, in order to

[13] The Council will work with Bonneville in defining 1983 practice for use as a benchmark and will supply this information to utilities.

[14] 85 percent is the level of compliance that the Council believes is achievable by utility programs.

continue to be considered equivalent, an alternative program must comply with the equivalence standard. Further, utilities with an alternative program must achieve and maintain in each performance year the level of savings annually required by the annual minimum performance standard. Alternative programs may include, but are not limited to, state or local government or utility marketing programs, financial assistance, codes that achieve part of the MCS level of savings, or other measures to encourage energy efficient construction of new commercial buildings or other lost opportunity conservation resources. Each alternative plan should specify at least the following:

—Electric efficiency specifications per building.

—Target market share.

—Level of utility payments or other activities to promote commercial MCS level construction.

—Marketing plan.

—Contingency plans for achieving targets with alternative marketing strategies.

—Compliance certification strategy (e.g., utility inspection).

—Data gathering to meet Bonneville information needs.

Surcharge Recommendation

The evaluation of utility performance and establishment of a minimum performance standard and equivalence standard should become part of Bonneville's surcharge policy. Bonneville should monitor performance and equivalence during each performance year beginning with the first performance year (1987).

The Council recommends that a 10 percent surcharge be imposed as of January 1, 1987, on utilities which have not complied with the September 1, 1986, deadline to submit an initial plan for implementation of the Bonneville/utility commercial MCS program, a plan for implementation of an alternative program which is approved by Bonneville as equivalent, as set forth above, or a declaration, approved by Bonneville, that the MCS for commercial buildings will be met by building codes at the MCS levels. This surcharge continues in effect until a utility has filed an initial plan and has obtained the necessary Bonneville approvals.

The Council recommends that on each January 1 beginning in 1989, a 10 percent surcharge be imposed for one year on utilities which have not complied with the annual minimum performance standard for the performance year beginning two years earlier.

The Council recommends that on each July 1, beginning in 1990, a 10 percent surcharge be imposed for one year on utilities with alternative commercial programs that have not taken the corrective actions for alternative programs as set forth above, and which have not met the equivalence standard for that performance year beginning in 1989. For example, on July 1, 1988, Bonneville will announce the equivalence standard for 1989 based on performance in 1987. A utility with an existing alternative program not performing to that level when it is announced, which does not by January 1, 1989, either adopt and implement the Bonneville/utility commercial MCS program or secure Bonneville's approval of another alternative plan and which fails to meet the equivalence standard during 1989, should be surcharged on July 1, 1990.

The Council's surcharge methodology is set forth in Appendix A. The total surcharge on a utility for failing to meet the MCS for residential and commercial utility programs should not exceed 10 percent of its rate at any time.

In no event should a utility be surcharged if it achieves and maintains, in any of the three ways enumerated above, a level of electrical energy savings equivalent to 85 percent of those which would be achieved if all new commercial buildings in their service territories were constructed to the level of the commercial MCS.[15]

Exemptions

The Council finds there is no need for exemptions at this time. If Bonneville finds that hardship exists, Bonneville should, if necessary, fully finance the achievement of the MCS in those jurisdictions.

The MCS for Buildings Converting to Electric Space Conditioning

The Council's model conservation standard for residential and commercial buildings converting to electric space conditioning is that state or local governments or utilities should take actions through codes, alternative programs or a combination thereof to achieve electric power savings from buildings which convert to electrical space conditioning. These savings should be comparable to those savings that would be achieved if each building converting to electric space conditioning were upgraded to include all regionally cost-effective electricity conservation measures. Although the conversion standard is highly recommended, the Council is not recommending that a surcharge be imposed for failure to act accordingly.

Activities To Achieve Council's Objectives

Achieving the improved levels of building efficiency represented by the MCS is the goal of the Council. This goal can be achieved in a variety of ways. Bonneville has a key leadership role in achieving the goal of constructing more efficient buildings in the region.

Even though the benefits of building to the MCS are clear, homebuyers, builders, lenders, state and local governments and utilities need technical and financial assistance to make the transition to energy-efficient buildings constructed at the level of the standards. Bonneville should continue activities to assist homebuyers, state and local governments, homebuilders, utilities, realtors, lenders, and appraisers to accurately evaluate building techniques that will achieve improved levels of electrical energy efficiency. This training and technical information is needed so that all of the decisionmakers involved in constructing and purchasing new buildings can make an informed decision that recognizes the importance of energy efficient measures in the total costs of owning and heating or cooling the building. Bonneville activities listed below are those that the Council has determined are important in achieving its goal.

Bonneville activities are discussed in four sections below: (1) New site-built electrically heated residences; (2) new commercial buildings; (3) conversions of buildings to electric space conditioning; and (4) general activities that relate to more than one of the building sectors.

1. New Electrically Heated Residential Buildings

Bonneville should develop and implement a workplan which includes the following actions:

- Assist states, local governments and/or utilities in their efforts to comply with the Council's residential MCS described above.
- Refine the point system used in the Residential Standards Demonstration Program, using the generalized paths shown in Table 1 as the basis. At a minimum, component trade-offs should be included to account for variations in building thermal mass, heating system efficiency, solar orientation, envelope thermal efficiency, and mechanical ventilation without heat recovery. The

[15] A utility relying on codes may, in its declaration, use that portion of savings from any residential building codes which exceed the residential MCS level as an offset against the full commercial MCS level.

point system is required to give builders the flexibility they need to meet the wide range of characteristics desired by homebuyers.

• Maintain an aggressive energy efficient new home marketing program (e.g. Super Good Cents). This program should include, as a condition of participation in the program, monitoring of indoor air quality and employment of specific pollutant source control measures in residential buildings constructed under the program. When the commercial marketing program development (described below) is complete, make the marketing program a comprehensive one to market electrically efficient residential and commercial buildings.

• Establish by July 1, 1986, a program to share financial assistance with local utilities for both single family and multi-family dwellings. Bonneville should establish the financial assistance for calendar years 1987 and 1988 at the levels stated in Table 2 for average size single family houses (about 1850 ft²), and establish a procedure to adjust the financial assistance as appropriate beyond January 1, 1989. Finanial assistance to multi-family residences and other than average size single family houses should be based on the square footage of the residences. The financial assistance and/or marketing effort should be adjusted if compliance with the MCS is not being achieved. In any case, beginning January 1, 1989, the financial assistance should be established by Bonneville within the range set forth in Table 3 above. The minimum value is the difference in net present value life cycle costs to the consumer between a house built to the minimum life cycle cost level and a house built to the full residential MCS level. The maximum value is the median builders' costs in the previous year or years for conservation measures more efficient than the level of the 1983 building practice. The Council's current calculation of the minimum and maximum values is shown in Table 3. The financial assistance beyond January 1, 1989, should be provided by Bonneville and local utilities [16] based on shares established in Table 4. The cost sharing ratios will be determined by the level of current building practices in each state by climate zone compared to the residential MCS. As local building practice improves through codes or by other means, the local utility's share of the total financial assistance payment would be decreased until such time as the code reached or exceeded the minimum life cycle cost level for homebuyers. At that time, the local utility's share of the financial assistance could drop to zero, and Bonneville would make the entire payment, up to the maximum level described above. The Council may revise these tables based on new information, including, but not limited to, that made available by early adopter jurisdictions and by utilities participating in the Bonneville/utility residential MCS program.

Bonneville financial assistance should be offered regionwide—including to utilities not currently exchanging with Bonneville or purchasing power from Bonneville. There are several reasons for this. First, Bonneville could find itself obligated to meet future investor-owned utility loads under its current power sales contracts. Avoiding unnecessary increases in investor-owned utility load requirements would reduce future rate increases as well as other risks associated with expensive thermal plant construction. Second, when an investor-owned utility acquires new resources, its acquisition costs are not paid solely by that utility's customers. In significant part, the costs are paid by Bonneville and its customers. This occurs when these costs are included in an investor-owned utility's average system cost and are spread to all Bonneville customers through the exchange. This exchange was authorized by the Northwest Power Act and is designed to provide lower rates for the residential and small farm customers of investor-owned utilities. Energy efficient construction will help hold down the size and cost of the exchange. Third, it is important for the ultimate adoption of MCS building codes and reduction of MCS costs to pursue MCS construction and market development regionwide. Improving building practice is key to achieving MCS construction. This may not occur if the focus is solely on that portion of the region (approximately 40 percent) currently purchasing power from Bonneville.

Bonneville financial assistance to partial requirements customers and potential customers not currently purchasing from Bonneville should vary to reflect the benefits Bonneville is expected to receive in reduced load requirements, reduced exchange requirements, and improved building practice. The payments should take into consideration Bonneville's "Final Conservation Cost-Sharing Principles" (Office of Conservation, Bonneville Power Administration, January 21, 1985), which allow cost sharing with all Bonneville customers, including those with no load requirements on Bonneville.

The Council expects that costs of conservation measures beyond the current minimum life cycle cost level for homebuyers will decline as the market for heat recovery ventilators matures, builders gain experience in using high R-value exterior walls, and lower cost infiltration techniques come into practice. As this occurs, Bonneville's share of the financial assistance would decrease. It could become zero when the full residential standard results in the minimum life cycle cost level for homebuyers. The Council will review annually the allocation shares as codes improve, relative costs and performance of conservation measures change, or as building practice changes, and will adjust them as appropriate.

Based on costs reported by builders participating in the Residential Standards Demonstration Program (RSDP), the Council has established the minimum share of the total financial assistance to be provided by the local utility. This share is based on a Council judgment after considering: (1) The RSDP costs of measures that would be required to go from current (October 1985) building practice (or 1986 state building codes) to a house which has the minimum life cycle costs for homebuyers and; (2) the RSDP costs of measures that would be required to go from current building practice to the full residential MCS. The local share of the financial assistance is based on the ratio of these two costs. The financial assistance per single family dwelling for an average sized home should be as shown in Table 2 and should remain in effect for calendar years 1987 and 1988.

• Develop and implement in consultation with the region's electric utilities, other fuel providers (such as the natural gas industry), state and local governments, utility regulatory commissions, and others, a method to monitor the effects of financial assistance on heating system choice of new homebuyers. The Council does not believe that consumer choice between competing fuel sources will be significantly affected by financial assistance offered by Bonneville and/or utilities. If the Council determines that significant fuel switching does occur, then the Council may determine that appropriate adjustments should be made to the financial assistance levels and/or marketing program. The Council will also analyze how the life cycle cost of gas-heated homes compares to electrically-heated homes and will make

[16] If local utilities determine that higher levels of financial assistance are required to achieve compliance, they should adjust their assistance level as appropriate.

that information available to interested parties.

• Request utilities to submit to Bonneville by September 1, 1986, a plan declaring how they intend to comply with the MCS for utility residential conservation programs beginning on January 1, 1987.

• Continue research on technology that improves indoor air quality beyond the level attained in homes built to current practice, which is estimated to be approximately 0.5 air changes per hour.

• Expand Bonneville's existing Indoor Air Quality Research Program to:

—Assess the relative effectiveness of alternative source reduction and mechanical ventilation systems and strategies for minimizing potential pollutant build-up, including but not limited to spot ventilation, whole house exhaust-only ventilation, ductless heat recovery ventilation, and whole house heat recovery ventilation.

—Monitor indoor air quality in a sample of all new electrically heated homes and evaluate the effectiveness of natural ventilation (i.e., infiltration) compared to mechanical ventilation in maintaining clean air, given the same source strength and whole house ventilation rate.

—Identify the major indoor pollutants that may be significantly reduced or eliminated through source reduction actions that might be effected through building codes and product standards.

—Provide findings from indoor air quality research to local and state building code and public health agencies for their consideration.

• Heat recovery ventilation systems and/or ventilation systems without heat recovery installed in all programs used to achieve the MCS should be designed and certified to result in 0.5 air changes per hour to the conditioned space under typical installation and design weather conditions. Interim standards for the design, installation and performance of heat recovery ventilation systems should be promulgated by April 1, 1986. Final standards for the design, installation, and performance of heat recovery ventilation systems should be established by January 1, 1987. The Council intends to review and approve the standards at that time.

• Inspect heat recovery ventilators installed before the standards have been established and repair those units that are not meeting the certification standard. Heat recovery ventilation systems installed prior to January 1, 1987 which satisfy the interim standards, but fail to meet the final standard should be replaced or upgraded at no cost to the homeowner or homebuilder, as appropriate.

• Require that all houses built to the residential MCS under the Bonneville/utility residential MCS program or an alternative program being used to comply with the residential standard have a mechanical ventilator capable of providing 0.5 air changes per hour installed if natural ventilation has been reduced below that level. Existing early adopter programs which do no require mechanical ventilators are exempted from this restriction.

• Continue to provide technical and financial assistance to builders, insulation contractors, architects, designers, real estate appraisers, lenders, salespersons and code officials for the implementation of a uniform, regionwide energy efficiency certification system for new residential buildings.

• Provide information to homebuyers on energy efficient housing including publications on how to operate an energy efficient house and equipment such as heat recovery ventilators.

2. New Commercial Buildings

Bonneville should develop and implement a workplan which includes the following activities.

• Assist states, local governments and/or utilities in their efforts to take actions through codes, a Bonneville/utility commercial MCS program, alternative programs, or a combination thereof which will result in compliance with the commercial buildings MCS.

• Request utilities or local jurisdictions to submit to Bonneville by September 1, 1986, their plans for complying with the MCS for utility conservation programs for commercial buildings.

• Develop and implement an aggressive energy-efficient new commercial buildings marketing program similar to the Super Good Cents program for residential buildings. This should be made part of a comprehensive package to market efficient buildings, both residential and commercial. Evaluate the need for financial assistance to promote commercial buildings built to the MCS.

• Collect and evaluate data on new energy efficient commercial buildings built under the "early adopter" program or elsewhere. These data should be maintained and updated as necessary so they can be used in future planning and be used in information brochures on efficient building techniques.

• Continue the New Commercial Buildings Field Test Demonstration Program conducted pursuant to the Council's 1983 plan. This program is designed to achieve approximately 30 new commercial buildings constructed to be approximately 30 percent more efficient than the Council's standard.

• Develop for commercial buildings an energy efficiency certification program focusing on lighting. This program should be available by January 1, 1987, and be designed to influence the financing terms available to developers of energy efficient commercial buildings.

3. Residential and Commercial Buildings Converting to Electric Space Conditioning

Bonneville should develop and implement a workplan which includes the following activities:

• Encourage and assist states, local governments or utilities to take actions through codes, alternative programs or a combination thereof to achieve electric power savings from buildings which convert to electrical space conditioning comparable to those savings that would be achieved by incorporating all efficiency improvements that could be installed up to the regionally cost-effective level. The Council will work with Bonneville in consultation with the interested regional parties to define the measures that are regionally cost-effective.

4. General Activities for both Residential and Commercial Buildings

Bonneville should develop and implement a workplan which includes the following activities:

• Refine the Code Adoption Demonstration Program which encourages utilities, states and local governments to achieve the MCS through adoption of equivalent codes prior to January 1, 1989. If codes adopted in a utility's jurisdiction vary in specifics from those stated above, but result in equivalent electricity savings, the utility should be eligible for inclusion in the Code Adoption Demostration Program. This "early adopter" program should be available throughout the region to jurisdictions which comply in aggregate with the MCS for new residential and commercial buildings through improvements in their building codes and should include the following elements:

—Financial assistance sufficient to cover the incremental cost of electrically heated residential building construction between 1983 practice and the MCS. This financial assistance should be available through January 1, 1989, to any jurisdiction that adopts the MCS through codes before January 1, 1989. Beyond January 1, 1989, financial

assistance to early adopters should be set at or above financial assistance given to utilities participating in the Bonneville/utility MCS program.
—Inclusion of financial assistance to commercial building developers in "early adopter" jurisdictions.
—Reimbursement to utilities and states or local governments for the costs of MCS-level code adoption and enforcement.
—Systematic evaluation of construction cost, fuel share impacts, thermal performance, occupant satisfaction, indoor air quality, overall compliance with code targets, and enforcement costs for both residential and commercial buildings.
—Education and training programs for builders, consumers, architects, designers, energy code enforcement officials, mechanical ventilation system designers, installers and servicing contractors, realtors, lenders and appraisers, and other appropriate participants in the design, purchase, and construction of new buildings.
—Shelter industry training which focuses on the most cost efficient means of achieving the MCS.

• Implement the Model Conservation Standards Implementation Program (MCSIP) to reimburse state and local governments throughout the region for the incremental costs of adopting and enforcing model conservation standards as codes. Reimbursement should be made available throughout the region and should continue as long as enforcement of the standards remains regionally cost effective.

• Establish and maintain a program to reimburse states or local governments for the incremental costs of adopting and enforcing codes that are designed to achieve part of the savings represented by the MCS if the inspection and enforcement activities are undertaken as part of an overall program designed to meet the MCS. Code enforcement reimbursement should be provided for the cost of at least one inspection per building in such jurisdictions. This reimbursement should be provided throughout the region so long as regionally cost effective.

• By December 1, 1986, design and implement a method or process for estimating costs of building to the MCS throughout the region. This activity should be aimed at producing annual reports beginning in 1987 on the estimated costs experienced by builders in early adopter jurisdictions, and by builders in the Bonneville/utility MCS programs throughout the region. These cost estimates will be used by Bonneville and the Council to evaluate all aspects of the MCS, including a determination of the amount of and responsibility for the financial assistance offered in the next building season.

• As soon as possible in 1986, design a process to collect utility specific data on the achievement of electricity savings as a precentage of the total savings that would be expected if all buildings were constructed to MCS levels. The data should be the basis for a report published every year to notify utilities of their progress towards achieving the MCS in the previous year and the annual minimum performance standard and equivalence standard, where applicable, which will have to be met in the following year to avoid a surcharge.

• Continue development of and implement a procedure to measure compliance with the MCS and to review alternative plans for achieving compliance with the MCS for utility conservation programs. This procedure should be incorporated into Bonneville's surcharge policy scheduled for completion early in 1986. The surcharge policy should be modified to incorporate changes to the MCS made by the Council in this plan.

• Continue to collect and analyze data regarding energy use, structural specifications and operation of residences and commercial buildings through the existing End-use Load and Conservation Assessment Project (ELCAP).

• Establish, maintain and disseminate the results of an ongoing research and demonstration effort which focuses on the refinement of new residential and commercial building conservation technologies, construction techniques and products. This program should initially concentrate in the residential sector, identifying and/or developing better information on:
—Reducing uncontrolled air leakage
—Providing more reliable ventilation both with and without heat recovery
—Constructing highly insulated exterior walls.

Recommended Activities for the Region's Public Utility Commissions and Investor-Owned Utilities

The Council recommends that the region's public utility commissions consider providing appropriate rate treatment for investor-owned utility expenditures (e.g., marketing program costs and/or payments) made to encourage the construction of more energy efficient structures which use electricity for space conditioning and which achieve savings comparable to those specified for the MCS for new residences and commercial buildings.

Surcharge Methodology

Section 4(f)(2) of the Northwest Power Act provides for Council recommendation of a 10 percent to 50 percent surcharge on Bonneville customers for those portions of their loads within the region that are within states or political subdivisions which have not, or on customers which have not, implemented conservation measures that achieve savings of electricity comparable to those which would be obtained under the model conservation standards. The purpose of the surcharge is twofold: (1) To recover costs imposed on the region's electric system by failure to adopt the model conservation standards or achieve equivalent electricity savings, and (2) to provide a strong incentive to utilities and state and local jurisdictions to adopt and enforce the standards or comparable alternatives.

The Administrator is responsible for implementing the surcharge in accordance with the Council methodology for the surcharge calculation. The Council recommends that the Bonneville Administrator impose surcharges as specified above. The method is set out below.

A. Identification of Customers Subject to Surcharge

In accordance with the schedule set forth above, the Administrator should identify those customers, states, or political subdivisions which have:

1. Failed to comply with the model conservation standards for utility residential and commercial conservation programs, including meeting all filing deadlines, and

2. Failed to achieve equivalent savings of electricity through an acceptable alternative program, as determined by the Administrator.

B. Calculation of Surcharge

The annual surcharge for non-complying customers or customers in non-complying jurisdictions is then calculated by the Bonneville Administrator as follows:

1. If the customer is purchasing firm power from Bonneville under a power sales contract and is not exchanging under a residential purchase and sales agreement, the surcharge is 10 percent of the cost to the customer of all firm power purchased from Bonneville under the power sales contract for that portion of the customer's load in jurisdictions not implementing the MCS or comparable programs.

2. If the customer is not purchasing firm power from Bonneville under a power sales contract but is exchanging

(or is deemed to be exchanging) under a residential purchase and sales agreement, the surcharge is 10 percent of the cost to the customer of the power purchased from Bonneville in the exchange (or deemed to be purchased) for that portion of the customer's load in jurisdictions not implementing the MCS or comparable programs.

3. If the customer is purchasing firm power from Bonneville under a power sales contract and also is exchanging (or is deemed to be exchanging) under a residential purchase and sales agreement, the surcharge is: (a) 10 percent of the cost to the customer of firm power purchased under the power sales contract, *plus* (b) 10 percent of the cost to the customer of power purchased from Bonneville in the exchange (or deemed to be purchased) multiplied by the fraction of the utility's exchange load originally served by the utility's own resources.

This calculation of the surcharge is designed to eliminate the possibility of surcharging a utility twice on the same load. In the calculation, the portion of a utility's exchange resource purchased from Bonneville and already surcharge under the power sales contract is subtracted from the exchange resources before establishing a surcharge on the exchange load.

C. Evaluation of Alternatives and Electricity Savings

To assist Bonneville in estimating comparable electricity savings from alternative plans, a utility or jurisdiction should present its best estimate of new residential and commercial building construction in non-complying areas within its service territory or boundaries. Bonneville will determine, in consultation with the Council, whether the alternative conservation plan of a utility or jurisdiction will achieve savings of electricity comparable to those that would have been achieved under the utility programs identified in the MCS. When determining electricity savings that would have occurred had the utility program standards been implemented, jurisdiction-specific weather data and construction estimates, where available, should be used along with the Council's residential and commercial heat loss models.

The Council recognizes that in many cases data will not be available. In these cases Bonneville should rely on average electricity savings estimated by building type and climate zone and included in the Council's Plan. For single-family residential buildings, Bonneville should assume the following regarding houses built to the model conservation standards: 1) Houses in climate zone 1 would save, on average, 6,725 kWh per year; 2) houses in climate zone 2 would save, on average, 8,853 kWh per year; and 3) houses in climate zone 3 would save, on average, 6,535 kWh per year. For multifamily dwellings, Bonneville should assume the following: 1) Dwelling units in climate zone 1 would save, on average, 3,120 kWh per year, 2) dwelling units in climate zone 2 would save, on average, 4,489 kWh per year, and 3) dwelling units in climate zone 3 would save, on average, 5,235 kWh per year. For commercial buildings, and where good estimates are not available for the number of new residential buildings, the estimated electricity savings should be determined by multiplying total regional average megawatt savings by sector expected from the standards, as shown in the Plan, by the utility's non-complying share of total regional load in the applicable sectors.

If the Bonneville Administrator determines that a proposed alternative plan is not acceptable, he should notify the entity that its alternative plan has been judged to be not acceptable and that Bonneville will add a surcharge to the affected utility's bill as of the dates set forth above. The surcharge is calculated as described in section B above. If subsequent modifications to the entity's alternative plan are determined by the Administrator to be acceptable, then the surcharge should be removed.

A general method of determining the estimated electrical energy savings of an alternative conservation plan should be developed in consultation with the Council and included in Bonneville's policy to implement the surcharge.

Response to Comments

Incorporated in this notice by reference are the Council's summaries of and responses to all significant public comments received on the proposed model conservation standards amendments during the public comment period. This referenced 86-page document will be mailed to all those who commented on the proposed amendments, and is also available to others upon request to the Council's Public Information and Involvement Division at the address and telephone numbers listed in this notice.

Legal Effect of This Notice

The Act provides that suits seeking judicial review of these final amendments must be filed on or before May 2, 1986 (16 U.S.C. 839f(e)(5)).

Edward Sheets,

Executive Director.

[FR Doc. 86-4198 Filed 2-28-86; 8:45 am]

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Federal Register

Monday
March 3, 1986

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 31

Federal Acquisition Regulations; Reasonableness of Contract Costs; Proposed Rule

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Reasonableness of Contract Costs

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to Federal Acqusition Regulation (FAR) 31.201–3, Determining reasonableness.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 2, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 86–11 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The change to FAR 31.201–3 under consideration is designed to shift the burden of proof on the issue of reasonableness of contract costs from the Government to the contractor, abolish the presumption of reasonableness which attaches to incurred costs, and simplify the list of considerations that impact reasonableness determinations. This proposed rule is considered necessary to ensure that only reasonable costs are paid under Government contracts. Moreover, the proposed coverage is based, in part, upon section 933 of the Defense Procurement Improvement Act of 1985 (Pub. L. 99–145).

B. Regulatory Flexibility Act

The proposed change to FAR 31.201–3 is not expected to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because the proposed coverage is designed primarily to clarify the term "reasonable cost" and to shift the burden of proof for establishing reasonableness of costs to the contractor when a cost is challenged by the contracting officer. A prudent business should already be maintaining adequate documentation to satisfy this burden of proof.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed change to FAR 31.201–3 does not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: February 24, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as follows:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.201–3 is revised to read as follows:

31.201–3 Determining reasonableness.

(a) A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. Reasonableness of specific costs must be examined with particular care in connection with firms or their separate divisions that may not be subject to effective competitive restraints. No presumption of reasonableness shall be attached to the incurrence of costs by a contractor, and upon challenge of a specific cost by the contracting officer, the burden of proof shall be upon the contractor to establish that such cost is reasonable.

(b) What is reasonable depends upon a variety of considerations and circumstances, including—

(1) Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the contractor's business or the contract performance;

(2) Generally accepted sound business practices, arm's-length bargaining, and Federal and State laws and regulations;

(3) The contractor's responsibilities to the Government, other customers, the owners of the business, employees, and the public at large; and

(4) Any significant deviations from the contractor's established practices.

[FR Doc. 86–4429 Filed 2–28–86; 8:45 am]

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federal register

Monday
March 3, 1986

Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 207, 210, 225, 226, 510, 514, and 558

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures Re Medicated Feed Applications; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207, 210, 225, 226, 510, 514, and 558

[Docket No. 77N-0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures Re Medicated Feed Applications

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule revising the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. This final rule is based on the tentative final rule published in the **Federal Register** of July 29, 1983 (48 FR 34574) and amended in the **Federal Register** of November 1, 1983 (48 FR 50358).

EFFECTIVE DATES: These regulations shall become effective May 2, 1986, except that the provisions of 21 CFR 558.4(d), Category II, requiring the submission and approval of medicated feed applications for products formerly exempt from such requirement shall become effective March 3, 1987.

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SUPPLEMENTARY INFORMATION:

I. Background

This final rule implements the conclusions of the Medicated Feed Task Force of 1978 that were announced in the **Federal Register** of December 15, 1978 (48 FR 58634). The Task Force concluded that the existing program is the result of piecemeal policies affecting animal drugs resulting from application of the Federal Food, Drug, and Cosmetic Act (the act) enacted in 1938, as it evolved before and after the passage of the Animal Drug Amendments of 1968 (the amendments) (Pub. L. 90-399). Even after passage of the amendments, the medicated feed program continued to grow in a haphazard way. Exemptions from section 512(m) of the act (21 U.S.C. 360b(m)) resulted in feeds containing some carcinogenic drugs being exempt from the requirement for an approved medicated feed application, whereas feeds containing some drugs with wide margins of safety were subject to only partial or no exemptions. This anomalous situation was compounded by inconsistencies in the exemptions among drugs and among uses of individual drugs. For example, a new animal drug in feed may be exempted for one species but not others, making the regulatory program confusing and difficult to enforce because drugs marketed under the exempted use may be diverted to a nonexempted use.

The Task Force concluded that the current medicated feed program lacks uniformity. It recommended, among other things, that regulatory control of feeds containing new animal drugs that pose a potential risk to human beings from residues be strengthened, and that control of feeds containing drugs that pose little risk to human beings be reduced, thereby better utilizing the limited resources of the agency. Requirements for approved medicated feed applications should be based upon the degree of risk from use of the drug, either in terms of the toxicity of the drug itself or the concentration of the drug.

In the **Federal Register** of January 8, 1981 (46 FR 2456), FDA addressed the comments received on the Task Force report and proposed regulations based on the Task Force's recommendations. Approximately 570 comments were received on the proposal. The comments were from the animal drug industry, commercial feed manufacturers, on-farm mixers (mixer-feeders), veterinary practitioners, and Federal and State agencies. Following an evaluation of these comments, the agency concluded that additional changes should be made in the regulations to further simplify them without compromising the central focus of the Task Force. The agency concluded that the drugs used in animal feeds should be placed into categories based on their likelihood of producing unsafe residues in the edible products of treated animals. The agency's responses to the comments were discussed in detail in the tentative final rule published in the **Federal Register** of July 29, 1983 (48 FR 34574).

In the tentative final rule, the agency made two significant changes from the 1981 proposal. First, the agency reduced the number of drug categories from three to two. Second, the agency decided to exempt from the requirement of an approved medicated feed application the manufacture of Type B and Type C medicated feeds from Type A medicated articles listed in Category I. Those medicated feed manufacturers using solely Type A medicated articles in Category I would not need to register under section 510(b) of the act (21 U.S.C. 360(b)). The agency also made a number of minor editorial and technical revisions.

II. Provisions of This Final Rule

A. Drug Categories

The two drug categories defined in the July 29, 1983 tentative final rule are retained.

Category I consists of those drugs for which no withdrawal period is required at the lowest use level for each species for which they are approved. Drugs in this category include: aklomide, ammonium chloride, amprolium with ethopabate, bacitracin (from bacitracin methylene disalicylate or zinc bacitracin), bambermycins, buquinolate, chlortetracyline, coumaphos, decoquinate, dichlorvos, erythromycin (thiocyanate salt), fenbendazole, iodinated casein, monensin, nequinate, niclosamide, nystatin, oleandomycin, oxytetracycline, penicillin, penicillin with streptomycin, poloxalene, salinomycin, tylosin, virginiamycin, and zoalene.

Category II consists of those drugs: (1) For which a withdrawal period is required at the lowest use level for at least one species for which they are approved; or (2) that are regulated on a "no-residue" basis or with a "zero" tolerance because of a carcinogenic concern, regardless of whether a withdrawal period is required.

Drugs in this category include: Amprolium, arsanilate sodium, arsanilic acid, butynorate, carbadox, carbarsone, clopidol, dimetridazole, famphur, furazolidone, halofuginone hydrobromide, hygromycin B, ipronidazole, lasalocid, levamisole, lincomycin, melengestrol acetate, morantel tartrate, neomycin, nicarbazin, nitarsone, nitrofurazone, nitromide-sulfanitran, novobiocin, phenothiazine, piperazine, pyrantel tartrate, robenidine, ronnel, roxarsone, sulfadimethoxine-ormetoprim, sulfaethoxypyridazine, sulfamerazine, sulfamethazine, sulfanitran with aklomide, sulfaquinoxaline, sulfathiazole, and thiabendazole.

B. Definitions

As stated in the 1983 tentative final rule, the definitions clearly distinguish between those medicated feed articles that constitute new animal drugs subject to approval under section 512(c) of the act, and animal feeds containing new animal drugs subject to approval under section 512(m)(2) of the act. The definitions also distinguish between the kinds of medicated feeds subject to approval under section 512(m) of the act. Type A medicated articles will be regulated as new animal drugs. Type B and Type C medicated feeds will be

regulated as animal feeds containing new animal drugs.

Type A medicated article. The definition in the 1983 tentative final rule is retained without change. A Type A medicated article is a standardized product intended for use in the manufacture of a medicated animal feed. It is limited to use solely in accordance with its published regulation and contains one or more new animal drugs for use in the manufacture of a medicated animal feed. It is produced from a drug component or another Type A medicated article, and is subject to the requirements for approval under section 512(b) of the act. It usually includes a diluent (carrier substance), and must be further mixed to produce either another Type A medicated article, or a Type B or Type C medicated feed.

Type B medicated feed. The definition in the 1983 tentative final rule is retained without change. A Type B medicated feed is an animal feed containing a new animal drug and that is intended solely for manufacture into another Type B or a Type C medicated feed. It is produced from a drug component, a Type A medicated article, or another Type B medicated feed. If it is produced from a drug component, it must be the subject of an application approved under section 512(c) of the act. If it is produced from a Category II, Type A article, it must be the subject of an approval under section 512(m) of the act. A Type B medicated feed conforms to the definition of animal feed in section 201(x) of the act (21 U.S.C. 321(x)). Before being fed to animals, however, it has to be substantially diluted with one or more nutrients to produce a Type C medicated feed.

For the purpose of defining the dividing line between a Type A medicated article and a Type B medicated feed, the criteria of the tentative final rule are retained. Thus, the maximum permitted concentration of drug in a Type B medicated feed is 200 times the highest continuous use level for Category I drugs, and 100 times the highest continuous use level for Category II drugs. At approved levels above those concentrations, the product is a Type A medicated article. The "highest continuous use level" means the highest dosage at which a drug is approved for continuous use (14 days or more) or, if a drug is not approved for continuous use, the highest level used for disease prevention or control. If a drug is approved for multiple species at different use levels, the highest level would govern under this definition.

Type C medicated feed. In response to comments, FDA has revised the definition of the tentative final rule to conform to the preamble of the tentative final rule. A Type C medicated feed is a medicated animal feed containing a new animal drug that may be offered as a complete feed, or when permitted under Subchapter E of Title 21 of the Code of Federal Regulations, it may be fed top dressed or offered free-choice in conjunction with other animal feed to supplement the animals' total daily ration. It is produced by substantially diluting a drug component, Type A medicated article, or Type B or Type C medicated feed with feed ingredients to a level of use that is covered by an approved new animal drug application (NADA). If produced from a drug component, it must be the subject of an application approval under section 512(c) of the act. If produced from a Category II, Type A medicated article, it must be the subject of an approval under section 512(m) of the act.

Type A medicated articles and Type B and Type C medicated feeds have different requirements for approval, manufacture, and registration. These requirements are described in the following sections.

C. New Animal Drug Applications

All Type A medicated articles are new animal drugs. Their manufacture requires an approved NADA under section 512(c) of the act and § 514.105(a) of the regulations (21 CFR 514.105(a)). Also, the manufacture of Type B or Type C medicated feeds from a drug component requires an approved NADA under section 512(c) of the act. This final rule does not change those existing requirements.

D. Medicated Feed Applications

No changes in the 1983 tentative final rule were made. Therefore, the submission of a medicated feed application for the manufacture of a Type B or Type C medicated feed from a Type A medicated article will not be required for Category I drugs. A medicated feed application also will not be required for the manufacture of a Type B or Type C medicated feed from a Type B, Category I medicated feed.

For Category II drugs, the final rule waives the requirements of section 512(m) of the act for submission of a medicated feed application for the manufacture of a Type B or Type C medicated feed using a Type B medicated feed. The use of a Category II, Type A medicated article in manufacturing a Type B or Type C medicated feed must be the subject of an approved medicated feed application.

E. Current Good Manufacturing Practice (CGMP)

The manufacture of a Type A medicated article is subject to the existing CGMP regulations in Part 226 [21 CFR Part 226] covering the manufacture of medicated premixes. The manufacture of a Category II, Type B or Type C medicated feed from a Type A medicated article will be subject to existing §§ 225.1 through 225.115 (21 CFR 225.1 through 225.115). These sections provide CGMP requirements for the production of medicated feeds from Type A medicated articles when an approved medicated feed application is required. New §§ 225.120 through 225.202 provide CGMP regulations for the manufacture of medicated feeds for which the requirements of section 512(m) of the act have been waived.

F. Registration

Under the authority of section 510(g)(4) of the act, the agency will exempt from registration under section 510(b) of the act those firms manufacturing medicated feeds for which the requirements for submission and approval of medicated feed applications have been waived. Thus, registration will be required only for all firms manufacturing medicated feeds from Category II, Type A articles.

G. Summary of Requirements

The following table summarizes the major provisions of this final rule and related requirements:

CATEGORY I DRUGS

Starting drug product	Medicated product manufactured	FDA form	FDA registration	Good manufacturing practice regulations (Title 21)	Biennial GMP inspections
Drug component	Type A, B, or C	356 (new animal drug application).	Yes	Part 226	Yes.
Type A	Type A	356 (new animal drug application.	Yes	Part 226	Yes.
Type A	Type B or C	None	No	§§ 225.120-225.202	No.
Type B	Type B or C	None	No	§§ 225.120-225.202	No.

CATEGORY II DRUGS

Starting drug product	Medicated product manufactured	FDA form	FDA registration	Good manufacturing practice regulations (Title 21)	Biennial GMP inspections
Drug component	Type A, B, or C	356 (new animal drug application).	Yes	Part 226	Yes.
Type A	Type A	356 (new animal drug application).	Yes	Part 226	Yes.
Type A	Type B or C	1900 (medicated feed application).	Yes	§§ 225.10–225.115	Yes.
Type B	Type B or C	None	No	§§ 225.120–225.202	No.

III. Comments on the July 29, 1983 Tentative Final Rule

Approximately 93 comments on the tentative final rule were received. A number of the comments addressed the same issues as those submitted in response to the 1981 proposal; FDA responded to those comments in depth in the preamble of the tentative final rule. Those responses, which continue to reflect the position of the agency and which will not be repeated here, relate to the following:

1. Authority to revoke waivers from section 512(m) of the act through rulemaking (48 FR 34577).

2. Regulation of medicated feeds based upon intended use, or species for which the medicated feed is labeled, rather than on drug concentration (48 FR 34577).

3. Basing an exemption on no withdrawal period at the lowest continuous use level (48 FR 34578).

4. Including reference to the Association of American Feed Control Officials' (AAFCO) "Official Publication" as an official source for defining nutrient ingredients (48 FR 34578).

5. Including a drug component ("bulk drug") in the definition of a "Type A medicated article" (48 FR 34578).

6. Permitting the use of any approved source of a Type A medicated article in a medicated feed application (48 FR 34579).

7. Elimination of medicated feed applications as obsolete and duplicative, on the basis that registration and conformity with current good manufacturing practices should be adequate for regulatory purposes (48 FR 34577).

8. "New drug" status of products in § 558.20 (21 CFR 558.20) (48 FR 34580).

A. Criteria for Exemption From Section 512(m) of the Act

1. Numerous comments requested that the agency not exempt Category I, Type A medicated articles. The comments stated that requiring medicated feed applications for the use of all Type A articles, both Category I and Category II, would provide a realistic scheme of control.

The basis for reducing the regulatory requirements was discussed in the preamble to the tentative final rule. The agency stated that it believes that it is highly unlikely that the use of these drugs in feed would result in unsafe drug residues in the edible products of food-producing animals. Because the agency wants to concentrate its efforts in the area of potential unsafe residues in food derived from treated animals, it is essential that the regulatory burden be reduced in areas where such potential is minimal.

2. A number of comments stated that it would be inequitable to require an NADA for the manufacture of a Type A medicated article from a Type A medicated article for Category I drugs in view of the fact that manufacture of a Type B or Type C medicated feed requires no approved application for use of a Type A medicated article.

A Type A medicated article is itself a new animal drug as defined in section 201(w) of the act and as such is required to be the subject of an approved application submitted under section 512(b) of the act. Because such articles contain high concentrations of new animal drugs, their manufacture should be subject to premarketing clearance.

Alternatively, the comments requested that the maximum drug level of Category I, Type B medicated feed be increased from 200 to 400 times the highest continuous use level and that the use of Category I, Type A medicated articles require an approved medicated feed application.

The agency has considered the request that the maximum level of a Type B medicated feed be raised to 400 times and found that to do so would in a number of instances cause the maximum level of the drug in Type B medicated feed to exceed the levels provided for in the approved NADA for a Type A medicated article. Under these circumstances, it would be illogical to increase the maximum level permitted in a Type B medicated feed.

3. A number of comments requested that the current waivers from the requirement of a medicated feed application be retained and that the current waiver criteria be incorporated into the category definitions.

The agency does not agree. The inconsistencies in the current program have resulted in part from the use of outdated waiver provisions. The agency has considered the existing waiver criteria in developing this final rule.

4. Seven comments requested that exemption granted under § 558.15 be retained under the new program.

The tentative final rule published July 29, 1983, inadvertently failed to include the exemption proviso in § 558.15(g). A correction document published on November 1, 1983 (48 FR 50358) reinserted the proviso. As corrected, § 558.15 is essentially unchanged and the exemption continues as before.

5. Four comments suggested that the proposed amendment to § 207.10(f) (21 CFR 207.10(f)) be reworded to conform with the exemption criteria.

The agency agrees and has made the requested change.

6. Two comments stated that there should be no exemption from the requirement of an approved medicated feed application for use of Category II, Type B medicated feeds.

The agency continues to believe that the Category II, Type B medicated feeds should be exempted from the requirement of an approved medicated feed application. As discussed in the preamble to the tentative final rule (48 FR 34577), the agency believes that "[t]he more concentrated the source of the drug, the greater would be the impact of error in manufacturing." The agency previously concluded that the likelihood of producing unsafe residues from mixing errors when a Category II, Type B medicated feed is used is low enough to justify the exemption. The comments presented no new information to cause the agency to reverse its previous decision.

7. Two comments questioned the rationale for placing penicillin and tetracycline in Category I considering the agency's announced concern about their use in feed at subtherapeutic levels.

Penicillin and the tetracyclines are placed in Category I because of the unlikelihood of their use in animal feeds causing unsafe drug residues in edible products of animal origin. As discussed above, the agency believes that drugs with a greater potential for causing unsafe drug residues in human food (Category II) should be subject to more stringent regulatory and manufacturing controls than drugs with less potential

for causing unsafe residues in human food (Category I).

In comparison, the agency's concern with the use of penicillin and the subtherapeutic use of the tetracyclines in animal feeds is unrelated to the potential of a drug to result in unsafe drug residues in human food from its use in medicated feeds. In 1977, FDA proposed to prohibit the use of penicillin in animal feeds and to restrict the subtherapeutic animal feed use of the tetracyclines. FDA proposed to take that action because it believed that, among other things, the continued feeding of penicillin and the tetracyclines to animal results in an increase of bacterial strains that are resistant to one or more antimicrobial drugs, and that these antibiotic-resistant organisms may be transferred to humans or the antibiotic resistance will be transferred to another organism that causes disease. The end result is a situation where the antibiotic resistance interferes with the treatment of infectious diseases. Accordingly, the possible development of drug-resistant bacteria is a totally separate issue that is procedurally unrelated to this final rule.

Subsequently, congressional committee reports stated that FDA should hold the matter in abeyance pending the final results from ongoing studies. These studies, to assess further whether these uses of penicillin and the tetracyclines have a potentially significant impact on human health, have now been completed and the agency is currently reviewing the findings. A recently published study by the Centers for Disease Control in *The New England Journal of Medicine*, September 6, 1984, Vol. 311, pp. 617–622, reported that antimicrobial-resistant organisms of animal origin can cause serious human illness. FDA is considering the results of that study, along with other information, in deciding what action to take with respect to these uses of penicillin and the tetracyclines in animal feeds.

Should the agency decide to withdraw approval for these uses of penicillin and the tetracyclines in animal feeds, promulgation of this final rule will have no effect on that action. The placement of a drug in either Category I or II does not affect that drug's potential for development of drug-resistant bacterial. In addition, this final rule will not make withdrawal of approval more difficult by increasing the quantity of those drugs sold for use in feed. Penicillin and the tetracyclines currently do not require an approved medicated feed application and none will be required by this final rule.

8. Six comments were concerned about the safety of imported meat. They stated that, because foreign feed manufacturers and producers are not subject to FDA regulations, domestic feed manufacturers and producers are the subject of unfair discrimination.

The agency does not agree that it is practicing unfair discrimination. Under the act, FDA does not have the authority to inspect foreign medicated feed manufacturers that produce feed for consumption by animals whose edible products are imported into this country. In contrast, Congress mandated that domestic feed manufacturers comply with CGMP regulations, and that they be routinely inspected to determine compliance.

B. Definitions

9. Two comments requested that the term "carrier" be deleted from the definition of a Type A medicated article and the term "nutrient" substituted to permit greater latitude in optional ingredients. The comments also requested deletion of the word "other" from § 558.3(b)(1).

The agency does not agree with the first suggestion. The primary purpose of a Type A medicated articles is to provide a source of the drug for use in feed. Deleting the word "carrier" and replacing it with the word "nutrient" would provide an unwarranted emphasis on its nutrient content. The drug carriers used by the manufacturer can include items known to be sources of nutrition. The agency agrees that the word "other" should be deleted, and, accordingly, has revised § 558.3(b)(1).

10. One comment requested that the manufacture of a Type B medicated feed directly from a drug component be permitted rather than first having to produce a Type A medicated article.

The use of a drug component for the manufacture of Type B or Type C medicated feeds is permitted so long as an NADA providing for such manufacture has been approved under section 512(c) of the act. FDA has revised § 558.3(b) to provide for this manufacturing procedure.

11. Two comments stated that § 558.4 should define the concentrations of all drugs that may be used in combination as Type B medicated feeds.

Section 558.4 lists only those drugs and drug combinations that are approved for marketing as Type A medicated articles. Approved Type B combinations are identified in the appropriate regulations for the drugs. Only those specifically listed in the regulations as permitted combinations in Type B medicated feed are permitted.

C. Current Good Manufacturing Practice

12. Five comments stated that the requirement in § 225.58 *Laboratory controls*, for retention of results of assays of State feed control officials to fulfill periodic assay requirements, would be prejudicial because only "out of tolerance" results are reported to the firm.

The AAFCO Uniform State Feed Bill, which has been adopted by about half the States, requires that: "The results of all analyses of official samples shall be forwarded by the *DIRECTOR* to the person named on the label and to the purchaser" of the sampled product. In addition, almost all States that have not adopted the AAFCO Uniform State Feed Bill have similar provisions in their laws. Accordingly, State feed control agency officials report all assay results for tested constituents to the person named on the label and the purchaser of the sampled product. The official in some cases does not report the actual laboratory results but indicates that the product meets label guarantees by stating "Pass," "OK," etc. Actual laboratory results are reported on products that do not meet label guarantees. Even though the actual results may not be returned, notification that a product meets guarantees is sufficient to meet the assay requirement of § 225.58. Under these circumstances, the agency does not view this requirement as prejudicial.

13. Several comments stated that the 5 percent assay requirements of § 225.58(b)(2) as proposed in 1981 should be retained.

As discussed in the preamble to the tentative final rule, following an evaluation of the nearly 50 comments addressing this issue, the agency decided that the existing assay requirements would be retained for all products requiring an approved medicated feed application. This consists of at least three representative samples of medicated feed for each drug or drug combination to be assayed annually.

14. Several comments suggested that proposed § 225.135 *Work areas* be changed by adding the words "and storage" to the section.

The agency agrees and has made the revision.

15. Seven comments requested that § 225.142 *Components* be revised because of confusion arising from the use of undefined and imprecise terminology, and an apparent reduction in inventory requirements.

The agency has revised § 225.142 to provide for proper control of incoming

Type A and Type B medicated products. Revised § 225.142 requires an accountability system to assure proper inventory control of the product. The type of system to be used is the choice of the user. The inventory system should be one that provides a record of receipt and eventual use or disposal of the products.

16. Eight comments opposed the language in § 225.180 *Labeling* that would provide cross-references to various parts of the Code of Federal Regulations in which labeling requirements are specified.

The agency has revised § 225.180 to delete reference to specific labeling requirements. Section 225.180 as revised focuses on maintaining the integrity of labeling control and assurance that medicated feeds are appropriately labeled.

D. Applications

17. Several comments requested that § 514.1(b) be revised to provide an appropriate cross-reference to § 501.110 (21 CFR 501.110), incorporating the use of collective names. The comments said that the tentative final rule appeared to revoke the use of collective names for nonmedicated feeds.

The agency agrees and has made the suggested change.

18. Several comments requested that § 514.1[b][5][viii][*a*] be clarified to indicate that the method of analysis required applied only to the requested dosage form and not all other possibilities.

The agency agrees and has made the change. In addition, the agency on its own initiatives is revising the analytical method requirement section of the new animal drug application to be consistent with the final rule. The revision provides for references to pharmaceutical dosage products, Type A, Type B, or Type C products. Also, the agency on its own initiative is revising the stability requirement section of the new animal drug application to reflect requirements of the final rule. Section 211.127 (21 CFR 211.137) under CGMP requirements for pharmaceutical dosage forms requires expiration dates on these products. The agency has revised the stability section of the new animal drug application to provide for an expiration date for finished pharmaceutical dosage forms and Type A medicated articles. Section 211.16 requires stability testing for pharmaceutical dosage forms. Section 226.58 requires expiration dates and stability testing for Type A medicated articles. Stability testing of proposed Type B and Type C medicated feeds will be required as part of the new animal drug application for an animal drug.

19. Several comments suggested that all approved medicated feed applications (Form FD 1800) be rescinded and replaced with a new Form FDA 1900.

An approved medicated feed application is a valid license to manufacture a specific medicated feed. FDA may take action to withdraw approval only by following the procedure specified in section 512(m)(4)(B) of the act, and only for the reasons specified in that section. Over the years thousands of applications have been approved for the manufacture of medicated feeds. Any benefit that might be gained by replacing otherwise valid Forms FD 1800 with new Forms FDA 1900 would be far outweighed by the burden imposed on both the public and the agency.

20. Some comments requested that new Form FDA 1900 be made available for comment. Other comments requested that § 514.2 be revised to conform to new Form FDA 1900. One comment submitted a suggested form.

Revised § 514.2 includes all the information submission requirements of Form FDA 1900 and was available for comment. The form suggested by the comment is incomplete because it fails to include all of the elements provided in § 514.2.

21. One comment requested that the words "drug(s) or" in § 514.2(b)(4) be deleted because Form FDA 1900 is only intended for use of a Type A medicated article.

The agency agrees and has made the change.

D. Miscellaneous Comments

22. Ten comments noted certain discrepancies in the permitted analytical variations of Type B medicated feeds and stated that in some instances the percentage of variation appeared to be too broad for the concentration of the Type B medicated feed.

After careful consideration, the agency has decided to include the tables used in the 1981 proposal. These tables, which were not part of the 1983 tentative final rule, have been revised to take into account subsequent revisions. The new tables in § 558.4(d) provide for Type A assay limits, Type B maximum use levels (100X or 200X), and Type B and Type C assay limits.

The agency included the Type A assay limits because it believes that this information will be of value to users of medicated articles. The values were not listed in the 1983 tentative final rule, and were incorrectly identified in the 1981 proposed rule as Type B limits. These Type A limits are listed in current Part 558 regulations under the various approved new animal drugs.

The assay limit values listed under Type B and Type C in the final rule reflect the values approved for Type C medicated feeds. Many intermediate premix products (classified as Type B products) also have the same approved limits.

The preamble to the 1981 proposal invited interested persons to submit alternate levels if supported by appropriate analytical data. Many comments were received, but no alternate levels were suggested.

The agency has carefully reviewed the tables and has decided that until sufficient data are received from applicants or other sources, e.g., AAFCO or State government laboratories, the assay limits stated will be used for enforcing potency requirements.

23. A comment from a State agency pointed out that if a Type A medicated article which assays at the lowest value limit is used to manufacture a Type B or Type C medicated feed, the resulting product could be in violation. This occurs due to the wide spread of assay limits between Type A medicated articles and Type B and Type C medicated feeds.

To overcome this possibility, the agency studied the differences between all Type A and Type B and Type C limits. Wherever there was a difference between lower Type A and lower Type C limits of greater than 15 percent, the agency has added a set of intermediate limits for the Type B medicated feed. As an example, bambermycins has premix limits of 90 to 110 percent and finished feed limits of 70 to 130 percent (current § 558.95(c)). Should a Type B medicated feed, which is a finished feed, assaying at the lower limit be used to produce a Type C medicated feed, the latter could be violative. Because of this situation, the agency has established in revised § 558.4(d) intermediate assay limits for a bambermycins Type B feed of 80 to 120 percent. These Type B limits are well within the ranges established for the various Type A medicated articles and Type C medicated feeds and thus can be analyzed by the current methods. FDA will use these limits until applicants can provide data to substantiate other limits. The agency has added a note at the bottom of the tables in § 558.4(d) to describe the need for these additional limits.

24. One comment stated that nonmedicated feeds should be subject to assay requirements to check for cross-contamination.

The agency does not consider this to be a reasonable requirement because of

the number of assays that would be required to analyze each batch of nonmedicated feed for all possible sources for cross-contamination. Should circumstances so require, the agency will analyze feeds, medicated or nonmedicated, for cross-contamination.

25. Two comments requested that § 514.112 be revised to include reference to § 510.515 as a basis for approval.

The agency agrees and has made the change.

26. One comment stated that FDA provided no rationale for the elimination of Category III (the category containing those drugs regulated on a "no-residue" basis or with a "zero" tolerance because of a carcinogenic concern) and urged that FDA retain the 1981 proposal's designation of Category III.

To simplify the program, FDA chose to combine into a single category those drugs previously assigned to Category II and Category III. The definition of Category II now includes all drugs with a withdrawal period as well as those drugs regulated on a "no-residue" basis or with a "zero" tolerance because of a carcinogenic concern. This action will not in any way diminish protection of the public health, but will make the program less complex and its administration more cost-effective.

FDA based this decision on the fact that all of the drugs previously assigned to Category III have withdrawal periods. Because errors associated with the preparation of medicated feed containing a former Category II drug or a former Category III drug would be equally likely to result in animals with above-tolerance residues, the agency concluded that there is no need for a separate Category III.

FDA expanded the 1981 proposal's definition of Category II to ensure that a drug regulated as a carcinogen on a "no-residue" basis in the future would not be assigned to Category I. This action ensures that any carcinogenic new animal drug used in medicated feed will be subject to appropriate controls to protect the public health.

27. One comment stated that the program lacks a scientific rationale and that the agency has failed to make the scientific basis for the proposal available for public comment.

The final rule is based on the agency's conclusion that the entire medicated feeds program should be revised to emphasize regulatory control over those feeds containing new animal drugs that pose the greatest likelihood of producing unsafe residues in the edible products of treated animals. As discussed in the preamble to the tentative final rule, the agency has concluded that the existence or nonexistence of a withdrawal period is a valid basis for making that determination. Although FDA acknowledges that other approaches are possible, FDA has concluded as the expert agency charged with enforcement of the act, that the regulatory scheme in this final rule is the appropriate way to enforce the act's medicated feed provisions.

28. One comment provided data intended to show that the concentration of drug in a product that is intended for further dilution has no significant impact on the accuracy of the concentration of the drug in the final feed.

While the data submitted appear to be valid, the agency does not believe that the data are directly applicable to actual feed manufacturing situations. These data were generated at a research facility using very controlled procedures and equipment that are not typically found on farms or at commercial mills. Therefore, as discussed in paragraph 6 above, the agency continues to believe that the dilution factor is a valid basis on which to determine the safety of a drug used in feed.

29. One comment presented information intended to show that mixer-feeders are inherently safer than commercial feed mills and thus should be exempt from the registration and medicated feed application requirements of the act. The comment contended that inadequate cleaning of equipment was a significant cause of violative residues, and that mixer-feeders are inherently safer than commercial feed mills because each mixer-feeder mixes feed for only one species of animal, thereby eliminating the possibility of cross-contamination with drugs that are not approved for use in that species.

The agency agrees that inadequate cleaning of equipment is a prominent cause of violative residues, as shown by FDA investigations of U.S. Department of Agriculture-reported residue violations in 1977 and 1978. These investigations did not establish, however, that on-the-farm feed-mixing operations are safer than commercial mills. Rather, failure to clean mixing equipment adequately was considered to be a major cause of the residue in a majority of cases involving both mixer-feeders and commercial feed mills. Likewise, the sulfonamide tissue residue problem mentioned by the comment is created by both mixer-feeders and commercial mills, as both types of operations have been found to be contributing in a material way to the problem. Therefore, the agency concludes that exempting mixer-feeders to concentrate its limited resources on commercial mills would not be in the interest of public health.

30. One comment contended that the proposal is contrary to FDA's interpretation of the act concerning unavoidable contamination, and cited sections 306, 406, and 512 of the act (21 U.S.C. 336, 346, and 360b), and 21 CFR 109.7 and 509.7 of the regulations. The comment stated that a substance cannot be unavoidable under the act unless the CGMP regulations are "technology-forcing" so as to provide an incentive for technological improvement.

FDA does not agree that CGMP regulations should be "technology-forcing." CGMP regulations must be flexible because they are applicable to firms that differ widely in size, facilities and equipment used, and products produced. CGMP regulations are designed to be minimum requirements that can reasonably be met by all members of the industry. Although FDA encourages the development and use of improved technology, the agency does not consider the CGMP regulations to be an appropriate mechanism for attaining that goal.

31. One comment stated that FDA had not discussed the legal status of medicated feeds that are contaminated during the mixing process with unintended drugs, and cited section 406 of the act.

FDA regulates the manufacture of medicated feeds, including any contamination by unintended drugs, by means of the CGMP regulations. Because section 406 of the act pertains, in relevant part, to poisonous or deleterious substances added to food that cannot be avoided by good manufacturing practice, it is not applicable to this rulemaking.

32. Three comments stated that the agency had failed to consider adequately the economic consequences of implementation of the program.

An assessment of the economic impact of the program was discussed in the preamble to the 1983 tentative final rule. Copies of the assessment are on file with the Dockets Management Branch for public examination. None of the comments submitted disputed the data used by the agency.

33. Several comments requested changes in the maximum Type B levels for chlortetracycline, dichlorvos, and morantel tartrate. Also, one comment noted that amprolium has a withdrawal time at its lowest approved use in calves and therefore should be a Category II drug.

The agency agrees with the comments and has made the necessary changes. Several other individual drug changes

were made in §§ 558.4 and 558.20. Ethylenediamine dihydriodide was deleted because it is not the subject of an approved NADA or an interim regulation. Fenbendazole was recently approved for use in feed. The maximum Type B level for monensin was increased based upon a new approved use level, and the drug is moved to Category I based upon deletion of its withdrawal period as published in the Federal Register of August 12, 1985 (50 FR 32394). The maximum Type B levels for sulfamethazine and sulfathiazole were changed to eliminate errors in the tentative final rule.

34. Several comments raised concerns about the tentative final rule's 200 grams per ton maximum Type B level for melengestrol acetate. The drug's NADA sponsor pointed out that the 200 grams per ton figure will conflict with the drug's conditions of approval.

The agency agrees. Therefore, the maximum Type B level is 2 grams per ton (0.00022 percent), which is the level currently exempted.

IV. Implementation Procedures

A program alteration of the magnitude presented in this final rule cannot be immediately placed into effect. For example, it may be necessary for existing stocks to be depleted, decisions of management to be made, medicated feed applications to be submitted, and inspections to be completed. Therefore, these regulations shall become effective May 2, 1986, except that the provisions of 21 CFR 558.4(d), Category II, requiring the submission and approval of medicated feed applications for products formerly exempt from such requirement shall become effective March 3, 1987.

As an example of the effect of this program, two drug examples are presented. The first example is a drug (salinomycin) which was not previously exempt but which is exempt under the new program. The second example covers a previously exempt drug (roxarsone) which becomes nonexempt under the new program.

1. *Salinomycin.* Salinomycin, a recently approved poultry drug, now requires an approved medicated feed application to cover its use in the manufacture of medicated feed. Because this drug has no withdrawal period, after May 2, 1986, the use of salinomycin Type A medicated articles in the manufacture of Type B or Type C medicated feeds will no longer require an approved application (Form FDA 1900). Previously approved applications for this drug will be retired. FDA will return to the applicant those applications currently under review for salinomycin with a letter explaining its action.

2. *Roxarsone.* The agency has not required approved medicated feed applications for roxarsone (§ 558.530(c)). However, with its placement in Category II, because the drug requires a withdrawal period, the use of Type A medicated articles containing roxarsone in the manufacture of Type B or Type C medicated feeds will require approved medicated feed applications. Should a medicated feed manufacturer decide to use the roxarsone Type A medicated article, then the following will need to be accomplished before March 3, 1987: (1) Register with the agency as a drug manufacturer (if not registered previously) using Form FDA 2656, which can be obtained from the Food and Drug Administration, Center for Drugs and Biologics, Drug Listing Staff (HFN–315), 5600 Fishers Lane, Rockville, MD 20857; and (2) obtain approved medicated feed applications. Because FDA has 90 days to review these applications, the agency recommends that applications for roxarsone and other formerly exempt drugs be submitted by December 3, 1986. In fact, the agency requests that firms submit their applications for these drugs as soon as possible following the effective date of these regulations to facilitate an orderly transition to the new program.

In the preamble to the 1981 proposal, the agency announced a modified directed inspection program. The program was intended to permit more efficient use of agency resources in determining whether firms manufacturing medicated feed are in compliance with key CGMP regulations. The proposal also indicated that directed inspections would continue until a final rule was published. Following publication of this final rule, the agency will revise its medicated feed compliance program to direct the inspectors (FDA or State) to determine compliance with the full range of CGMP regulations. The depth of an inspection will depend on such factors as previous inspectional history and current inspectional findings.

Firms may apply to FDA for approval under section 512(m) of the act using the new Form FDA 1900. (Copies of this form may be obtained from the Public Health Service Forms and Publication Distribution Center, 12100 Parklawn Dr., Rockville, MD 20857.) Firms not in compliance with the CGMP regulations will have their applications denied. FDA intends to schedule and conduct preapproval inspection before final agency action on applications from firms with no inspectional history.

The agency also indicated in the preamble to the 1981 proposal its intention to consider whether further administrative and regulatory action should be initiated against firms that failed the directed inspections. After careful consideration, the agency has decided to propose withdrawal of their medicated feed applications (Form FDA 1800) for Category II drugs through formal procedures under section 512(m)(4) of the act following publication of this final rule. Firms that desire to continue using the nonexempt drug products may request reinspection after they have corrected the deficiencies in their operations.

Because the existing approved medicated feed applications (Form FDA 1800) constitute licenses, they cannot be "canceled" as recommended by the Medicated Feed Task Force. As indicated above, the agency will initiate action to withdraw applications for Category II drugs, where the firm has been found not to be in compliance with CGMP regulations. Because the use of Category I, Type A medicated articles in the manufacture of Type B or Type C medicated feeds no longer requires an approved application, these applications are moot. Therefore, the agency will retire them administratively.

V. Economic Impact

The recategorization of many drugs used in animal feeds will have small but differing cost impacts on the various sectors of the industry. For each of the industry sectors analyzed, the costs imposed by this revision of the proposed medicated feed program are well below the thresholds that signify a major rule according to the criteria specified in Executive Order 12291. Thus, the agency has determined that these final regulations are not a major rule.

Most small livestock and poultry farms do not manufacture the medicated feeds that they use and therefore would not be affected. Thus, the changes will affect larger farms, and even there the impacts will be small. A large cattle feedlot or integrated chicken farm is estimated to save an average of about $585 annually (a total of $400,000) because the drugs most commonly used would be subject to less regulation. An average large hog producer is estimated to have added costs of about $14 (a total of $427,000), if the most commonly used drugs continue their popularity. FDA was unable to estimate the direction of the impact on turkey producers, but expects the total impact to be smaller than either of the amounts cited above.

The agency expects that there may be some shifting among drugs used by

livestock producers (particularly the hog producers) if it becomes economically advantageous to substitute alternative drugs for those currently used. While such shifts were not projected, they would serve to mitigate any added costs.

In the nonfarm sector, an average commercial feed mill should experience savings of about $49 (a total of $470,000) under the revised program. Further, as many as 1,150 commercial feed mills may choose to use only those drugs for which medicated feed applications would not be required and would thereby voluntarily avoid further regulation (a savings of $630,000). No significant net impact is expected for animal drug manufacturers, although some shifts in market shares are possible.

For each of the industry sectors analyzed, any costs imposed by this revision of the medicated feed program would be well below the thresholds that signify a major rule according to the criteria specified in Executive Order 12291. Thus, the agency has determined that the final rule does not constitute a major rule under that Order.

FDA has considered the effect that this final rule will have on small entities, including small businesses, and certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will result.

A threshold assessment supporting these conclusions is available for review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Paperwork Reduction Act of 1980

The information collection requirements contained in §§ 225.202, 514.1(b)(3)(v)(*a*) and (*b*) and (5)(vii)(*a*), and 514.2(a) and (b) were submitted to the Office of Management and Budget (OMB) with the tentative final rule as required by section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). As a result of its review, OMB approved these requirements during the proposed rulemaking stage and assigned control number 0910–0163. FDA has incorporated these requirements into the appropriate Code of Federal Regulations sections bearing OMB control numbers as shown in the table below:

Section	OMB Control No.
225.202	0910–0152
514.1(b)(3)(v) (*a*) and (*b*) and (5)(vii)(*a*)	0910–0032
514.2(a) and (b)	0910–0011

List of Subjects

21 CFR Part 207

Drug listing, Drug registration.

21 CFR Part 210

Drugs, Packaging and containers.

21 CFR Part 225

Animal drugs, Animal feeds, Labeling, Packaging and containers.

21 CFR Part 226

Animal feed premixes, Labeling, Packaging and containers.

21 CFR Part 510

Administrative practice and procedure; Animal drugs, Labeling, Reporting requirements.

21 CFR Part 514

Administrative practice and procedure, Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act, Parts 207, 210, 225, 226, 510, 514, and 558 are amended as follows:

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

1. The authority citation for 21 CFR Part 207 is revised to read as follows:

Authority: Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262); 21 CFR 5.10, 5.11.

2. Part 207 is amended in § 207.10 by revising paragraph (f), to read as follows:

§ 207.10 Exemptions for domestic establishments.

* * * * *

(f) Persons who manufacture Type B or Type C medicated feed using Category I, Type A medicated articles; Category I, Type B medicated feeds; and/or Category II, Type B medicated feeds, as defined in § 558.3 of this chapter, as drug sources.

* * * * *

PART 210—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PROCESSING, PACKING, OR HOLDING OF DRUGS; GENERAL

3. The authority citation for 21 CFR Part 210 is revised to read as follows:

Authority: Secs. 501, 701, 52 Stat. 1049–1050 as amended, 1055–1056 as amended (21 U.S.C. 351, 371); 21 CFR 5.10, 5.11.

4. Part 210 is amended by revising the part heading as set out above.

5. In § 210.3 by revising paragraph (b)(13) and (14), to read as follows:

§ 210.3 Definitions.

* * * * *

(b) * * *

(13) The term "medicated feed" means any Type B or Type C medicated feed as defined in § 558.3 of this chapter. The feed contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated feeds is subject to the requirements of Part 225 of this chapter.

(14) The term "medicated premix" means a Type A medicated article as defined in § 558.3 of this chapter. The article contains one or more drugs as defined in section 201(g) of the act. The manufacture of medicated premixes is subject to the requirements of Part 226 of this chapter.

* * * * *

PART 225—CURRENT GOOD MANUFACTURING PRACTICE FOR MEDICATED FEEDS

6. The authority citation for 21 CFR Part 225 is revised to read as follows:

Authority: Secs. 501, 512, 701(a), 52 Stat. 1049–1050 as amended, 1055, 82 Stat. 343–351 (21 U.S.C. 351, 360(b), 371(a)); 21 CFR 5.10, 5.11.

7. Part 225 is amended in § 225.1 by revising paragraph (b), to read as follows:

§ 225.1 Current good manufacturing practice.

* * * * *

(b)(1) The provisions of this part set forth the criteria for determining whether the manufacture of a medicated feed is in compliance with current good manufacturing practice. These regulations shall apply to all types of facilities and equipment used in the production of medicated feeds, and they shall also govern those instances in

which failure to adhere to the regulations has caused nonmedicated feeds that are manufactured, processed, packed, or held to be adulterated. In such cases, the medicated feed shall be deemed to be adulterated within the meaning of section 501(a)(2)(B) of the act, and the nonmedicated feed shall be deemed to be adulterated within the meaning of section 402(a)(2)(D) of the act.

(2) The regulations in §§ 225.10 through 225.115 apply to facilities manufacturing one or more medicated feeds for which an approved medicated feed application is required. The regulations in §§ 225.120 through 225.202 apply to facilities manufacturing solely medicated feeds for which approved medicated feed applications are not required.

8. In § 225.58 by revising "FD–1800" to read "FDA 1900" in paragraph (b)(1), by removing and reserving paragraph (b)(2), and by revising paragraph (c), to read as follows:

§ 225.58 Laboratory controls.

* * * * *

(b) * * *

(2) [Reserved]

(c) The originals or copies of all results of assays, including those from State feed control officials and any other governmental agency, shall be maintained on the premises for a period of not less than 1 year after distribution of the medicated feed. The results of assays performed by State feed control officials may be considered toward fulfillment of the periodic assay requirements of this section.

* * * * *

§ 225.115 [Amended]

9. In § 225.115 *Complaint files* in paragraph (b)(2) by revising the two references to "FD–1800" to read "FDA 1900".

10. By adding new Subparts F, G, H, and I, to read as follows:

Subpart F—Facilities and Equipment

Sec.
225.120 Building and grounds.
225.130 Equipment.
225.135 Work and storage areas.

Subpart G—Product Quality Assurance

225.142 Components.
225.158 Laboratory assays.
225.165 Equipment cleanout procedures.

Subpart H—Labeling

225.180 Labeling.

Subpart I—Records

225.202 Formula, production, and distribution records.

Subpart F—Facilities and Equipment

§ 225.120 Buildings and grounds.

Buildings used for production of medicated feed shall provide adequate space for equipment, processing, and orderly receipt and storage of medicated feed. Areas shall include access for routine maintenance and cleaning of equipment. Buildings and grounds shall be constructed and maintained in a manner to minimize vermin and pest infestation.

§ 225.130 Equipment.

Equipment shall be capable of producing a medicated feed of intended potency and purity, and shall be maintained in a reasonably clean and orderly manner. Scales and liquid metering devices shall be accurate and of suitable size, design, construction, precision, and accuracy for their intended purposes. All equipment shall be designed, constructed, installed, and maintained so as to facilitate inspection and use of cleanout procedure(s).

§ 225.135 Work and storage areas.

Work areas and equipment used for the production or storage of medicated feeds or components thereof shall not be used for, and shall be physically separated from, work areas and equipment used for the manufacture and storage of fertilizers, herbicides, insecticides, fungicides, rodenticides, and other pesticides unless such articles are approved for use in the manufacture of animal feed.

Subpart G—Product Quality Assurance

§ 225.142 Components.

Adequate procedures shall be established and maintained for the identification, storage, and inventory control (receipt and use) of all Type A medicated articles and Type B medicated feeds intended for use in the manufacture of medicated feeds to aid in assuring the identity, strength, quality, and purity of these drug sources. Packaged Type A medicated articles and Type B medicated feeds shall be stored in designated areas in their original closed containers. Bulk Type A medicated articles and bulk Type B medicated feeds shall be identified and stored in a manner such that their identity, strength, quality, and purity will be maintained. All Type A medicated articles and Type B medicated feeds shall be used in accordance with their labeled mixing directions.

§ 225.158 Laboratory assays.

Where the results of laboratory assays of drug components, including assays by State feed control officials, indicate that the medicated feed is not in accord with the permissible limits specified in this chapter, investigation and corrective action shall be implemented immediately by the firm and such records shall be maintained on the premises for a period of 1 year.

§ 225.165 Equipment cleanout procedures.

Adequate procedures shall be established and used for all equipment used in the production and distribution of medicated feeds to avoid unsafe contamination of medicated and nonmedicated feeds.

Subpart H—Labeling

§ 225.180 Labeling.

Labels shall be received, handled, and stored in a manner that prevents label mixups and assures that the correct labels are used for the medicated feed. All deliveries of medicated feeds, whether bagged or in bulk, shall be adequately labeled to assure that the feed can be properly used.

Subpart I—Records

§ 225.202 Formula, production, and distribution records.

Records shall be maintained identifying the formulation, date of mixing, and if not for own use, date of shipment. The records shall be adequate to facilitate the recall of specific batches of medicated feed that have been distributed. Such records shall be retained on the premises for 1 year following the date of last distribution.

(Information collection requirements approved by the Office of Management and Budget under number 0910–0152.)

PART 226—CURRENT GOOD MANUFACTURING PRACTICE FOR TYPE A MEDICATED ARTICLES

11. The authority citation for 21 CFR Part 226 is revised to read as follows:

Authority: Secs. 501, 701, 52 Stat. 1049–1050 as amended, 1055–1056 as amended (21 U.S.C. 351, 371); 21 CFR 5.10, 5.11.

12. Part 226 is amended by revising the part heading as set out above.

13. By revising the term "medicated premixes" to read "Type A medicated article(s)" wherever it appears in Part 226.

PART 510—NEW ANIMAL DRUGS

14. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.6 [Amended]

15. Part 510 is amended in § 510.6 *New animal drugs; transitional provisions re section 512 of the Act* in paragraphs (d)(3), (e), and (f) by revising "FD–1800" to read "FDA 1900".

§ 510.305 [Amended]

16. § 510.305 *Maintenance of copies of approved applications for animal feed bearing or containing new animal drugs* in the introductory text and in paragraph (a) by revising "FD–1800" to read "FD 1900".

PART 514—NEW ANIMAL DRUG APPLICATIONS

17. The authority citation for 21 CFR Part 514 is revised to read as follows:

Authority: Secs. 512(i), (n), 701(a), 52 Stat. 1055, 82 Stat. 343–351 (21 U.S.C. 360b(i), (n), 371(a)); 21 CFR 5.10, 5.11.

18. Part 514 is amended in § 514.1 by removing paragraph (e), by adding a parenthetical statement at the end of the section, and by revising paragraph (b)(3)(v)(*a*) and (*b*) and (5)(vii)(*a*) and (5)(x), to read as follows:

§ 514.1. Applications.

* * * * *

(b) * * *

(3) * * *

(v) * * *

(*a*) Specimens of labeling to be used for such new animal drug with adequate directions for the manufacture and use of finished feeds for all conditions for which the new animal drug is intended, recommended, or suggested in any of the labeling, including advertising, sponsored by the applicant. Ingredient labeling may utilize collective names as provided in § 501.110 of this chapter.

(*b*) Representative labeling proposed to be used for Type B and Type C medicated feeds containing the new animal drug.

* * * * *

(5) * * *

(vii) * * *

(*a*) A description of practicable methods of analysis of adequate sensitivity to determine the amount of the new animal drug in the final dosage form should be included. The dosage form may be a finished pharmaceutical product, a Type A medicated article, a Type B or a Type C medicated feed, or a product for use in animal drinking water. Where two or more active ingredients are included, methods should be quantitative and specific for each active ingredient.

* * * * *

(x) A complete description of, and data derived from, studies of the stability of the new animal drug in the final dosage form, including information showing the suitability of the analytical methods used. A description of any additional stability studies underway or planned. Stability data for the finished dosage form of the new animal drug in the container in which it is to be marketed, including any proposed multiple dose container, and, if it is to be put into solution at the time of dispensing, for the solution prepared as directed. If the new animal drug is intended for use in the manufacture of Type C medicated feed as defined in § 558.3 of this chapter, stability data derived from studies in which representative formulations of the medicated feed articles are used. Similar data may be required for Type B medicated feeds as determined by the Food and Drug Administration on a case-by-case basis. Expiration dates shall be proposed for finished pharmaceutical dosage forms and Type A medicated articles. If the data indicate that an expiration date is needed for Type B or Type C medicated feeds, the applicant shall propose such expiration date. If no expiration date is proposed for Type B or Type C medicated feeds, the applicant shall justify its absence with data.

* * * * *

(Information collection requirements approved by the Office of Management and Budget under number 0910–0032.)

19. By revising § 514.2, to read as follows:

§ 514.2 Applications for animal feeds bearing or containing new animal drugs.

(a) Applications (Form FDA 1900) to be filed under section 512(m) of the act shall be completed, signed, and submitted in triplicate in the form described in paragraphs (b) and (c) of this section.

(b) Each application for a Type B or Type C medicated feed, as defined in § 558.3 of this chapter, shall include the following information:

(1) The name and address of the applicant.

(2) The registration number assigned pursuant to section 510 of the act and last date of registration of each mill.

(3) Whether the submission is an original or supplemental application.

(4) Identification of the Type A medicated article, as defined in § 558.3 of this chapter, used by generic name, potency, and manufacturer.

(5) The species of animal(s) for which the feed is intended.

(6) The form of feed to be produced, i.e., mash, meal crumbles, pellets, liquid, or other specified form.

(7) Whether the feed is a Type B or Type C medicated feed.

(8) Whether the feed is for sale or for own use (not for sale).

(9) Level of the drug(s) in the finished feed, and the amount of Type A medicated article per ton contained therein.

(10) Identification of the regulation(s) in Subchapter E of this chapter on which approval relies.

(11) Labeling representative of each intended use as stated in the claim. Each generic label shall include the claim, drug level, mixing directions, feeding directions, caution and/or warning statements, and any other special directions required by the published regulation. This shall consist of bag labels, invoice copy, bulk labels, and placards when applicable.

(12) A commitment to establish and maintain a program of sampling and analysis consisting of an assay of the first batch manufactured, followed thereafter by two samples at periodic intervals during the calendar year. If a medicated feed contains a combination of drugs, only one of the drugs need be subject to analysis each time, provided the one tested is different from the one(s) previously tested. Reports of assays shall be kept on the premises for not less than 1 year after the date of manufacture of the medicated feed.

(13) A statement of the minimum and maximum assay value permitted from the labeled amount of the drug.

(14) Identification of the agent authorized to act on behalf of the applicant.

(15) The applicant's name, responsible individual's title and original signature, and date.

(c) Upon approval, one copy of the application will be signed by an authorized employee of the Food and Drug Administration designated by the Commissioner, and it will be returned to the applicant.

(Information collection requirements approved by the Office of Management and Budget under number 0910–0011.)

§ 514.9 [Amended]

20. In § 514.9 *Supplemental applications for animal feeds bearing or containing new animal drugs* in paragraph (c) by revising "FD–1800" to read "FDA 1900".

§ 514.55 [Amended]

21. In § 514.55 *Forms for certification or exemption of antibiotic drugs for animal use subject to section 512(n) of the Act* by revising "1800" to read "1900" and by revising "FD–1800—Revised" to read "FDA 1900".

§ 514.105 [Amended]

22. In § 514.105 *Approval of applications* in paragraph (b) by revising "FD–1800" to read "Form FDA 1900".

23. By adding new § 514.112, to read as follows:

§ 514.112 Return of applications for animal feeds bearing or containing new animal drugs.

Applications submitted pursuant to § 514.2 will be returned to the applicant if such applications are incomplete or inaccurate or do not contain an identification of the applicable regulation(s). These regulations include those published pursuant to section 512(i) of the act, and are found in Part 558 of this chapter. In addition, § 510.515 of this chapter may also provide a basis on which approval of the application relies, as required by § 514.2(b)(10). All reasons for the return of the application will be made known to the applicant.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

24. The authority citation for 21 CFR Part 558 continues to read as follows:

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

25. Part 558 is amended by revising § 558.3, to read as follows:

§ 558.3 Definitions and general considerations applicable to this part.

(a) Regulations in this part provide for approved uses of drugs and combinations of drugs in animal feeds. Approved combinations of such drugs are specifically identified or incorporated by cross-reference. Unless specifically provided for by the regulations, a combination of two or more drugs is not approved.

(b) The following definitions apply to terms used in this part:

(1) New animal drugs for use in animal feed are placed in two categories as follows:

(i) Category I—These drugs require no withdrawal period at the lowest use level in each species for which they are approved.

(ii) Category II—These drugs require a withdrawal period at the lowest use level for at least one species for which they are approved or are regulated on a "no-residue" basis or with a "zero" tolerance because of a carcinogenic concern regardless whether a withdrawal period is required.

(2) A "Type A medicated article" is intended solely for use in the manufacture of another Type A medicated article or a Type B or Type C medicated feed. It consists of a new animal drug(s), with or without carrier (e.g., calcium carbonate, rice hull, corn, gluten) with or without inactive ingredients. The manufacture of a Type A medicated article requires an application approved under § 514.105(a) of this chapter.

(3) A "Type B medicated feed" is intended solely for the manufacture of other medicated feeds (Type B or Type C). It contains a substantial quantity of nutrients including vitamins and/or minerals and/or other nutritional ingredients in an amount not less than 25 percent of the weight of the Type A medicated article. It is manufactured by diluting a Type A medicated article or another Type B medicated feed. The maximum concentration of animal drug(s) in a Type B medicated feed is 200 times the highest continuous use level for Category I drugs and 100 times the highest continuous use level for Category II drugs. The term "highest continuous use level" means the highest dosage at which the drug is approved for continuous use (14 days or more), or, if the drug is not approved for continuous use, it means the highest level used for disease prevention or control. If the drug is approved for multiple species at different use levels, the highest approved level of use would govern under this definition. The manufacture of a Type B medicated feed from a Category II, Type A medicated article requires an application approved under § 514.105(b) of this chapter.

(4) A "Type C medicated feed" is intended as the complete feed for the animal or may be fed "top dressed" (added on top of usual ration) on or offered "free-choice" (e.g., supplement) in conjunction with other animal feed. It contains a substantial quantity of nutrients including vitamins, minerals, and/or other nutritional ingredients. It is manufactured by diluting a Type A medicated article or a Type B medicated feed. A Type C medicated feed may be further diluted to produce another type C medicated feed. The manufacture of a Type C medicated feed from a Category II, Type A medicated article requires an application approved under § 514.105(b) of this chapter.

(5) A Type B or Type C medicated feed manufactured from a drug component (bulk or "drum-run" (dried crude fermentation product)) requires an application approved under § 514.105(a) of this chapter.

26. By revising § 558.4, to read as follows:

§ 558.4 Medicated feed applications.

(a) The manufacture of a Type B or Type C medicated feed from a Category I, Type A medicated article is exempt from the requirement of an approved medicated feed application.

(b) The manufacture of a Type B or Type C medicated feed from a Category II, Type A medicated article requires an approved medicated feed application.

(c) The use of Type B and Type C medicated feeds shall conform to the conditions of use provided for in Subpart B of this part and in §§ 510.515, 558.15, and 558.20.

(d) This paragraph identifies each drug by category, the maximum level of drug in Type B medicated feeds, and the assay limits for the drug in Type A medicated articles and Type B and Type C medicated feeds, as follows:

CATEGORY I

Drug	Assay limits type A percent [1]	Type B maximum (200x)	Assay limits (percent of labeled amount) type B/C [2]
Aklomide	90–110	22.75 g/lb (5.0 %)	85–120.
Ammonium chloride	90–110	4.0 oz/lb (25 %)	85–120.
Amprolium with Ethopabate	94–114	22.75 g/lb (5.0 %)	80–120.
Bacitracin methylene disalicylate	85–115	20.0 g/lb (4.4 %)	70–130.
Bacitracin zinc	84–115	5.0 g/lb (1.1 %)	74–130.
Bambermycins	90–110	800 g/ton (0.09 %)	80–120/170–130.
Buquinolate	90–110	9.8 g/lb (2.2 %)	80–120.
Chlortetracycline	95–125	40.0 g/lb (8.8 %)	80–115/170–130.
Coumaphos	95–115	6.0 g/lb (1.3 %)	80–120.
Decoquinate	90–105	2.72 g/lb (0.6 %)	80–120.
Dichlorvos	100–115	33.0 g/lb (7.3 %)	90–120/80–130.
Erythromycin (thiocyanate salt)	85–115	9.25 g/lb (2.04 %)	<20g/ton 70–115/50–150; >20g/ton 75–125.
Fenbendazole	95–113	4.54 g/lb (1.0 %)	75–125.
Iodinated casein	85–115	20.0 g/lb (4.4 %)	75–125.

CATEGORY I—Continued

Drug	Assay limits type A percent [1]	Type B maximum (200x)	Assay limits (percent of labeled amount) type B/C [2]
Monensin	90–110	40.0 g/lb (8.8 %)	Chickens: 75–125; Cattle: 5–10 g/ton 80–120; Cattle: 10–30 g/ton 85–115; Liq. feed: 80–120.
Nequinate	95–112	1.83 g/lb (0.4 %)	80–120.
Niclosamide	85–20	225 g/lb (49.5 %)	80–120.
Nystatin	85–115	5.0 g/lb (1.1 %)	75–125.
Oleandomycin	85–120	1.125 g/lb (0.25 %)	<11.25 g/ton 70–130; >11.25 g/ton 75–125.
Oxytetracycline	90–120	20.0 g/lb (4.4 %)	75–125/65–135.
Penicillin	80–120	10.0 g/lb (2.2 %)	65–135.
Penicillin Streptomycin	80–120	1.5 g/lb (0.33 %)	65–135.
	85–115	7.5 g/lb (1.65 %)	70–130.
Poloxalene	90–110	54.48 g/lb (12.0 %)	Liq. feed: 85–115.
Salinomycin	100–120	6.0 g/lb (1.3 %)	80–120
Tylosin	80–120	10.0 g/lb (2.2 %)	75–125.
Virginiamycin	85–115	10.0 g/lb (2.2 %)	70–130.
Zoalene	98–104	11.35 g/lb (2.4 %)	85–115.

[1] Percent of labeled amount.
[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

CATEGORY II

Drug	Assay limits type A percent [1]	Type B Maximum (100x)	Assay limits (percent of labeled amount) type B/C [2]
Amprolium	94–114	11.35 g/lb (2.5%)	80–120.
Arsanilate sodium	98–108	4.5 g/lb (1.0%)	85–115/75–125.
Arsanilic acid	98–108	4.5 g/lb (1.0%)	85–115/75–125.
Butynorate	90–110	17.0 g/lb (3.74%)	85–115.
Butynorate	90–110	63.45 g/lb (14.0%)	85–115.
Piperazine	90–110	49.85 g/lb (11.0%)	85–115
Phenothiazine	90–110	263.32 g/lb (58.0%)	85–115.
Carbadox	90–110	2.5 g/lb (0.55%)	75–125
Carbarsone	93–102	17.0 g/lb (3.74%)	85–115.
Clopidol	94–106	11.4 g/lb (2.5%)	90–115/80–120.
Dimetridazole	96–103	9.1 g/lb (2.0%)	85–120.
Famphur	100–110	5.5 g/lb (1.21%)	90–115/80–120.
Furazolidone	95–105	10.0 g/lb (2.2%)	85–115.
Halofuginone hydrobromide	80–120	272.0 g/ton (.03%)	70–125.
Hygromycin B	90–110	1,200 g/ton (0.13%)	75–125.
Ipronidazole	98–115	2.84 g/lb (0.63%)	0.00625%, 85–120/75–125; 0.025%, 85–120/80–120.
Lasalocid	100–120	5.65 g/lb (1.24%)	Chickens: 85–120/75–125; Supplements: 85–120/80–120.
Levamisole	85–120	113.5 g/lb (25%)	85–125.
Lincomycin	90–115	10.0 g/lb (2.2%)	80–130.
Melengestrol acetate	90–110	2.0 g/ton (0.00022%)	80–115/70–120.
Morantel tartrate	90–110	66.0 g/lb (14.52%)	85–115.
Neomycin	80–120	7.0 g/lb (1.54%)	70–125.
Neomycin	80–120	7.0 g/lb (1.54%)	70–125.
Oxytetracycline	80–120	10.0 g/lb (2.2%)	65–135.
Nicarbazin	98–106	5.675 g/lb (1.25%)	85–115/80–120.
Nitarsone	90–110	8.5 g/lb (1.87%)	85–120.
Nitrofurazone	90–110	10.0 g/lb (2.2%)	80–125.
Nitromide	90–110	11.35 g/lb (2.5%)	80–120.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Nitromide	90–110	11.35 g/lb (2.5%)	85–115.
Sulfanitran	85–115	5.65 g/lb (1.24%)	75–125.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Novobiocin	85–115	17.5 g/lb (3.85%)	80–120.
Phenothiazine	90–110	66.5 g/lb (14.6%)	85–115.
Piperazine	90–110	165 g/lb (40.25%)	85–115.
Pyrantel tartrate	90–110	4.8 g/lb (1.1%)	85–115.
Robenidine	95–115	1.5 g/lb (0.33%)	80–120.
Ronnel	85–115	27.2 g/lb (6.0%)	80–120.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Aklomide	90–110	11.35 g/lb (2.5%)	85–120.
Roxarsone	95–103	2.275 g/lb (0.5%)(	85–120.
Clopidol	94–106	11.35 g/lb (2.5%)	80–120.
Bacitracin methylene disalicylate	85–115	5.0 g/lb (1.1%)	70–130.
Roxarsone	95–103	2.275 g/lb (0.5%)	85–120.
Monensin	90–110	5.5 g/lb (1.2%)	75–125.
Sulfadimethoxine	95–115	5.675 g/lb (1.25%)	0.01% (combined) 85–115/75–125.
Ormetoprim	95–115	3.405 g/lb (0.75%)	0.02% (combined) 85–115.
Sulfaethoxy-pyridazine	95–105	50.0 g/lb (11.0%)	85–115.
Sulfamerazine	85–115	18.6 g/lb (4.0%)	85–115.
Sulfamethazine	85–115	10.0 g/lb (2.2%)	80–120.
Chloretetracycline	95–125	10.0 g/lb (2.2%)	85–125/70–130.
Penicillin	80–120	5.0 g/lb (1.1%)	85–125/70–130.
Sulfamethazine	85–115	10.0 g/lb (2.2%)	80–120.
Chlortetracycline	95–125	10.0 g/lb (2.2%)	85–125/70–130.
Sulfamethazine	85–115	10.0 g/lb (2.2%)	80–120.
Tylosin	80–120	10.0 g/lb (2.2%)	75–125.

CATEGORY II—Continued

Drug	Assay limits type A percent [1]	Type B Maximum (100x)	Assay limits (percent of labeled amount) type B/C [2]
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Aklomide	90–110	11.2 g/lb (2.5%)	85–120.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Aklomide	90–110	11.2 g/lb (2.5%)	85–120.
Roxarsone	95–103	2.715 g/lb (0.60%)	85–120.
Sulfanitran	85–115	13.6 g/lb (3.0%)	75–125.
Aklomide	90–110	11.2 g/lb (2.5%)	85–120.
Roxarsone	95–103	2.27 g/lb (0.5%)	85–120.
Sulfaquinoxaline	98–106	11.2 g/lb (2.5%)	85–115.
Sulfathiazole	85–115	10.0 g/lb (2.2%)	80–120.
Chlortetracycline	85–125	10.0 g/lb (2.2%)	70–130.
Penicillin	80–120	5.0 g/lb (1.1%)	70–130.
Thiabendazole	94–106	45.4 g/lb (10.0%)	<7% 85–115; <7% 90–110.

[1] Percent of labeled amount.
[2] Values given represent ranges for either Type B or Type C medicated feeds. For those drugs that have two range limits, the first set is for a Type B medicated feed and the second set is for a Type C medicated feed. These values (ranges) have been assigned in order to provide for the possibility of dilution of a Type B medicated feed with lower assay limits to make a Type C medicated feed.

(e) When drugs from both categories are in combination, the Category II requirements will apply to the combination drug product.

27. In §558.15 by revising the introductory text of paragraph (g) and the introductory text of paragraph (g)(2), to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

* * * * *

(g) The submission of applications and data required by paragraphs (a) and (b) of this section is not required for the continued manufacture of any Type A medicated article that is produced solely from another Type A medicated article that is in compliance with the requirements of this section. Provided, that the diluted Type A medicated article contains no drug ingredient whose use in or on animal feed requires an approved application pursuant to section 512(m) of the act and/or where the Type A medicated article is approved by regulation in this part.

* * * * *

(2) The following is a list of drug combinations permitted when prepared from Type A medicated articles listed in paragraph (g)(1) of this section. Drug combination and sponsors listed in Subpart B of this part are incorporated herein by reference because the drug combinations are safe and effective by contemporary standards, or their sponsors have been notified of any additional safety or efficacy data required on an individual basis:

* * * * *

28. By adding new §558.20 to Subpart A, to read as follows:

§ 558.20 Drugs used in medicated feeds in use before January 1, 1958, which are not otherwise listed; interim listing.

Applications for animal feeds bearing or containing new animal drugs shall contain a reference to a section in the new animal drug regulations where the drug and the intended use are listed. For the purposes of such applications the following list identifies drugs that are required to be the subject of approved medicated feed applications for the indicated uses which are not listed in other new animal drug regulations. The drugs are not listed elsewhere for these uses in other new animal drug regulations because they were so used prior to the Food Additives Amendment of 1958 which required the listing of such drugs in appropriate regulations.

Drug ingredient	Species	Use levels	Indications for use	Limitations
Arsanilate sodium	Swine	0.005 to 0.01%	Increase rate of gain and improve feed efficiency in growing swine.	Withdraw 5 days before slaughter. As sole source of organic arsenic.
Do	do	0.01%	Control of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed continuously as sole source of organic arsenic.
Do	do	0.025 to 0.04%	Treatment of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed for 5–6 days as sole source of organic arsenic.
Arsanilic acid	do	0.005 to 0.01%	Increase rate of gain and improve feed efficiency in growing swine.	Withdraw 5 days before slaughter. As sole source of organic arsenic.
Do	do	0.01%	Control of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed continuously as sole source of organic arsenic.
Do	do	0.025 to 0.04%	Treatment of swine dysentery (hemorrhagic enteritis, bloody dysentery).	Withdraw 5 days before slaughter. Feed for 5–6 days as sole source of organic arsenic.
Butynorate (dibutytin dilaurate).	Turkeys	0.0375%	As an aid in the prevention of coccidiosis (caused by *E. meleagridis, E. meleagrimitis, E. gallopavonis*) and hexamitiasis.	Withdraw 7 days before slaughter.
Neomycin sulfate	Chickens, turkeys, and ducks.	70 to 140 g/ton of complete feed as neomycin base.	For treatment of bacterial enteritis (nonspecific enteritis, salmonellosis, bluecomb, mud fever).	Withdrawal before slaughter: 30 days, cattle; 20 days, sheep and swine; 14 days, turkeys, ducks, and laying hens; 5 days, broiler chickens.
Do	Mink	140 g/ton of complete feed as neomycin base.	For treatment of bacterial enteritis and diarrhea	Do.
Do	Swine, calves, cattle, horses, sheet, goats.	70 to 140 g/ton of complete feed as neomycin base.	For treatment of bacterial enteritis (scours, diarrhea, bloody dysentery, vibrionic dysentery, winter dysentery, white scours, coli-bacillosis, salmonellosis, diarrhea caused by *E. coli*, vibrio and salmonella organisms); enterotoxemia in lambs.	Do.
Nitarsone (4-nitrophenyl-arsonic acid).	Chickens and turkeys.	0.01875%	As an aid in the prevention of blackhead	Withdraw 5 days before slaughter. As sole source of organic arsenic.
Phenothiazine	Chickens	0.5 g per bird	Removal of cecal worms *Heterakis gallinarum*)	For 1 day only.
Do	Turkeys	1 g per bird	do	Do.
Do	Swine	5 g up to 25 lb; 8 g, 26 to 50 lb; 10 g, 51 to 100 lb; 20 g, 101 to 200 lb; 30 g, 201 lb and up.	Removes nodular worms (*Oesophagostomum*)	Do.

Drug ingredient	Species	Use levels	Indications for use	Limitations
Do	Sheep and goats	20 to 60 lb body weight, 12.5 g; over 60 lb body weight, 25 g.	Removal of stomach worms (*Haemonchus, Osteragia,* and *Trichostrongylus* spp.); large-mouth bowel worms (*Chabertia* spp.), and hookworms (*Bunostomum* spp.).	Milk from dairy animals which have been treated with phenothiazine should not be used for food for 4 days following treatment.
Do	do	1g/head/day	Control of stomach worms (*Haemonchus, Osteragia,* and *Trichostrongylus* spp.); large-mouth bowel worms and hookworms (*Chabertia* spp.), (*Bunostomum* spp.).	Do not feed to lactating dairy animals. Feed continuously.
Do	Cattle	10 g/100 lb body weight, up to a maximum of 70 g.	Removes common stomach worms *Haemonchus*), lesser stomach worms (*Ostertagia*), hair worms, bankrupt worms (*Trichostrongylus* spp.), nodular worm (*Oesophagostomum* spp.), and largemouth bowel worms (*Chabertia* spp.).	Milk from dairy animals which have been treated with phenothiazine should not be used for food for 4 days following treatment.
Do	do	20 g/100 lb body weight up to a maximum of 80 g. Micronized (2-3 micron size particles)—10 g/100 lb body weight, up to a maximum of 60 g.	Hookworms (*Bunostomum* spp.)	For 1 day only. Milk from dairy animals which have been treated with phenothiazine should not be used for food for 4 days following treatement.
Do	do	0.25 g/100 lb body weight/day. For adult average dose is 2 g.	Controls common stomach worms (*Haemonchus*), lesser stomach worms (*Ostertagia*), hair worms, bankrupt worms (*Trichostrongylus* ssp.), nodular worm (*Oesophagostomum* spp.), and largemouth bowel worms (*Chabertia* spp.).	Do not feed to lactating dairy animals.
Do	Horses and mules	2.5 g/100 lb body weight up to a maximum of 30 g.	Removal of strongyles (*Strongylus* spp.)	For 1 day only.
Do	do	2 g per head per day	do	For continuous use; feed 2 g per head per day for 21 consecutive days then none for 9 days. Repeat the feeding schedule as long as worm control is desired.
Piperazine	Chickens (under 6 weeks of age).	0.2 to 0.4%	Control of infestation of large roundworms (*Ascaris*)	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100 mg of piperazine per bird.
Do	Chickens (over 6 weeks of age).	do	do	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100 mg of piperazine per bird.
Do	Turkeys (under 12 weeks of age).	do	do	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100 mg of piperazine per bird.
Do	Turkeys (over 12 weeks of age).	do	do	As sole source of feed. For 1 day treatment. Directions for use should assure that the amount of feed consumed will furnish in 1 day 100–400 mg of piperazine per bird according to size.

29. In § 558.35, by removing paragraphs (a), (b), (d), and (e), by redesignating paragraph (c) as paragraph (a) and revising the introductory text of the redesignating paragraph, and by redesignated existing paragraphs (f) and (g) as paragraphs (b) and (c), respectively, to read as follows:

§ 558.35 Aklomide.

(a) *Approvals.* Type A medicated articles: to 017210 in § 510.600(c) of this chapter, as follows:

* * * * *

30. In § 558.45, by removing paragraphs (b), (c), (d), and (e), by redesignating existing paragraph (f) as paragraph (b), and by revising paragraph (a), to read as follows:

§ 558.45 Ammonium chloride, feed grade.

(a) *Approvals.* Type A medicated articles: 99 percent to 011462 in § 510.600(c) of this chapter.

* * * * *

31. In § 558.55, by revising paragraph (a), by removing paragraph (b), by redesignating existing paragraph (c) as paragraph (b) and revising it, by redesignating paragraphs (d) and (e) as paragraphs (c) and (d), respectively, to read as follows:

§ 558.55 Amprolium.

(a) *Approvals.* Type A medicated articles: 25 percent to 000006 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(b) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

* * * * *

32. In § 558.58, by removing paragraph (b), by revising paragraph (a), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by revising redesignated paragraph (b) and the introductory text of redesignated paragraph (d), to read as follows:

§ 558.58 Amprolium and ethopabate.

(a) *Approvals.* Type A medicated articles: (1) 25 percent amprolium and 0.8 percent ethopabate; 25 percent amprolium and 8 percent ethopabate; 5 percent amprolium and 0.16 percent ethopabate; 5 percent amprolium and 1.6 percent ethopabate; to 000006.

(2) 0.15 percent amprolium and 0.004 percent ethopabate and 0.5 gram per pound bacitracin (as bacitracin methylene disalicylate) to 047019 in § 510.600(c) of this chapter.

(b) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

* * * * *

(d) *Conditions of use.* It is used for chickens as follows:

* * * * *

33. In § 558.60, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, by revising paragraph (a) and the introductory text of redesignated paragraph (c)(1), to read as follows:

§ 558.60 Arsanilate sodium.

(a) *Appprovals.* Type A medicated articles: 20, 50, or 100 percent to 043731 in § 510.600(c) of this chapter.

* * * * *

(c) *Conditions of use.* (1) It is used for chickens and turkeys as follows:

* * * * *

34. In § 558.62, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a) and the introductory text of redesignated paragraph (c)(1), to read as follows:

§ 558.62 Arsanilic acid.

(a) *Approvals.* Type A medicated articles: 20, 50, or 100 percent to 043731 in § 510.600(c) of this chapter.

* * * * *

(c) *Conditions of use.* (1) It is used for chickens and turkeys as follows:

* * * * *

35. In § 558.76, by removing paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (b) and the introductory text of redesignated paragraph (d)(1), to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

(a) *Approvals.* Type A medicated articles: 25, 40, or 50 percent to 046573 in § 510.600(c) of this chapter.

(b) *Special considerations.* The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

* * * * *

(d) *Conditions of use.* It is used as follows:

* * * * *

36. In § 558.78, by removing paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (b) and the introductory text of redesignated paragraph (d)(1), to read as follows:

§ 558.78 Bacitracin zinc.

(a) *Approvals.* Type A medicated articles: (1) 50 grams per pound to 046573 in § 510.600(c) of this chapter for use as in paragraph (d)(1)(i) and (ii) of this section.

(2) 10, 25, 40, and 50 grams per pound to 012769 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(3) 5 and 50 grams per pound to 000010 in § 510.600(c) of this chapter for use in chickens as in paragraph (d)(1)(i) of this section.

(b) *Special considerations.* The quantities of antibiotics are expressed in terms of the equivalent amount of antibiotic standard.

* * * * *

(d) *Conditions of use.* (1) It is used as follows:

* * * * *

37. In § 558.95, by removing paragraphs (b), (c), and (d), by redesignating existing paragraph (e) as paragraph (b), and by revising paragraph (a) and the introductory text of redesignated paragraph (b)(1) and (2), to read as follows:

§ 558.95 Bambermycins.

(a) *Approvals.* Type A medicated articles: (1) 2 and 10 grams of activity per pound to 012799 in § 510.600(c) of this chapter for use as in paragraph (b)(1), (2)(i) and (ii), and (3) of this section.

(2) 0.4 gram of activity per pound to 012799 and 020275 for use as in paragraph (b)(2) of this section.

(3) 0.4 and 2 grams of activity per pound to 011490 in § 510.600(c) of this chapter for use as in paragraph (b)(2) of this section.

(4) 0.4 and 2 grams of activity per pound for use as in paragraph (b)(2) of this section and 2 grams of activity per pound for use as in paragraph (b)(3) of this section to 016968, 017274, and 017790 in § 510.600(c) of this chapter.

(5) 0.08 gram of activity per pound for use as in paragraph (b)(2) of this section to 034139 in § 510.600(c) of this chapter.

(b) *Conditions of use*—(1) *Broiler chicken.* It is used as follows:

* * * * *

(2) *Growing-finished swine.* It is used as follows:

* * * * *

38. In § 558.105, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (b) and the introductory text of redesignated paragraph (d), to read as follows:

§ 558.105 Buquinolate.

(a) *Approvals.* Type A medicated articles: 16.5 and 22 percent to 000149 in § 510.600(c) of this chapter.

(b) *Special considerations.* Do not use in Type B or Tpye C medicated feeds containing bentonite.

* * * * *

(d) *Conditions of use.* It is used as follows:

* * * * *

39. In § 558.115, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (c) and the introductory text of redesignated paragraph (d), to read as follows:

§ 558.115 Carbadox.

(a) *Approvals.* Type A medicated articles: 2.2. percent (10 grams per pound) to 000069 in § 510.600(c) of this chapter.

* * * * *

(c) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

(d) *Conditions of use.* It is used for swine as follows:

* * * * *

40. In § 558.120, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a) and the introductory text of redesignated paragraph (c)(1), to read as follows:

§ 558.120 Carbarsone (not U.S.P.).

(a) *Approvals.* Type A medicated articles: (1) 37.5 percent to 011794 in § 510.600(c) of this chapter.

(2) 25 percent carbarsone and 5 grams per pound bacitracin (as bacitracin methylene disalicylate) to 011794 in § 510.600(c) of this chapter.

* * * * *

(c) *Conditions of use.* It is used for turkeys as follows:

* * * * *

41. In § 558.128, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

* * * * *

§ 558.128 Chlortetracycline.

(a) *Approvals.* Type A medicated articles: 10 and 50 grams per pound chlortetracycline to 010042 in § 510.600(c) of this chapter; 35 grams chlortetracycline with 7.7 percent (35 grams) sulfamethazine to 010042 in § 510.600(c) of this chapter.

* * * * *

42. In § 558.145, by removing paragraphs (c) and (d), by redesignating existing paragraphs (e) and (f) as paragraphs (c) and (d), respectively, and by revising paragraphs (a) and (b), to read as follows:

§ 558.145 Chlortetracycline, procaine penicillin, and sulfamethazine.

(a) *Approvals.* Type A medicated articles: (1) 20 grams of chlortetracycline per pound, 4.4 percent (20 grams) of sulfamethazine, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound to 000069 and 010042 in § 510.600(c) of this chapter.

(2) 40 grams of chlortetracycline per pound, 8.8 percent of sulfamethazine, and penicillin procaine equivalent in activity to 20 grams of penicillin per pound to 010042 in § 510.600(c) of this chapter.

(b) *Specifications.* (1) The antibiotic substance refers to the antibiotic or feed-grade antibiotic.

(2) The antibiotic activities are expressed in terms of the appropriate antibiotic standards.

(3) Type C medicated feed contains in each ton, 100 grams of chlortetracycline, 50 grams of penicillin as procaine penicillin, and 100 grams of sulfamethazine.

* * * * *

43. In § 558.155, by removing paragraphs (c) and (d), by redesignating existing paragraphs (e) and (f) as paragraphs (c) and (d), respectively, and by revising paragraphs (a) and (b) and the introductory text of redesignated paragraph (d), to read as follows:

§ 558.155 Chlortetracycline, procaine penicillin, and sulfathiazole.

(a) Approvals. Type A medicated articles: (1) 20 grams of chlortetracycline hydrochloride, 4.4 percent (20 grams) sulfathiazole, and procaine penicillin equivalent to 10 grams of penicillin per pound to 052313 in § 510.600(c) of this chapter.

(2) 40 grams of chlortetracycline hydrochloride, 8.8 percent (40 grams) sulfathiazole and procaine penicillin equivalent in activity to 20 grams of penicillin per pound to 052313 in § 510.600(c) of this chapter.

(b) *Specifications.* (1) The antibiotic substance refers to the antibiotic or feed-grade antibiotic.

(2) The antibiotic activities are expressed in terms of the appropriate antibiotic standards.

* * * * *

(d) *Conditions of use.* It is used for swine as follows:

* * * * *

44. In § 558.175, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), as paragraphs (b) and (c) respectively, and by revising paragraph (a), to read as follows:

§ 558.175 Clopidol.

(a) Approvals. Type A medicated articles: (1) 25 percent to 025700 in § 510.600(c) of this chapter.

(2) 25 percent of clopidol, 10 percent of roxarsone; and 4, 10, 15, or 25 grams of bacitracin methylene disalicylate per pound to 025700 in § 510.600(c) of this chapter.

* * * * *

45. In § 558.185, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (b), to read as follows:

§ 558.185 Coumaphos.

(a) *Approvals.* Type A medicated articles: (1) 1.12, 2.0, 11.2, and 50 percent to 000859 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(2) 1.12 and 11.2 percent to 017800 in § 510.600(c) of this chapter for use as in paragraph (d)(1)(ii) of this section.

(b) *Special considerations.* Adequate directions and warnings for use must be given and shall include a statement that coumaphos is a cholinesterase inhibitor and that animals being treated with coumaphos should not be exposed during or within a few days before or after treatment to any other cholinesterase-inhibiting drugs, insecticides, pesticides, or chemicals.

* * * * *

46. In § 558.195, by removing paragraphs (b), (c), and (d), by redesignating existing paragraphs (e), (f), and (g) as paragraphs (b), (c), and (d), respectively, and by revisions paragraph (a), to read as follows:

§ 558.195 Decoquinate

(a) *Approvals.* Type A medicated articles: 6 percent to 011801 in § 510.600(c) of this chapter.

* * * * *

47. In § 558.205, by removing paragraphs (b) and (c), by redesignating exisitng paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a), to read as follows:

§ 558.205 Dichlorvos.

(a) *Approvals.* Type A medicated articles: 3.1 and 9.6 percent to 052313 in § 510.600(c) of this chapter.

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48. In § 558.240, by removing paragraphs (b) and (c), by redesignating exisitng paragraphs (d) and (e) as paragraphs (b) and (c) respectively, and by adding paragraph (a), to read as follows:

§ 558.240 Dimetridazole.

(a) *Approvals.* Type A medicated articles: 30 percent to 017210 in § 510.600(c) of this chapter.

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49. In § 558.248, by removing paragraph (b) by redesignating exisitng paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), and by revising paragraph (a), and redesignated paragraph (b) and the introductory text of redesignated paragraph (d)(1), to read as follows:

§ 558.248 Erythromycin thiocyanate.

(a) *Approvals.* Type A medicated articles: (1) 2.2 percent to 050604 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(2) 5 and 10 percent to 050604 in § 510.600(c) of this chapter for use as in paragraph (d)(1) (i) and (iii) of this section.

(b) *Special considerations.* The levels of antibiotic are expressed in terms of erythromycin master standard. One gram of erythromycin thiocyanate is equivalent to 0.925 gram of erythromcin master standard.

* * * * *

(d) *Condition of use.* (1) It is used as follows:

* * * * *

50. In § 558.254, by removing paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by adding paragraph (a), to read as follows:

§ 558.254 Famphur.

(a) *Approvals.* Type A medicated articles: 13.2 and 33.3 percent to 010042 in § 510.600(c) of this chapter.

* * * * *

51. In § 558.258, by removing paragraph (b), by redesignating exisitng paragraphs (c) and (d) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.258 Fenbendazole.

(a) *Approvals.* Type A medicated articles: 4 percent (18.1 grams per pound) fenbendazole and 20 percent (90.7 grams per pound) fenbendazole to 012799 in § 510.600(c) of this chapter.

* * * * *

52. In § 558.262, by removing paragraphs (b) and (c), by redesignating exisitng paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by adding paragraph (a), to read as follows:

§ 558.262 Furazolidone.

(a) *Approvals.* Type A medicated articles: 10, 50, and 100 grams per pound to 000007 in 011801 in § 510.600(c) of this chapter.

* * * * *

53. In § 558.265, by removing paragraphs (b) and (c), by redesignating exisitng paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.265 Halofuginone hydrobromide.

(a) *Approvals.* Type A medicated articles: 6 grams per kilogram (2.72 grams per pound) to 012799 in § 510.600(c) of this chapter.

* * * * *

54. In § 558.274, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.274 Hygromycin B.

(a) *Approvals.* (1) Type A medicated articles: 2.4 and 8 grams per pound to 000986 in § 510.600(c) of this chapter for use as in paragraph (c) of this section.

(2) 2.4 grams per pound to 011490, 016968, 018083, and 043733 in § 510.600(c) of this chapter for use in swine feed as in paragraph (c)(1)(ii) of this section.

(3) 1.2 grams per pound to 016968 in § 510.600(c) of this chapter for use in swine as in paragraph (c)(1)(ii) of this section.

(4) 0.6 gram per pound to 016968, 017434, 017473, 017519, 017790, 018083, 020275, 022422, 026948, 043733, 050568, and 050639 in § 510.600(c) of this chapter for use in chickens as in paragraph (c)(1)(i) of this section and in swine as in paragraph (c)(1)(ii) of this section.

(5) 0.48 and 2.4 grams per pound to 026186 in § 510.600(c) of this chapter for use in chickens as in paragraph (c)(1)(i) of this section and in swine as in paragraph (c)(1)(ii) of this section.

(6) 0.8 and 1.6 grams per pound to 043734 in § 510.600(c) of this chapter for use in chickens as in paragraph (c)(1)(i) of this section.

(7) 2.4 grams per pound to 011790 in § 510.600(c) of this chapter for use in chickens as in paragraph (c)(1)(i) of this section and in swine as in paragraph (c)(1)(ii) of this section.

* * * * *

55. In § 558.305, by removing paragraphs (b), (c), and (e), by redesignating existing paragraphs (d) and (f) as paragraphs (b) and (c), respectively, and by revising paragraph (a) and the introductory text of redesignated paragraph (c), to read as follows:

§ 558.305 Ipronidazole.

(a) *Approvals.* Type A medicated articles: 12.5 percent to 000004 in § 510.600(c) of this chapter.

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(c) *Conditions of use.* It is used for turkeys as follows:

* * * * *

56. In § 558.311, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a), to read as follows:

§ 558.311 Lasalocid.

(a) *Approvals.* Type A medicated articles: (1) 3.0, 3.3, 3.8, 4.0, 4.3, 4.4, 5.0, 5.1, 5.5, 5.7, 6.0, 6.3, 6.7, 7.2, 7.5, 8.0, 8.3, 10.0, 12.5, 15, 20, and 50 percent activity granted to 000004 in § 510.600(c) of this chapter for use as in paragraph (d) (1), (2), (3), and (4) of this section.

(2) 15 percent activity to 000007 as provded by 000004 in § 510.600(c) of this chapter for use as in paragraph (d)(5) of this section.

(3) 15, 20, 33.1, and 50 percent activity to 000004 in § 510.600(c) of this chapter for use in feed for cattle as provided in paragraph (d) (6) and (7) of this section. Type A medicated articles containing lasalocid dried fermentation residue are for use in cattle feed only.

* * * * *

57. In § 558.315, by removing paragraphs (b), (c), (d), and (f), by redesignating existing paragraphs (e) and (g) as paragraphs (b) and (c), respectively, and by revising paragraph (a) and the introductory text of redesignated paragraph (c), to read as follows:

§ 558.315 Levamisole hydrochloride (equivalent).

(a) *Approvals.* Type A medicated articles: 227 grams per pound to 043781 in § 510.600(c) of this chapter.

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(c) *Conditions of use.* It is used in Type C medicated feed as follows:

* * * * *

58. In § 558.325, by removing paragraphs (b), (c), and (e), by redesignating existing paragraphs (d) and (f) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.325 Lincomycin.

(a) *Approvals.* Type A medicated articles: (1) 4 grams per pound to:

(i) 000009 in § 510.600(c) of this chapter for use as in paragraph (c)(1) and (3) of this section.

(ii) 034139 in § 510.600(c) of this chapter for use as in paragraph (c)(2) of this section.

(2) 20 grams per pound to 000009 in § 510.600(c) of this chapter for use as in paragraph (c)(1), (2), and (3) of this section.

(3) 50 grams per pound to 000009 in § 510.600(c) of this chapter for use as in paragraph (c)(1) and (2) of this section.

(4) 8, 10, and 20 grams per pound to 011490 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(5) 8 and 20 grams per pound to 043733, 050639, and 051359 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(6) 4, 8, 10, and 20 grams per pound to 018083 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(7) [Reserved]

(8) 4, 5, 8, 10, and 20 grams per pound to 016968 for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(9) 4 and 20 grams per pound to 047427 in § 510.600(c) of this chapter for use as in paragraph (c)(2) of this section.

(10) 4, 8, and 20 grams per pound to 017274 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(11) 5 and 10 grams per pound to 012286 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(12) 20 grams per pound to 020275 in § 510.600 of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(13) 2.5 and 8 grams per pound to 017800 in § 510.600(c) of this chapter for use as in paragraph (c)(2) of this section.

(14) 4 and 20 grams per pound to 024174 in § 510.600(c) of this chapter for use as in paragraph (c)(2)(i), (ii), and (iii) of this section.

(15) 8 and 20 grams per pound to 017790 in § 510.600(c) of this chapter for use as in paragraph (c)(2) of this section.

* * * * *

59. In § 558.342, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.342 Melengestrol acetate.

(a) *Approvals.* Dry Type A medicated articles: 100 or 200 milligrams per pound or liquid premix containing 500 milligrams per pound to 000009 in § 510.600(c) of this chapter.

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60. In § 558.355, by removing and reserving paragraphs (a) and (d)(3) and (4), by revising the introductory text of paragraph (b), and by revising paragraph (c), to read as follows:

§ 558.355 Monensin.

(a) [Reserved]

(b) *Approvals.* Approvals for Type A medicated articles containing the specified levels of monensin activity granted to firms identified by sponsor numbers in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section are as follows:

* * * * *

(c) *Assay limits.* Liquid feed supplements contain 80 to 120 percent of the labeled amount of monensin activity.

* * * * *

61. In § 558.360, by removing paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (c)(1), to read as follows:

§ 558.360 Morantel tartrate.

(a) *Approvals.* Type A medicated articles: 88 grams per pound to 000069 in § 510.600(c) of this chapter.

* * * * *

(c) *Special considerations.* (1) Do not use in Type B or Type C medicated feeds containing bentonite.

* * * * *

62. In § 558.365, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (c), to read as follows:

§ 558.365 Nequinate.

(a) *Approvals.* Type A medicated articles: 4 percent to 017800 in § 510.600(c) of this chapter.

* * * * *

(c) *Special considerations.* Do not use in Type B or Type C medicated feeds containing bentonite.

* * * * *

63. In § 558.366, by removing paragraphs (b) and (d), by redesignating existing paragraphs (c) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.366 Nicarbazin.

(a) *Approvals.* Type A medicated articles: 25 percent to 000006 and 000986 in § 510.600(c) of this chapter.

* * * * *

64. In § 558.367, by removing paragraph (b), by redesignating existing paragraph (c) as paragraph (b), and by revising paragraph (a), to read as follows:

§ 558.367 Niclosamide.

(a) *Approvals.* Type A medicated articles: 66 percent to 000859 in § 510.600(c) of this chapter.

* * * * *

65. In § 558.369, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a), to read as follows:

§ 558.369 Nitarsone.

(a) *Approvals.* Type A medicated articles: 50 percent to 017210 in § 510.600(c) of this chapter.

* * * * *

66. In § 558.370, by removing paragraphs (b) and (c), by redesignating existing paragraph (d) as paragraph (b), and by revising paragraph (a), to read as follows:

§ 558.370 Nitrofurazone.

(a) *Approvals.* Type A medicated articles: 50 grams per pound to 000007 and 011801 in § 510.600(c) of this chapter.

* * * * *

67. In § 558.376, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by adding paragraph (a), to read as follows:

§ 558.376 Nitromide and sulfanitran.

(a) *Approvals.* Type A medicated articles: 25 percent nitromide, 30 percent sulfanitran, with or without 5 percent roxarsone to 017210 in § 510.600(c) of this chapter.

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68. In § 558.415, by removing paragraphs (b), (c), and (d), by redesignating existing paragraphs (e) and (f) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.415 Novobiocin.

(a) *Approvals.* Type A medicated articles: 25 grams of activity per pound to 000009 in § 510.600(c) of this chapter.

* * * * *

69. In § 558.430, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by adding paragraph (a), to read as follows:

§ 558.430 Nystatin.

(a) *Approvals.* Type A medicated articles: 20 grams of activity per pound to 000003 in § 510.600(c) of this chapter.

* * * * *

70. In § 558.435, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (c), to read as follows:

§ 558.435 Oleandomycin.

(a) *Approvals.* Type A medicated articles: 5 grams of activity per pound to 000069 in § 510.600(c) of this chapter.

* * * * *

(c) *Special considerations.* Do not use in Type B or Type C medicated feeds containing oleandomycin.

* * * * *

71. In § 558.450, by removing paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (b), to read as follows:

§ 558.450 Oxytetracycline.

(a) *Approvals.* Type A medicated articles: (1) 10 and 50 grams per pound to 000069 in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(2) 100 grams per pound to 000069 in § 510.600(c) of this chapter for use as in paragraph (d)(1), table 1, item (v) of this section.

(b) *Special considerations.* The amount of oxytetracycline is expressed in terms of an equivalent amount of oxytetracycline hydrochloride.

* * * * *

72. In § 558.460, by removing paragraphs (b), (c), and (d), by redesignating existing paragraphs (e) and (f) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.460 Penicillin.

(a) *Specifications.* As penicillin procaine G or feed grade penicillin procaine.

* * * * *

73. In § 558.464, by removing paragraph (b), by redesignating existing paragraph (c) as paragraph (b), and by revising paragraph (a), to read as follows:

§ 558.464 Poloxalene.

(a) *Approvals.* (1) Dry Type A medicated articles: 53 percent to 000007 in § 510.600(c) of this chapter.

(2) Liquid Type A medicated articles: 99.5 percent to 000007 in § 510.600(c) of this chapter.

* * * * *

74. In § 558.465, by removing paragraphs (b) and (c), by redesignating existing paragraph (d) as paragraph (b), and by revising the section heading and paragraph (a), to read as follows:

§ 558.465 Poloxalene liquid Type C medicated feed article.

(a) *Approvals.* Type A medicated articles: 99.5 percent to 000007 in § 510.600(c) of this chapter.

* * * * *

75. In § 558.485, by removing and reserving paragraph (b), by revising the introductory text of paragraph (a), and

by revising paragraph (d), to read as follows:

§ 558.485 Pyrantel tartrate.

(a) *Approvals.* Type A medicated articles containing pyrantel tartrate to firms identified by drug labeler codes in § 510.600(c) of this chapter for the specific usage indicated in paragraph (e) of this section:

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(b) [Reserved]

* * * * *

(d) *Special considerations.* (1) Consult veterinarian before using in severely debilitated animals.

(2) Do not mix in Type B or Type C medicated feeds containing bentonite.

* * * * *

76. In § 558.515, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and the second sentence in redesignated paragraph (b), to read as follows:

§ 558.515 Robenidine hydrochloride.

(a) *Approvals.* Type A medicated articles: 30 grams per pound to 010042 in § 510.600(c) of this chapter.

(b) * * * Do not use in Type B or Type C medicated feeds containing bentonite.

* * * * *

77. In § 558.525, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a), to read as follows:

§ 558.525 Ronnel.

(a) *Approvals.* Type A medicated articles: (1) 18 and 40 percent to 025700 in § 510.600(c) of this chapter.

(2) 5.5 percent in mineral mix to 021930 in § 510.600(c) of this chapter.

* * * * *

78. In § 558.530, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d), (e), and (f) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a), to read as follows:

§ 558.530 Roxarsone.

(a) *Approvals.* Type A medicated articles: (1) 10, 20, and 50 percent to 011801 in § 510.600(c) of this chapter for use in making chicken and turkey feeds.

(2) 10, 20, 50, and 80 percent to 017210 in § 510.600(c) of this chapter for use in making chicken, turkey, and swine feeds.

* * * * *

79. In § 558.550, by removing paragraph (b), by redesignating existing paragraph (c) as paragraph (b), and by revising paragraph (a), to read as follows:

§ 558.550 Salinomycin.

(a) *Approvals.* Type A medicated articles: 30 grams of activity from salinomycin sodium biomass to 000031 in § 510.600(c) of this chapter.

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80. In § 558.575, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.575 Sulfadimethoxine, ormetoprim.

(a) *Approvals.* Type A medicated articles: 25 percent of sulfadimethoxine and 15 percent of ormetoprim and 25 percent of sulfadimethoxine and 5 percent of ormetoprim to 000004 in § 510.600(c) of this chapter.

* * * * *

81. In § 558.579, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c) respectively, and by revising paragraph (a), to read as follows:

§ 558.579 Sulfaethoxypyridazine.

(a) *Approvals.* Type A medicated articles: 5.5 percent for swine, and 5.5 and 11 percent for cattle to 010042 in § 510.600(c) of this chapter.

* * * * *

82. In § 558.582, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.582 Sulfamerazine.

(a) *Approvals.* Type A medicated articles: 99 percent to 010042 in § 510.600(c) of this chapter.

* * * * *

83. In § 558.586, by removing and reserving paragraphs (b) and (c) and by revising the section heading and adding paragraph (a), to read as follows:

§ 558.586 Sulfaquinoxoline.

(a) *Approvals.* Type A medicated articles: 40 percent to 000006 in § 510.600(c) of this chapter.

(b)–(c) [Reserved]

* * * * *

84. In § 558.615, by removing paragraph (b), by redesignating existing paragraphs (c), (d), and (e) as paragraphs (b), (c), and (d), respectively, and by revising paragraph (a) and redesignated paragraph (b), to read as follows:

§ 558.615 Thiabendazole.

(a) *Approvals.* Dry Type A medicated articles: 22, 44.1, 66.1, and 88.2 percent to 000006 in § 510.600(c) of this chapter. The 66.1 percent Type A is solely for the manufacture of cane molasses liquid Type C medicated feed article which is mixed in dry feeds. The 88.2 percent Type A is used solely for the manufacture of an aqueous slurry for adding to a Type C dry cattle feed.

(b) *Special considerations.* Do not use in Type B or Type C medicated foods containing bentonite.

* * * * *

85. In § 558.625, by removing and reserving paragraphs (c) and (d) and by revising the introductory text of paragraph (b), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) *Approvals.* Type A medicated article levels of tylosin granted to firms as sponsor(s) and identified by drug listing numbers in § 510.600(c) of this chapter for the specific usage indicated in paragraph (f) of this section.

* * * * *

(c)–(d)–[Reserved]

* * * * *

86. In § 558.630, by removing and reserving paragraphs (a), (c), and (d), and by revising the introductory text of paragraph (b), to read as follows:

§ 558.630 Tylosin and sulfamethazine.

(a) [Reserved]

(b) *Approvals.* Type A medicated article levels, a combination of equal amounts of tylosin and sulfamethazine, granted to firms as sponsor(s) and identified by drug listing numbers in § 510.600(c) of this chapter for the conditions of use indicated in paragraph (f) of this section.

* * * * *

(c)–(d) [Reserved]

* * * * *

87. In § 558.635, by removing and reserving paragraphs (a), (c), and (e) (3) and (4), and by revising paragraph (b), to read as follows:

§ 558.635 Virginiamycin.

(a) [Reserved]

(b) *Approvals.* Type A medicated articles. (1) 1.1 percent activity (5 grams per pound), 2.2 percent activity (10 grams per pound), 4.4 percent activity (20 grams per pound), 11 percent activity (50 grams per pound), and 50 percent activity (227 grams per pound) to 000007 in § 510.600(c) of this chapter.

(2) 2.2 percent activity (10 grams per pound) to 011490, 016968, 017274, 017790, and 047427 in § 510.600(c) of this chapter

for use as in paragraph (f)(1) (iv) and (v) of this section.

(c) [Reserved]

* * * * *

(e) * * *

(3)–(4) [Reserved]

* * * * *

In § 558.680, by removing paragraphs (b) and (c), by redesignating existing paragraphs (d) and (e) as paragraphs (b) and (c), respectively, and by revising paragraph (a), to read as follows:

§ 558.680 Zoalene.

(a) *Approvals.* Type A medicated articles: 25 percent to 017210 in § 510.600(c) of this chapter.

* * * * *

Dated: January 28, 1986.

Frank E. Young,

Commissioner of Food and Drugs

Otis R. Bowen,

Secretary of Health and Human Services.

[FR Doc. 86–4316 Filed 2–28–86; 8:45 am]

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Monday
March 3, 1986

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 884

Obstetrical-Gynecological Devices; Transabdominal Amnioscope (Fetoscope) and Accessories; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. 85N-0494]

Obstetrical-Gynecological Devices; Premarket Approval of the Transabdominal Amnioscope (Fetoscope) and Accessories

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; opportunity to request change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the transabdominal amnioscope (fetoscope) and accessories, a medical device. The agency is also summarizing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the statute's approval requirements, and (2) the benefits to the public from the use of the device. In addition, FDA is announcing an opportunity for interested persons to request the agency to change the classification of the device based on new information.

DATES: Written comments by May 2, 1986; requests for a change in classification by March 18, 1986.

ADDRESS: Written comments or requests for a change in classification are to be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: class I, general controls; class II, performance standards; and class III, premarket approval. As a general rule, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295), and devices marketed on or after that date that are substantially equivalent to such devices, have been, or are being, classified by FDA. For the sake of convenience, this preamble refers to both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as "preamendments devices."

Sections 501(f), 513, 515(b) of the act (21 U.S.C. 351(f), 360c, and 360e(b)), taken together, establish as a general requirement that a preamendments device that FDA has classified into class III is subject, in accordance with section 515, to premarket approval. (As an alternative procedure for premarket approval, section 515(f) of the act provides for the development of a PDP, the last stage of which is for FDA to declare that a PDP has been completed.) A preamendments class III device may be commercially distributed without a filed PMA or a notice of completion of a PDP until 90 days after FDA's promulgation of a final rule requiring premarket approval for the device. Also, such a device is exempt from the investigational device exemption (IDE) regulations (21 CFR Part 812) until the date stipulated by FDA in the final rule requiring premarket approval for that device. A device that was not in commercial distribution before May 28, 1976, or that has not been found by FDA to be substantially equivalent to such a device, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

Section 515(b)(2)(A) of the act provides that a proceeding for the promulgation of a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking containing: (1) The proposed rule, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice either denying the request or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, promulgate a final rule to require premarket approval, or publish a notice terminating the proceeding. If the proceeding is terminated, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f) of the act requires that a PMA or a notice of completion of a PDP for the device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device, whichever is later. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of completion of a PDP has not been filed, and there is not any IDE in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334). Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333).

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed. The House Report on the amendments states that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigation necessary to support an application for premarket approval." H. Rept. 94-853, 94th Cong., 2d Sess. 42 (1976).

Classification of the Transabdominal Amnioscope (Fetoscope) and Accessories

In the **Federal Register** of February 26, 1980 (45 FR 12688), FDA issued a final rule (21 CFR 884.1600) classifying the transabdominal amnioscope (also known as the fetoscope) and accessories into class III. The preamble to the proposal to classify the device (44 FR

19907; April 3, 1979) included the recommendation of the Obstetrics-Gynecology Devices Panel (formerly) the Obstetrical and Gynecological Device Classification Panel) (the Panel), an FDA advisory committee, regarding the classification of the device. The Panel's recommendation included a summary of the reasons the device should be subject to premarket approval and identified certain risks to health presented by the device. The Panel also recommended under section 513(c)(2)(A) of the act that a high priority for the application of section 515 of the act be asigned to the transabdominal amnioscope and accessories. The preamble to the final rule classifying the device advised that the earliest date by which a PMA for the device (or a notice of completion of a PDP) could be required was September 30, 1982, or 90 days after promulgation of a rule requiring premarket approval for the device, whichever occurred later.

In the **Federal Register** of September 6, 1983 (48 FR 40272), FDA published a notice of intent to initiate proceedings to require premarket approval of 13 preamendments class III devices assigned a high priority by FDA for the application of premarket approval requirements. Among other things, the notice describes the factors FDA takes into account in establishing priorities for initiating proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's or declared completed PDP's. Using these factors, FDA has determined that the transabdominal amnioscope and accessories identified in § 884.1600(a) has a high priority for initiating a proceeding to require premarket approval. Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the transabdominal amnioscope and accessories have an approved PMA or a PDP that has been declared completed.

Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is now proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the transabdominal amnioscope and accessories within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was in commercial distribution before May 28, 1976, or whose device has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the transabdominal amnioscope and accessories during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days, of the date of filing. FDA cautions that under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period for a PMA unless the agency finds that "* * * the continued availability of the device is necessary for the public health."

FDA intends that, under § 812.2(d), the preamble to any final rule based on this proposal will stipulate that, as of the date on which a PMA or a notice of completion of a PDP is required to be filed, the exemptions in § 812.2(c) (1) and (2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any transabdominal amnioscope and accessories: (1) That is not legally on the market on or before that date or (2) that is legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA or a notice of completion of a PDP for the transabdominal amnioscope and accessories is not filed with FDA within 90 days after the date of promulgation of any final rule requiring premarket approval for the device, commercial distribution of the device will be required to cease. The device may be distributed for investigational use only if the requirements of the IDE regulations regarding significant risk devices are met. The requirements for significant risk devices include submitting an IDE application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period to avoid interrupting investigations.

Description of Device

A transabdominal amnioscope is a device designed to permit direct visual examination of the fetus by a telescopic system via abdominal entry. The device is used to ascertain fetal abnormalities, to obtain fetal blood samples, or to obtain fetal tissue. The generic type of device may include the following accessories: Trocar and cannula, instruments used through an operating channel or through a separate cannula associated with the amnioscope, light source and cables, and component parts.

The proposed rule to require premarket approval of the tansabdominal amnioscope and accessories applies to transabdominal amnioscope (fetoscope) products and accessories for use with the products that were being commercially distributed before May 28, 1976, and to devices introduced into commercial distribution since that date which have been found to be substantially equivalent to such transabdominal amnioscopes and accessories.

Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the Act, FDA is publishing its proposed findings regarding (1) the degree of risk of illness or injury designed to be eliminated or reduced by requiring the transabdominal amnioscope and accessories to have an approved PMA or a declared completed PDP and (2) the benefits to the public from the use of the device.

Degree of Risk

In 1979, the Panel considered the appropriate classification of the transabdominal amnioscope and accessories. After reviewing all available literature on the transabdominal amnioscope, the Panel recommended that the device and its accessories be classified into class III (44 FR 19907; April 3, 1979). The Panel based its recommendation, in part, on its conclusion that satisfactory performance of the device has never been demonstrated, that available information is insufficient to establish a standard to provide assurance of the device's safety and effectiveness, and that clinical experience with the device is too limited to establish that general controls would assure its safe and effective use.

The Panel identified several risks to health associated with the use of the device: Tissue burns, infection, electrical shock, trauma, adverse tissue reaction, spontaneous abortion, and premature delivery. In addition, FDA reviewed data and information describing the application of the transabdominal amnioscope to examine the fetus visually and to collect tissue samplings. Based on FDA's review of these data and information, some of which were not available at the time of the Panel meeting, the agency concluded that the device presents a potential unreasonable risk of illness or injury due to risks associated with its use, including the reported frequency of diagnostic error, failure of sample acquisition, and fetal loss. For these reasons, FDA found that the value of diagnostic information on fetal status obtained with the use of the device may

not outweigh the fetal risk presented by the device. Accordingly, FDA determined that the transabdominal amnioscope and accessories should be subject to premarket approval.

Since the time of classification of the device, FDA has evaluated the risks then determined to be associated with the use of the transabdominal amnioscope and accessories. Based on that evaluation, FDA believes that with the development of fiber optics and remote light source, current models of the device no longer present the risks of tissue burns and electrical shock. FDA believes that the following are significant risks which continue to be associated with the use of transabdominal amnioscope (fetoscope) products and the accessories used with these products:

Spontaneous abortion. Spontaneous abortion is one of the most serious risks of fetoscopy. The incidence of spontaneous abortion following fetoscopy was recently reported to be 6.8 percent for fetal blood sampling, 7.9 percent for fetal visualization, and 16 percent for fetal skin biopsy (Ref. 19). Moreover, the incidence of spontaneous abortion has been found to be higher in patients for whom a followup second fetoscopy procedure was necessary whether the followup procedure was conducted on the same day as the first procedure or later (Refs. 2 and 23).

Premature delivery. The incidence of premature delivery of the fetus following fetoscopy for sampling of fetal blood range between 5.3 percent and 14.8 percent (Refs. 2 and 23). According to Antsaklis (Ref. 2) and Ward and Modell (Ref. 23), many factors contribute to premature delivery of the fetus, but the average incidence of 10 percent premature delivery following fetoscopy was much higher than the estimated 1.5 percent expected in a normal group of patients. Therefore, these authors conclude that fetoscopy has to be considered an additional hazard contributing to premature delivery. These authors also report that the incidence of premature delivery following fetal visualization with transabdominal amnioscope devices is much higher than that following fetal blood sampling with the devices, probably because of the additional manipulation of the fetoscope required for visually identifying developmental abnormalities.

Fetal and maternal injuries. Direct damage to the fetus and to the mother has been reported following fetoscopy (Refs. 2, 3, 8, 12, 14, and 17). Hobbins and Mahoney (Ref. 8) reported fetal bleeding both into amniotic fluid and maternal circulation. Rodeck and Nicolaides (Ref. 16) reported a rise in maternal serum alpha-fetoprotein concentration indicating feto-maternal hemorrhage as a result of punctured chorionic plate vessels during fetoscopy. Feto-maternal hemorrhage in Rh-negative mothers is a potential complication due to isoimmunization (Ref. 16). In addition, it has been suggested that the bright light source might damage the fetal retina during fetoscopy (Ref. 16).

Amnionitis and leakage of amniotic fluid as a result of trauma are the two significant maternal complications following fetoscopy (Refs. 3 and 13). The incidence of amnionitis has been reported to be about 1 percent and leakage of amniotic fluid to be 5 percent (Refs. 3 and 13). According to Antsaklis (Ref. 2) and Ward and Modell (Ref. 23), trauma either to the fetus or to the uterus of the mother is the main cause of spontaneous abortion following fetoscopy. Early studies indicate, however, that the use of small diameter fetoscopes (1.7 to 3.1 millimeters) may reduce these risks (Ref. 3).

Infection. Rocker and Laurence report that infection is a significant hazard both to the fetus and to the mother (Refs. 2 and 14). The incidence of fetal infection following fetoscopy is about 1 percent. These authors considered the observed fetal infection, in some cases, to be the direct cause of fetal death. During fetoscopy procedures, antibiotics are routinely administered to the patients (Ref. 2) to minimize maternal infection. Fetal infection can be so serious, however, that it causes septic abortion (infected miscarriage) followed in some cases by blood poisoning (septicemia) which can lead to death.

Adverse tissue reaction. Materials or substances used to manufacture transabdominal amnioscope (fetoscope) devices and the accessories used with these devices could cause systemic or local tissue reaction, when the devices contact the maternal or fetal tissues. Because the devices used for fetoscopy come in direct contract with very sensitive fetal and maternal tissues, biocompatibility of the device materials is essential to provide reasonable assurance of the safety of the device.

Benefits of the Device

Fetoscopy is performed to visualize the fetus or to sample fetal tissues for the diagnosis of fetal conditions that are difficult or impossible to diagnose with ultrasonography or amniocentesis (Refs. 5, 13, 14, 16, 18, 20, and 21). Visual examination of the fetus has successfully diagnosed craniofacial defects, limb defects, and neural tube defects (Ref. 15). Several skin diseases have been diagnosed by fetal skin biopsy using the transabdominal amnioscope and accessories (Ref. 4). Other prenatal diagnoses of specific conditions that have been accomplished with fetoscopy include hemoglobinopathies (Refs. 1 and 22), hemophilias (Refs. 7 and 9), white blood cell and platelet disorders (Ref. 10), red cell typing (Ref. 11), and several enzyme deficiencies (Ref. 3). Diagnosis of a normal healthy fetus by fetoscopy provides the benefit of reassurance to parents who are at high risk of a pregnancy with genetic or developmental abnormalities such as the defects and conditions discussed above.

In summary, fetoscopy offers a valuable tool in the prenatal diagnosis of conditions that cannot be diagnosed by ultrasonography or amniocentesis, though the procedure is not without certain attendant risks as well as the possibility of failure to provide diagnostic information. FDA believes, however, that fetoscopy using the transabdominal amnioscope and accessories can be beneficial in prenatal diagnosis for genetic diseases and developmental abnormalities in high-risk patients.

Discussion of Risks and Benefits

FDA classified the transabdominal amnioscope and accessories into class III because insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance. FDA has weighed the probable risks and benefits to the public from use of the transabdominal amnioscope and accessories and believes that the studies discussed above present evidence of significant risks associated with the use of the device. These risks must be addressed by manufacturers of the device.

Fetal infection is a serious complication associated with the fetoscopy procedure. The incidence of fetal infection associated with use of the transabdominal amnioscope and accessories leading to spontaneous abortion has been reported (Ref. 14). FDA believes, therefore, that the rate, type, severity, and outcome of these infections should be clearly documented for any transabdominal amnioscope and accessories for which premarket approval is sought.

Fetal trauma leading to fetal deformities and fetal loss has been reported following fetoscopy (Refs. 2, 3,

6, 8, 12, 14, and 17). FDA believes that the difference in rate, type, severity, and outcome of fetal trauma following fetal blood or tissue sampling and following fetal visualization should be clearly documented for each device.

Leakage of amniotic fluid and amnionitis are severe maternal complications frequently caused by the fetoscopy procedure (Refs. 3 and 13). Feto-maternal hemorrhage as a result of punctured chorionic plate vessels has also been reported (Ref. 16). FDA believes that the rate, type, severity, and outcome of all the maternal complications associated with the use of each transabdominal amnioscope and accessories should be clearly documented.

Spontaneous abortion and premature delivery have been reported following fetoscopy (Refs. 2, 14, and 23). FDA believes that the incidence of spontaneous abortion and premature delivery for each indication (fetal blood or tissue sampling and fetal visualizaton) should be clearly established for each device.

Although the transabdominal amnioscope and accessories may provide prenatal diagnostic data that are unavailable with other methods, fetal blood sampling and fetal visualization by fetoscopy have often failed to provide the necessary diagnostic data. Fetal blood obtained by the procedure may be contaminated with amniotic fluid. Fetal visualization has been reported as failing in 13 percent of the attempted cases (Ref. 3). For these reasons, FDA believes that the diagnostic effectiveness of fetoscopy must be documented in terms of effective fetal blood or tissue sampling and fetal examination.

Because the transabdominal amnioscope and accessories come in contact with very sensitive fetal and maternal tissues, FDA believes that the safety of all the materials used in the device that come in contact with tissues must be established by adequate biocompatibility studies.

FDA tentatively concludes, therefore, that the transabdominal amnioscope and accessories should undergo premarket approval to determine whether the probable benefits to health from use of the device for its intended uses and conditions of use outweigh any probable risks to the fetus and the mother.

Any PMA for the device is to contain the information required by section 515(e)(1)(A) of the act. Such a PMA should also contain a detailed discussion with supporting preclinical and clinical studies respecting the risks identified above and the effectiveness of the device for which premarket approval is sought.

In addition, the PMA should contain all data and information on: (1) The risks known to the applicant that have not been identified in this document, (2) the effectiveness of the specific transabdominal amnioscope and its accessories that is the subject of the application, and (3) summaries of all existing preclinical and clinical data from investigations on the safety and effectiveness of the device for which premarket approval is sought.

Applicants should submit any PMA in accordance with FDA's "Guideline for the Arrangement and Content of a PMA Application." (The guideline is available upon request from Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910.)

Opportunity To Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(iv) of the act and § 860.132 of FDA's regulations governing classification of devices (21 CFR 860.132) to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. The legal standard governing reclassification under section 513(e) of the act and § 860.123 is discussed in detail in the preambles to FDA's proposed rules to reclassify daily wear spherical contact lenses consisting of rigid gas permeable plastic materials and daily wear optically spherical (soft) contact lenses from class III into class I (47 FR 53402, 53411; November 26, 1982).

A request for a change in the classification of the transabdominal amnioscope and accessories is to be in the form of a reclassification petition containing the information required by § 860.123, including new information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by March 18, 1986.

The agency advises that to assure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the transabdominal amnioscope and accessories is submitted, the agency will, by May 2, 1986, after consultation with the appropriate FDA advisory committee and by an order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and §860.130 of the regulations.

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Alter, B. P., "Prenatal Diagnosis of Hemoglobinopathies and Other Hematologic Diseases, " *Journal of Pediatrics*, 95:501–513, 1979.

2. Antsaklis, A. J., "Fetoscopy at First Department of Obstetrics and Gynecology, Athens University," *in* "Fetoscopy," Edited by Rocker, I., and K. M. Laurence, New York, Elsevier/North-Holland, pp. 277–285, 1981.

3. Benzie, R., et al., "Fetoscopy and Fetal Tissue Sampling," *Prenatal Diagnosis* (Special Issue), pp. 29–33, 1980.

4. Elias, S., "Fetoscopy in Prenatal Diagnosis," *Clinics in Perinatology*, 10:357–367, 1983.

5. Elias, S., and N. B. Esterly, "Prenatal Diagnosis of Hereditary Skin Disorders," *Clinical Obstetrics and Gynecology*, 24:1069–1087, 1981.

6. Fairweather, D. V. I., R. H. Ward, and B. Modell, "Obstetric Aspects of Mid-Trimester Fetal Blood Sampling by Needling or Fetoscopy," *British Journal of Obstetrics and Gynecology*, 87:87–99, 1980.

7. Firshein, S. I., et al., "Prenatal Diagnosis of Classic Hemophilia," *New England Journal of Medicine*, 300:937–941, 1979.

8. Hobbins, J.C., and M. J. Mahoney, "In Utero Diagnosis of Hemoglobinopathies. Technic for Obtaining Fetal Blood." *New England Journal of Medicine*, 290:1065–1067, 1974.

9. Mibashan, R. S., et al., "Plasma Assay of Fetal Factors VIIIC and IX for Prenatal Diagnosis of Hemophilia," *Lancet*, i, 1309–1311, 1979.

10. Newburger, P. E., et al., "Prenatal Diagnosis of Chronic Granulomatous Disease," *New England Journal of Medicine*, 300:178–181, 1979.

11. Philip, J., et al., "ABO and Rh Phenotyping of Foetal Blood Obtained by Foetoscopy," *Clinical Genetics*, 14:324–329, 1978.

12. Rauskolb, R., "Fetoscopy in Germany," *in* "Fetoscopy," Edited by Rocker, I., and K. M. Laurence, New York, Elsevier/North-Holland, pp. 287–298, 1981.

13. Rauskolb, R., "Fetoscopy," *Journal of Perinatal Medicine*, 11:223–231, 1983.

14. Rocker, I., and K. M. Laurence, "An Assessment of Fetoscopy," *in* "Fetoscopy," Edited by Rocker, I., and K. M. Laurence, New York, Elsevier/North-Holland, pp. 301–309, 1981.

15. Rodeck, C. H., and S. Campbell, "Early Prenatal Diagnosis of Neural-Tube Defects by Ultrasound-Guided Fetoscopy," *Lancet*, i, 1128–1129, 1978.

16. Rodeck, C. H., and K. H. Nicolaides, "Fetoscopy and Fetal Tissue Sampling," *British Medical Bulletin*, 39:332–337, 1983.
17. Rodeck, C. H., "Fetoscopy at King's College Hospital London," *in* "Fetoscopy," Edited by Rocker, I., and K. M. Laurence, New York, Elsevier/North-Holland, pp. 233–259, 1981.
18. Rodeck, C. H., "Prenatal Diagnosis by Fetoscopy and Chorion Biopsy," *Australian and New Zealand Journal of Obstetrics and Gynaecology*, 24:86–90, 1984.
19. Special Report: "The Status of Fetoscopy and Fetal Tissue Sampling," Fourth Annual Meeting of the International Fetoscopy Group, San Francisco, 1982, *Prenatal Diagnosis*, 4:79–81, 1984.
20. Toftager-Larsen, K., and R. J. Benzie, "Fetoscopy in Prenatal Diagnosis of the Majewski and the Saldino-Noonan Types of the Short Rib-Polydactyly Syndromes," *Clinical Genetics*, 26:56–60, 1984.
21. Tolarova, M., and A. Zwinger, "The Use of Fetoscopy by Inborn Morphological Anomalies," *Acta Chir. Plasticae*, 23: 139–151, 1981.
22. Walters, W. A. W., et al., "Antenatal Intrauterine Diagnosis of Fetal Thalassaemia," *The Medical Journal of Australia*, 140:260–263, 1984.
23. Ward, R. H. T., and B. Modell, "The Mid-Trimester of Pregnancy in Relation to Fetoscopy and to Fetal Blood Sampling," *in* "Fetoscopy," Edited by Rocker, I., and K. M. Laurence, New York, Elsevier/North-Holland, pp. 3–31, 1981.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has examined the economic consequences of this proposed rule in accordance with the criteria in section 1(b) of Executive Order 12291 and found that the proposal would not be a major rule as specified in the Order. The agency believes that only four or five small firms will be affected by this proposed rule. Therefore, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed rule would not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of any final rule based on this proposal has been placed on file in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

Comments

Interested persons may, on or before May 2, 1986, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before March 18, 1986, submit to the Dockets Management Branch a written request to change the classification of the transabdominal amnioscope and accessories. Two copies of any requests are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 884 be amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

1. The authority citation for 21 CFR Part 884 is revised to read as follows:

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)); 21 CFR 5.10; §§ 884.1600(c), 884.5360(d), and 884.5380(c) also are issued under secs. 501, 515, and 520(g), 52 Stat. 1049–1050 as amended, 90 Stat. 552–559, 569–571 (21 U.S.C. 351, 360e, 360j(g)).

2. In Part 884, § 884.1600 is amended by adding new paragraph (c), to read as follows:

§ 884.1600 Transabdominal amnioscope (fetoscope) and accessories.

* * * * *

(c) *Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before (a date 90 days after date of promulgation of a final rule) for any transabdominal amnioscope (fetoscope) and accessories that was in commercial distribution before May 28, 1976, or that has on or before (a date 90 days after date of promulgation of a final rule) been found to be substantially equivalent to a transabdominal amnioscope (fetoscope) and accessories that was in commercial distribution before May 28, 1976. Any other transabdominal amnioscope (fetoscope) and accessories shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Dated: February 6, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

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March 3, 1986

Part VI

Department of the Interior

Bureau of Land Management

43 CFR Part 4700

Revision of Existing Regulations on Protection, Management, and Control of Wild Free-Roaming Horses and Burros; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4700

[Circular No. 2577]

Revision of Existing Regulations on Protection, Management, and Control of Wild Free-Roaming Horses and Burros

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking revises the provisions on wild free-roaming horses and burros in Part 4700 to reduce the regulatory burden on the public, to clarify the management procedures of the Bureau of Land Management as they affect the public, to remove unnecessary provisions, and to improve the organization of the regulations.

EFFECTIVE DATE: April 2, 1986.

ADDRESS: Inquiries or suggestions should be sent to: Director (250), Bureau of Land Management, Room 901, Premier Building, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: John S. Boyles (202) 653–9215.

SUPPLEMENTARY INFORMATION: A proposed rulemaking to revise the existing regulations on the protection, managment, and control of wild free-roaming horses and burros on public lands was published in the **Federal Register** on December 18, 1984 (49 FR 49252). Comments were invited for a period of 60 days ending February 19, 1985, during which period a total of 19 comments were received, with 10 from associations, 6 from Federal agency offices, 2 from State governments, and 1 from a Member of Congress. All of the comments have been given careful consideration during the decisionmaking process on this final rulemaking.

The comments contained discussions of specific sections of the proposed rulemaking and in many instances recommended changes, some of which have been adopted in this final rulemaking. This preamble will discuss only those sections that were the subject of specific comments or were changed.

Section 4700.0–2 Objectives.

One comment suggested that the objectives should be amended to conform more closely to the statutory objectives stated in the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340) (the Act). Based on this comment, the section has been amended to incorporate the statutory requirement that wild horses and burros be managed "as an integral part of the natural system of the public lands" under the principle of multiple use.

Section 4700.0–5 Definitions.

Several comments addressed the proposed definitions of the terms "appropriate management level" and "excess animals." Most of the comments criticized the proposed definitions of the terms as being inconsistent with the statutory definitions and intent, and urged that the statutory language be used. In response to these comments, the definitions of both terms have been removed from the final rulemaking. The language of the statute will govern management.

One comment questioned whether the definition of "authorized officer" allows for appeals by the public to higher authority. The definition merely defines who is to carry out the provisions of this rulemaking, and has no bearing on appeals under the Administrative Procedure Act or 43 CFR Part 4 of any decision made under these regulations. The definition is not changed in the final rulemaking.

Two comments addressed the definitions for "band" and "herd", urging that the former be removed and that the latter be conformed to the language in the Act. In response to these comments, the definitions of both terms have been removed from the rulemaking. "Herd" is defined in the Act. "Band" is not used in the text of the final rulemaking, and thus does not require definition.

Several comments addressed the definition of "commercial exploitation," urging that it be expanded to include slaughtering and processing the remains of horses and burros, and not be limited to using the wild characteristics of the animals for financial gain. Slaughtering a wild horse or burro is prohibited by § 4770.1(c) of this relemaking, and selling a wild horse or burro or its remains is prohibited by § 4770.1(d). Processing of the remains of a wild horse or burro is addressed in § 4730.2 , which prohibits receiving compensation for remains, but allows disposal of remains through rendering. The definition is retained unchanged.

Several comments objected to the proposed definition of "humane treatment," which required that handling be consistent with "standard animal husbandry practices." Because no specific group of husbandry practices can be presented as a "standard," the word has been replaced in the final rulemaking with the phrase "accepted by the veterinary community." Accepted animal husbandry practices are those outlined in textbooks on the subject. The BLM has relied primarily on the following:

1. Bradley, Melvin. *Horses: A Practical and Scientific Approach*. New York: McGraw-Hill, Inc., 1981.

2. Ensminger, M.E. *Horses and Horsemanship*, 5th ed. Danville, Illinois: The Interstate Printers and Publishers, Inc., 1977.

In addition, the adjectives "kind" and "merciful" have been removed because they are redundant, given the requirement that handling not cause unnecessary stress or suffering.

Another comment stated that "stress," referred to in the definition, is undefined. In this and all other cases where common words or expressions are used, the ordinary dictionary definition is intended to be applied.

Several comments addressed the definition of "inhumane treatment." Some stated a preference for the definition in the existing regulations; others stated that requiring the treatment to be intentional is too restrictive, and that it should be defined to include inflicting pain and suffering. The word "death" has been replaced in the definition in the final rulemaking with "undue suffering", in response to one of the comments, and to allow the authorized officer to destroy animals in appropriate circumstances. The definition has also been expanded to include negligent as well as intentional behavior, and the word "standard" is replaced for the reasons stated above. However, the definition in the existing regulations is not retained because it may be too restrictive, in that it includes a specific list of proscribed acts or omissions without stating clearly that other acts or omissions may constitute inhumane treatment.

One comment suggested that the definition of "old wild horse or burro" should be amended to make it clear that, to be subject to destruction as an act of mercy because of physical deterioration, the animal's deterioration must have rendered it unable to fend for itself. This suggestion has been adopted in the final rulemaking.

One comment stated that the definition of "wild horses and burros" should be amended to include their progeny. This change has not been adopted in the final rulemaking because it would include animals born after their mothers have been placed under a Private Maintenance and Care Agreement. Such animals have never been "unbranded or unclaimed horses and burros on public lands of the United States," the statutory definition of wild horses and burros. The final rulemaking

does address progeny born while the mothers are on public land or at adoption centers. In response to a comment, the definition has been amended to assure that the term includes the characteristic "free-roaming".

One comment suggested including in the rulemaking a definition for "herd area." This suggestion has been adopted in the final rulemaking. Two comments urged that a definition of "malicious harassment" be included. This request has not been adopted in the final rulemaking. Instead, the prohibition in § 4770.1(a) has been amended to prohibit negligent as well as malicious injury or harassment. The terms negligence and malice are both well-defined in the law.

Section 4700.0–6 Policy.

Several comments addressed paragraph (a) of this section, urging that the policy should emphasize that wild horses and burros should be managed as one of the multiple uses of the public lands, not as a dominant use limited only by the capacity of the habitat. Other comments urged that more than just museum-exhibit populations should be maintained on the public lands. Paragraph (a) of § 4700.0–6 has been amended in the final rulemaking to accommodate both suggestions, that is, to require that populations be self-sustaining and that populations of horses and burros be kept in balance with other uses as well as the productive capacity of the habitat.

Several comments addressed paragraph (b) of this section, urging that the language on forage allocation in the existing regulations (43 CFR 4700.0–6(c)) be retained. Other comments stated that the word "comparably" is vague and should be replaced by "equivalent" in describing how wild horses and burros will be considered in relation to other resources in formulating land use plans. Specific provision for forage allocation is not necessary because the policy is clearly stated that wild horse and burro management will maintain self-sustaining populations. This cannot be done without adequate forage. The word "comparably" is used in the existing regulations to require all resource values to be considered in proportion to their presence on the land, competition with other resources, and the interest of the public in them. Assigning equal or equivalent weight to all resources, as some comments suggested, would not allow varying circumstances to be treated appropriately. The paragraph is not changed in the final rulemaking.

Two comments addressed paragraph (c) of this section, urging that it be policy to manage wild horses and burros at the minimum feasible level, and expressing concern that maintaining free-roaming behavior of the animals may be inconsistent with multiple use of the public lands. Failure to maintain the free-roaming nature of the animals would be contrary to the policy established by the Act. The requirement that management shall be at the minimum level to attain planning objectives is contained in § 4710.4. It is not necessary to amend this provision.

One comment urged that paragraph (d) of this section be amended to preclude cooperative arrangements for the management of wild horses and burros. The Act specifically authorizes the Secretary of the Interior to enter into cooperative agreements with State and local governments and with individual landowners to attain management objectives. The paragraph is retained in the final rulemaking. It should be understood that § 4710.7 retains the statutory provisions for individuals to maintain wild horses and burros on their private land.

Although there were no comments on paragaph (e), it has been amended by removing the word "nationwide" in reference to adoption centers, to avoid misleading the public into expecting to find adoptable animals in every community around the country.

In response to several comments, and to make it consistent with § 4750.4–2(b), paragraph (f) has been amended to state that adoption fees will "normally" be required.

One comment asked for a policy declaration on removal of animals from private land. Such a declaration is unnecessary because the procedure is clearly stated in § 4720.2–1. Another comment asked that management guidelines be included in the policy statement. Such guidelines are more appropriately stated in manuals for the use of field personnel of the Bureau. Neither suggestion has been adopted in the final rulemaking.

Section 4710.1 Land use planning.

Several comments addressed this section. One expressed general support, another asked for language requiring that management activities comply with law and Congressional intent, and a third urged that management activities be included in approved land use plans. In response to the second comment, management activities shall be in accordance with the law regardless of any criteria in regulations. In response to the third, the paragraph has been amended by substituting the words "in accordance" for "compatible" in describing the relationship of management actions to land use plans. Management activities, including the development of herd management area plans, must not only be compatible with the land use plan but must also reflect specific guidance derivable from the land use plan on the subjects of resource allocation, relationships between wild horses and burros and other recognized uses, and critical resource use levels that would require modification of the plan's multiple-use prescriptions.

Section 4710.2 Inventory and monitoring.

Several comments urged that the authorized officer be required to address the numbers of horses and burros that existed in herd areas in 1971 as a basis for further management. This suggestion is not adopted in the final rulemaking. There is no indication in the Act or its legislative history that herds should be managed at their 1971 size or any other specific level. Furthermore, although estimates of 1971 population levels have been made, they are at best conjectural and highly unreliable. It is more appropriate to allow the authorized officer the flexibility to determine appropriate management levels based on analysis of competing land uses, forage availability, and public concern.

Another comment urged that the authorized officer be required to monitor herd and habitat characteristics regardless of whether herd management areas are established. This suggestion has not been adopted in the final rulemaking, because this type of information is useful only when herds are to be managed in the long term. This provision has been amended to delete the list of items to be inventoried and monitored on herd management areas, because these will vary depending on the objectives in the herd management area plan.

Section 4710.3–1 Herd management areas.

Several comments addressed this section, expressing concern that it could be interpreted to direct every District Manager of the Bureau of Land Management to establish herd management areas. This provision has been amended to alleviate this concern and to clarify that herd management areas shall be established only where herds existed in 1971. One comment suggested that the effect on nearby private land of management for wild horses and burros should be taken into account in delineating herd management areas. This suggestion has been adopted in the final rulemaking.

Section 4710.3–2 Wild horse and burro ranges.

Several comments objected to this section as implying that numerous wild horse and burro ranges will be

established on public lands. Such ranges are specifically provided for by law (16 U.S.C. 1333(a)), and will be established only upon completion of the appropriate planning process, including public participation. The section has been retained, with editorial changes, in the final rulemaking.

Section 4710.4 Constraints on management.

Several comments addressed this section, pointing out that limiting wild horses and burros to their 1971 "yearlong" habitat could effectively eliminate most of their actual habitat from management as herd areas, due to their seasonal use of some areas. The section has been amended to remove the reference to yearlong habitat. In this connection, a definition has been added for "herd area" in § 4700.0–5. Another change has been incorporated to make it clear that management will not be restricted to herd areas, but will rather be undertaken with the objective of limiting animal distribution to herd areas by controlling herd size to prevent habitat from being overpopulated.

Section 4710.5 Closure to livestock grazing.

Numerous comments addressed paragraph (a) of this section, either opposing it as inconsistent with multiple use management, or urging that it be amended to provide additional protection for wild horses and burros. Actions under this section are discretionary with the authorized officer and subject to public consultation. The provision is necessary to allow the authorized officer to meet the needs of all users of the public lands, including wild horses and burros, and is retained unamended in the final rulemaking.

Several comments asked that paragraph (b) of this section be amended to allow camp horses or riding stock to graze on public lands inhabited by wild horses and burros. The paragraph has been amended to make it clear that herd areas are closed only to grazing under permit or lease by domestic horses and burros, and not to pack or camp horses. In addition, for the latter it is the normal practice that outfitters carry fodder for their animals with them, or limit their grazing by tying or hobbling them, so interference by these animals with or consumption of forage needed by wild horses and burros is minimal.

As a result of concerns expressed in numerous comments, paragraph (c) of this section has been rewritten in the final rulemaking to clarify the limits on the authority of the authorized officer. Sufficient authorities for this provision are found in the Taylor Grazing Act and the Federal Land Policy and Management Act, as well as the Wild Free-Roaming Horse and Burro Act. Any notice of closure will be subject to the normal administrative appeal process.

Section 4710.6 Removal of unauthorized livestock in or near areas occupied by wild horses or burros.

In response to public comment, this section has been amended to make it clear that any conditions established for the removal of unauthorized livestock would apply only to removal from public lands.

Section 4710.7 Maintenance of wild horses and burros on privately controlled lands.

This section has been amended to remove the requirement that private maintenance occur only on unfenced land, because that requirement is not supported by law. Landowners may voluntarily provide for and maintain wild horses and burros that freely move onto their land, whether it is fenced or not.

Section 4720.1 Removal.

One comment discussed the term "current information" in this section, and suggested that detailed language in the statute at 16 U.S.C. 1333(b)(2) be included in the regulation. The authorized officer is equally bound by the statute and the regulations, and there is no need to repeat the requirements of the law in the regulations. The comment is not adopted in the final rulemaking.

An editorial change has been made in § 4720.1(b), adding the word "humanely" to meet the requirements of law.

Three comments addressed paragraph (c) of this section, 2 of them urging that it be removed from the rulemaking, and 1 asking that a time limit be set for holding captured animals. Section 1333(b)(2)(C) of the Act requires the humane destruction of excess wild horses and burros. Even if the section were removed from the rulemaking, the responsibility to carry out the law would remain. Retaining the paragraph in the rulemaking makes it clear that the Secretary may impose standards for humane destruction of excess animals. Setting a time limit on holding captured animals would deprive the authorized officer of flexibility needed to meet various circumstances, such as temporary lulls in adoption demand.

Section 4720.2–1 Removal of strayed animals from private lands.

Several comments addressed this section, stating that the information requested from private landowners seeking removal of strayed animals from their land was too burdensome and should be supplied only in the discretion of the landowner. However, it would be impossible for the authorized officer to be responsive to a request for removal of strayed animals without specific information about the number of animals involved, their location and that of the private lands, and the dates the animals were observed. Requiring this information would enable the authorized officer to determine the appropriate agency action and to assign to each individual request its appropriate priority. Therefore, the final rulemaking makes the content of such requests mandatory by replacing the word "should" with "shall." Other comments urged that the regulation require immediate or priority removal of strayed animals. The comments are not adopted in the final rulemaking, because circumstances may make such action impossible. Requiring that removal be accomplished as soon as practicable commits the Bureau to expeditious removal of strayed animals.

Section 4720.2–2 Removal of excess animals from private lands.

One comment stated that the authorized officer should not be required to obtain written permission from the owners of unimproved private lands intermingled with public lands in herd areas when removing excess animals. This comment has been adopted in the final rulemaking by removing the phrase "or using". A sentence has been added to make it clear that flying aircraft over a parcel of land does not constitute entry.

Section 4730.1 Destruction.

Several comments addressed this section, observing both the Congressional intent that destruction be a tool for managing wild horses and burros, and the legislatively drawn distinction between destruction of excess animals and destruction of old, sick, and lame animals as an act of mercy. The section has been rewritten in the final rulemaking to conform to the statute in these respects.

Section 4730.2 Disposal of remains.

Several comments addressed this section, some urging that it prohibit processing of remains, and others that some provision be made for compensating individuals for disposal of remains. Neither suggestion has been adopted in the final rulemaking. To provide consistency with the Act, and to remove the ambiguity between the words "carcasses" and "remains", the former has been replaced with the latter wherever it appeared. Processing remains is the most appropriate way of disposing of them and complies with the law so long as neither the Bureau nor any individual receives compensation for conveying the remains. Although no compensation can be received for

transfer of the remains, once the remains have been sanitarily rendered in accordance with normal local or State standards, the renderer may sell the end products, which are no longer considered remains as used in the Act.

In response to one comment, the section has been amended to make it clear that the Bureau is not required to dispose of remains of animals that die on the open public range.

Section 4740.1 Use of motor vehicles or aircraft.

This section has been amended to reflect numerous comments stating generally that management activities should be conducted in a humane manner, and to clarify that a public hearing shall be held before using helicopters or motor vehicles in the management of wild horses and burros.

Section 4740.2 Standards for vehicles used for transport of wild horses and burros.

Two comments urged that this section be amended to provide specific standards for head room in horse trailers and to require that food given to animals in transit be compatible with what they are accustomed to. Such specificity is unnecessary in these regulations. Bureau personnel are trained to judge whether trailers are suitable for transporting individual animals, and allowing feed rations to change while remaining adequate may help adopted animals adjust to their new environments.

Section 4750.2–1 Health and identification requirements.

One comment suggested that verification of an animal's soundness and health, required in paragraph (a) of this section, should be obtained from a licensed veterinarian. This recommendation would eliminate the possibility of obtaining a verification from other qualified individuals. Another comment recommended that the provision for tests, immunizations, and worming be removed from the rulemaking because they are not required by Federal law. These tests may not be required by Federal law, but are required by the laws of many of the public land States. Neither recommendation has been adopted in the final rulemaking.

One comment sought the removal of the provision in paragraph (c) for freeze-marking unweaned foals, because of possible stress on the young animals and because of doubt as to their status as free-roaming if born after their dams have been rounded up. This comment has not been adopted in the final rulemaking. Foals born in captivity but before their dams are adopted into private maintenance are considerd free-roaming for purposes of these regulations. Also, while freeze-marking may involve some stress, it is the most humane and cost-efficient way of providing the necessary identification of these animals.

Section 4750.3–1 Application for private maintenance of wild horses and burros.

Several comments urged that the provision for a nonrefundable filing fee to accompany the application be removed from the regulations, on the grounds that imposing a fee would tend to discourage adoptions. The recommendation is adopted in the final rulemaking.

Section 4750.3–2 Qualification standards for private maintenance.

One comment address paragraph (a)(1) of this section, asking that legal age be determined by where an applicant is a citizen or permanent resident. To avoid the confusion inherent in making this kind of determination, the provision has been amended in the final rulemaking to require only that the applicant be at least 18 years old.

One comment requested that the rulemaking state the minimum acceptable standards for facilities for animals in private maintenance. Paragraph (a)(3) has been rewritten to state those standards.

Section 4750.3–3 Supporting information and certification for private maintenance of more than 4 wild horses and burros.

The opening paragraph of § 4750.3–3(a) has been rewritten for purposes of clarification and stricter compliance with the judicial settlement in *American Horse Protection Association, Inc., et al v. Watt, et al* (the AHPA settlement). The amendment makes it clear that the facilities must be physically inspected by a person determined by the authorized officer to be qualified.

Paragraph (a)(1) of this section has been amended to cross-refer to the standards contained in the previous section, in order to make clear the responsibilities of those seeking to adopt more than 4 horses or burros. Paragraph (b) has been rewritten to be more consistent with the AHPA settlement. In the final rulemaking this paragraph makes it clear that the required information is to be provided by holders of powers of attorney to adopt animals on behalf of members of a group.

Section 4750.4–1 Private Maintenance and Care Agreement.

Paragraphs (b), (c), and (d) of this section have been removed in the final rulemaking, and the remaining paragraphs redesignated, to eliminate duplication between the provisions stated in the agreement required by this section and the acts prohibited in § 4770.1.

One comment suggested that paragraph (e) of the proposed rulemaking be amended to prohibit long-term or indefinite as well as permanent transfers of adopted animals without prior approval by the authorized officer. This comment has been adopted in the final rulemaking in paragraph (b) by imposing a 30-day limit on transfers without such prior approval.

One comment suggested that adopters be given a definite time within which an animal must be made available for inspection after written request by the authorized office under paragraph (f). This recommendation has been adopted in the final rulemaking by imposing a 7–day deadline.

Two comments suggested that paragraph (g) of the proposed rulemaking ((d) in this final rulemaking) be amended to require a veterinarian's certificate in all cases of the death of an adopted animal. This suggestion has not been adopted in the final rulemaking, but it remains within the discretion of the authorized officer to require such a certificate.

One comment requested more specificity in paragraph (h) of this section in the proposed rulemaking. In response, the paragraph has been amended to make it clear that it is the adopter's financial responsibility to care for animals covered by the Private Maintenance and Care Agreement. New paragraphs have been added to clarify that the adopter is responsible for managing adopted animals, for damages cause by them, for rounding up strays, and for disposal of dead animals. In response to a comment, a requirement has been added that the adopter notify the authorized office of any change of address.

Section 4750.4–2 Adoption fee.

Paragraph (a) of this section has been amended in the final rulemaking to conform to the amendment of § 4750.3–1, which removed the application fee. An editorial change has also been made to make it clear that only unweaned foals are not subject to the adoption fee.

Section 4750.4–3 Request to terminate Private Maintenance and Care Agreement.

In response to a comment, this section has been amended to clarify that adopted animals may be transferred directly to a new adopter, with the approval of the authorized officer, and that the officer need not take physical possession of animals involved in such transfers.

Section 4750.4–4 Replacement animals.

One comment from a Bureau field office suggested shortening from 60 to 10 days the period within which an adopter can obtain an animal to replace one that has died or had to be destroyed due to a condition that existed at the time of adoption. This suggestion was not adopted. Instead, because some conditions that may cause death after a 60-day period may have existed at the time of adoption, this section has been amended to extend the time to 6 months.

Section 4750.5 Application for title to wild horses and burros.

Several comments objected to the provision in paragraph (a) of this section allowing adopters to acquire title to more than 4 animals in one year as not being supported by section 1333(c) of the Act. The provision has been removed in the final rulemaking.

One comment requested that paragraph (b) of this section be amended to state in some detail the required contents of the veterinarian's statement to be supplied by the applicant for title. In response to this comment, the word "humane" has been inserted in front of "treatment," so that the required certification will incorporate the elements listed in the definition (§ 4700.0–5(g)) of "human treatment," i.e., handling compatible with standard animal husbandry practices.

Another change has been made in the final rulemaking affecting title application. Application for title has been incorporated in the adoption process so that an adopter applies for title to an animal automatically at the time the Private Maintenance and Care Agreement is signed. The final sentence of the paragraph has been removed as redundant.

Section 4760 Compliance with the Private Maintenance and Care Agreement.

A new paragraph (b) has been added to this section to conform it to the terms of the settlement in *American Horse Protection Association v. Watt.* Paragraph (b) requires the authorized officer to verify compliance with the Private Maintenance and Care Agreement when one adopter has acquired 25 or more animals, or 25 or more are maintained in one place.

One comment pointed out that paragraph (b) of this section in the proposed rulemaking (relettered (c) in the final rulemaking), when read in conjunction with § 4750.4–1(f), requires the authorized officer investigating a complaint about the care, treatment, or use of an adopted animal to notify the adopter in writing before inspecting the animal or the facilities where it is maintained. This is a correct statement of the requirement, which is not changed in the final rulemaking. However, the authorized officer may enlist the assistance of Federal or local law enforcement authorities, who may with proper cause obtain a search warrant and investigate without such warning.

Section 4770.1 Prohibited acts.

One comment stated that paragraph (a) of this section demonstrates the need for a definition of "malicious harassment," and another stated that the prohibition in this paragraph would be very hard to enforce because of the difficulty of proving malicious intent. The paragraph has been amended to prohibit negligent as well as malicious injury of a wild horse or burro.

The separate prohibition against using a wild horse or burro for bucking stock has been removed from the final rulemaking. Any use considered to be inhumane is already prohibited in § 4770.1(e), and use that takes advantage of an animal's characteristic of wildness is prohibited in § 4770.1(e).

A paragraph has been added to this section prohibiting the violation of orders, terms, or conditions established by the authorized officer. Other changes of an editorial nature have been made.

Section 4770.2 Civil penalties

In response to several comments that this section singled out holders of grazing permits for discriminatory treatment, paragraph (a) of this section has been amended to apply to all permittees or lessees on the pubic lands.

The principal author of this final rulemaking is John S. Boyles, Division of Wild Horses and Burros, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). A limited number of veterinarians, cooperative extension agents, and humane officials may be insignificantly affected by the rulemaking. The certification required for adopters to receive title is needed on a nonrecurring basis. The changes allow adopters discretion to choose the official from whom they obtain a certification, resulting in some cost savings. Adopters are required to pay a fee to obtain the animals and to provide information to show their ability to provide humane transport, facilities, and care for the animals. An insignificant number of individuals may be deterred from participating because of the fee or qualification standards for humane care.

Information collection requirements for administering these regulations have been approved by the Office of Management and Budget and assigned clearance number 1004–0042.

List of Subjects in 43 CFR Part 4700

Advisory committees, Aircraft, Intergovernmental relations, Penalties, Public lands, Range management, Wild horses and burros, Wildlife.

Under the provisions of the Act of September 8, 1959 (18 U.S.C. 47), the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Act of June 28, 1934, as amended (43 U.S.C. 315), Part 4700, Subchapter D, Chapter II, Title 43 of the Code of Federal Regulations is revised to read as set forth below.

Dated: February 7, 1986.

J. Steven Griles,

Assistant Secretary of the Interior.

GROUP 4700—WILD FREE-ROAMING HORSE AND BURRO MANAGEMENT

Note.—The information collection requirements contained in Group 4700 have been approved by the Office of Management and Budget and assigned clearance number 1004–0042. The information is being collected to permit the authorized officer to remove wild horses and burros from private land and to determine whether an application for adoption of and title to wild horses or burros should be granted. Responses are required to obtain benefits.

PART 4700—PROTECTION, MANAGEMENT, AND CONTROL OF WILD FREE-ROAMING HORSES AND BURROS

Subpart 4700—General

Sec.

4700.0–1 Purpose.
4700.0–2 Objectives.
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4710.1 Land use planning.
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4710.4 Constraints on managment.

Sec.

4710.5 Closure to livestock grazing.
4710.6 Removal of unauthorized livestock in or near areas occupied by wild horses or burros.
4710.7 Maintenance of wild horses and burros on privately controlled lands.

Subpart 4720—Removal

4720.1 Removal of excess animals from public lands.
4720.2 Removal of strayed or excess animals from private lands.
4720.2–1 Removal of strayed animals from private lands
4720.2–2 Removal of excess animals from private lands.

Subpart 4730—Destruction of Wild Horses or Burros and Disposal of Remains

4730.1 Destruction.
4730.2 Disposal of remains.

Subpart 4740—Motor Vehicles and Aircraft

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4760.1 Compliance with the Private Maintenance and Care Agreement.

Subpart 4770—Prohibited Acts, Administrative Remedies, and Penalties

4770.1 Prohibited acts.
4770.2 Civil penalties.
4770.3 Administrative remedies.
4770.4 Arrest.
4770.5 Criminal penalties.

Authority: Act of Dec. 15, 1971, as amended (16 U.S.C. 1331–1340). Act of Oct. 21, 1976 (43 U.S.C. 1701 et seq.). Act of Sept. 8, 1959 (18 U.S.C. 47). Act of June 28, 1934 (43 U.S.C. 315).

Subpart 4700—General

§ 4700.0–1 Purpose.

The purpose of these regulations is to implement the laws relating to the protection, management, and control of wild horses and burros under the administration of the Bureau of Land Management.

§ 4700.0–2 Objectives.

The objectives of these regulations are management of wild horses and burros as an integral part of the natural system of the public lands under the principle of multiple use; protection of wild horses and burros from unauthorized capture, branding, harassment or death; and humane care and treatment of wild horses and burros.

§ 4700.0–3 Authority.

The Act of September 8, 1959 (18 U.S.C. 47); the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712, and 1734); the Act of June 28, 1934, as amended (43 U.S.C. 315); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321, 4331–4335, and 4341–4347).

§ 4700.0–5 Definitions.

As used in this part, the term:

(a) "Act" means the Act of December 15, 1971, as amended (16 U.S.C. 1331–1340), commonly referred to as the Wild Free-Roaming Horse and Burro Act.

(b) "Authorized officer" means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described herein.

(c) "Commercial exploitation" means using a wild horse or burro because of its characteristics of wildness for direct or indirect financial gain. Characteristics of wildness include the rebellious and feisty nature of such animals and their defiance of man as exhibited in their undomesticated and untamed state. Use as saddle or pack stock and other uses that require domestication of the animal are not commercial exploitation of the animals because of their characteristics of wildness.

(d) "Herd area" means the geographic area identified as having been used by a herd as its habitat in 1971.

(e) "Humane treatment" means handling compatible with animal husbandry practices accepted in the veterinary community, without causing unnecessary stress or suffering to a wild horse or burro.

(f) "Inhumane treatment" means any intentional or negligent action or failure to act that causes stress, injury, or undue suffering to a wild horse or burro and is not compatible with animal husbandry practices accepted in the veterinary community.

(g) "Lame wild horse or burro" means a wild horse or burro with one or more malfunctioning limbs that permanently impair its freedom of movement.

(h) "Old wild horse or burro" means a wild horse or burro characterized because of age by its physical deterioration and inability to fend for itself, suffering, or closeness to death.

(i) "Private maintenance" means the provision of proper care and humane treatment to excess wild horses and burros by qualified individuals under the terms and conditions specified in a Private Maintenance and Care Agreement.

(j) "Public lands" means any lands or interests in lands administered by the Secretary of the Interior through the Bureau of Land Management.

(k) "Sick wild horse or burro" means a wild horse or burro with failing health, infirmity or disease from which there is little chance of recovery.

(l) "Wild horses and burros" means all unbranded and unclaimed horses and burros that use public lands as all or part of their habitat, or that have been removed from these lands by the authorized officer but have not lost their status under section 3 of the Act. Where it appears in this part the term "wild horses and burros" is deemed to include the term "free-roaming".

§ 4700.0–6 Policy.

(a) Wild horses and burros shall be managed as self-sustaining populations of healthy animals in balance with other uses and the productive capacity of their habitat.

(b) Wild horses and burros shall be considered comparably with other resource values in the formulation of land use plans.

(c) Management activities affecting wild horses and burros shall be undertaken with the goal of maintaining free-roaming behavior.

(d) In administering these regulations, the authorized officer shall consult with Federal and State wildlife agencies and all other affected interests, to involve them in planning for and management of wild horses and burros on the public lands.

(e) Healthy excess wild horses and burros for which an adoption demand by qualified individuals exists shall be made available at adoption centers for private maintenance and care.

(f) Fees shall normally be required from qualified individuals adopting

excess wild horses and burros to defray part of the costs of the adoption program.

Subpart 4710—Management Considerations

§ 4710.1 Land use planning.

Management activities affecting wild horses and burros, including the establishment of herd management areas, shall be in accordance with approved land use plans prepared pursuant to Part 1600 of this title.

§ 4710.2 Inventory and monitoring.

The authorized officer shall maintain a record of the herd areas that existed in 1971, and a current inventory of the numbers of animals and their areas of use. When herd management areas are established, the authorized officer shall also inventory and monitor herd and habitat characteristics.

§ 4710.3 Management areas.

§ 4710.3-1 Herd management areas.

Herd management areas shall be established for the maintenance of wild horse and burro herds. In delineating each herd management area, the authorized officer shall consider the appropriate management level for the herd, the habitat requirements of the animals, the relationships with other uses of the public and adjacent private lands, and the constraints contained in § 4710.4. The authorized officer shall prepare a herd management area plan, which may cover one or more herd management areas.

§ 4710.3-2 Wild horse and burro ranges.

Herd management areas may also be designated as wild horse or burro ranges to be managed principally, but not necessarily exclusively, for wild horse or burro herds.

§ 4710.4 Constraints on management.

Management of wild horses and burros shall be undertaken with the objective of limiting the animals' distribution to herd areas. Management shall be at the minimum level necessary to attain the objectives identified in approved land use plans and herd management area plans.

§ 4710.5 Closure to livestock grazing.

(a) If necessary to provide habitat for wild horses or burros, to implement herd management actions, or to protect wild horses or burros, to implement herd management actions, or to protect wild horses or burros from disease, harassment or injury, the authorized officer may close appropriate areas of the public lands to grazing use by all or a particular kind of livestock.

(b) All public lands inhabited by wild horses or burros shall be closed to grazing under permit or lease by domestic horses and burros.

(c) Closure may be termporary or permanent. After appropriate public consultation, a Notice of Closure shall be issued to affected and interested parties.

§ 4710.6 Removal of unauthorized livestock in or near areas occupied by wild horses or burros.

The authorized officer may establish conditions for the removal of unauthorized livestock from public lands adjacent to or within areas occupied by wild horses or burros to prevent undue harassment of the wild horses or burros. Liability and compensation for damages from unauthorized use shall be determined in accordance with subpart 4150 of this title.

§ 4710.7 Maintenance of wild horses and burros on privately controlled lands

Individuals controlling lands within areas occupied by wild horses and burros may allow wild horses or burros to use these lands. Individuals who maintain wild free-roaming horses and burros on their land shall notify the authorized officer and shall supply a reasonable estimate of the number of such animals so maintained. Individuals shall not remove or entice will horses or burros from the public lands.

Subpart 4720—Removal

§ 4720.1 Removal of excess animals from public lands.

Upon examination of current information and a determination by the authorized officer that an excess of wild horses or burros exists, the authorized officer shall remove the excess animals immediately in the following order.

(a) Old, sick, or lame animals shall be destroyed in accordance with Subpart 4730 of this title;

(b) Additional excess animals for which an adoption demand by qualified individuals exists shall be humanely captured and made available for private maintenance in accordance with Subpart 4750 of this title; and

(c) Remaining excess animals for which no adoption demand by qualified individuals exists shall be destroyed in accordance with subpart 4730 of this title.

§ 4720.2 Removal of strayed or excess animals from private lands.

§ 4720.2-1 Removal of strayed animals from private lands.

Upon written request from the private landowner to any representative of the Bureau of Land Management, the authorized officer shall remove stray wild horses and burros from private lands as soon as practicable. The private landowner may also submit the written request to a Federal marshal, who shall notify the authorized officer. The request shall indicate the numbers of wild horses or burros, the date(s) the animals were on the land, legal description of the private land, and any special conditions that should be considered in the gathering plan.

§ 4720.2-2 Removal of excess animals from private lands.

If the authorized officer determines that proper management requires the removal of wild horses and burros from areas that include private lands, the authorized officer shall obtain the written consent of the private owner before entering such lands. Flying aircraft over lands does not constitute entry.

Subpart 4730—Destruction of Wild Horses or Burros and Disposal of Remains

§ 4730.1 Destruction.

Except as an act of mercy, no wild horse or burro shall be destroyed without the authorization of the authorized officer. Old, sick, or lame animals shall be destroyed in the most humane manner possible. Excess animals for which adoption demand does not exist shall be destroyed in the most humane and cost efficient manner possible.

§ 4730.2 Disposal of remains.

Remains of wild horses or burros that die after capture shall be disposed of in accordance with State or local sanitation laws. No compensation of any kind shall be received by any agency or individual disposing of remains. The products of rendering are not considered remains.

Subpart 4740—Motor Vehicles and Aircraft

§ 4740.1 Use of motor vehicles or aircraft.

(a) Motor vehicles and aircraft may be used by the authorized officer in all phases of the administration of the Act, except that no motor vehicle or aircraft, other than helicopters, shall be used for the purpose of herding or chasing wild horses or burros for capture or

destruction. All such use shall be conducted in a humane manner.

(b) Before using helicopters or motor vehicles in the management of wild horses or burros, the authorized officer shall conduct a public hearing in the area where such use is to be made.

§ 4740.2 Standards for vehicles used for transport of wild horses and burros.

(a) Use of motor vehicles for transport of wild horses or burros shall be in accordance with appropriate local, State and Federal laws and regulations applicable to the humane transportation of horses and burros, and shall include, but not be limited to, the following standards:

(1) The interior of enclosures shall be free from protrusion that could injure animals;

(2) Equipment shall be in safe conditions and of sufficient strength to withstand the rigors of transportation;

(3) Enclosures shall have ample head room to allow animals to stand normally;

(4) Enclosures for transporting two or more animals shall have partitions to separate them by age and sex as deemed necessary by the authorized officer;

(5) Floors of enclosures shall be covered with nonskid material;

(6) Enclosures shall be adequately ventilated and offer sufficient protection to animals from inclement weather and temperature extremes; and

(7) Unless otherwise approved by the authorized officer, transportation shall be limited in sequence to a maximum of 24 hours followed by a minimum of 5 hours of on-the-ground rest with adequate feed and water.

(b) The authorized officer shall not load wild horses or burros if he/she determines that the vehicle to be used for transporting the wild horses or burros is not satisfactory for that purpose.

Subpart 4750—Private Maintenance

§ 4750.1 Private maintenance.

The authorized officer shall make available for private maintenance all healthy excess wild horses or burros for which an adoption demand by qualified individuals exists.

§ 4750.2 Health, identification, and inspection requirements.

§ 4750.2-1 Health and identification requirements.

(a) An individual determined to be qualified by the authorized officer shall verify each excess animal's soundness and good health, determine its age and sex, and administer immunizations, worming compounds, and tests for communicable diseases.

(b) Documentation conforming compliance with State health inspection and immunization requirements for each wild horse or burro shall be provided to each adopter by the authorized officer.

(c) Each animal offered for private maintenance, including orphan and unweaned foals, shall be individually identified by the authorized officer with a permanent freeze mark of alpha numeric symbols on the left side of its neck. The freeze mark identifies the animal as Federal property subject to the provisions of the Act and these regulations by a patented symbol, the animal's year of birth, and its individual identification number. The authorized officer shall record the freeze mark on the documentation of health and immunizations. For purposes of this subpart, a freeze mark applied by the authorized officer is not considered a brand.

§ 4750.2-2 Brand inspection.

The authorized officer shall make arrangements on behalf of an adopter for State inspection of brands, where applicable, of each animal to be transported across the State where the adoption center is located. The adopter shall be responsible for obtaining inspections for brands required by other States to or through which the animal may be transported.

§ 4750.3 Application requirements for private maintenance.

§ 4750.3-1 Application for private maintenance of wild horses and burros.

An individual applying for a wild horse or burro shall file an application with the Bureau of Land Management on a form approved by the Director.

§ 4750.3-2 Qualification standards for private maintenance.

(a) To qualify to receive a wild horse or burro for private maintenance, an individual shall:

(1) Be 18 years of age or older;

(2) Have no prior conviction for inhumane treatment of animals or for violation of the Act or these regulations;

(3) Have adequate feed, water, and facilities to provide humane care to the number of animals requested. Facilities shall be in safe condition and of sufficient strength and design to contain the animals. The following standards apply:

(i) A minimum space of 144 square feet shall be provided for each animal maintained, if exercised daily; otherwise, a minimum of 400 square feet shall be provided for each animal;

(ii) Until fence broken, adult horses shall be maintained in an enclosure at least 6 feet high; burros in an enclosure at least 4½ feet high; and horses less than 18 months old in an enclosure at least 5 feet high. Materials shall be protrusion-free and shall not include large-mesh woven or barbed wire;

(iii) Shelter shall be available to mitigate the effects of inclement weather and temperature extremes. The authorized officer may require that the shelter be a structure, which shall be well-drained and adequately ventilated;

(iv) Feed and water shall be adequate to meet the nutritional requirements of the animals, based on their age, physiological condition and level of activity; and

(4) Have obtained no-more than 4 wild horses and burros within the preceding 12-month period, unless specifically authorized in writing by the authorized officer.

(b) The authorized officer shall determine an individual's qualifications based upon information provided in the application form required by § 4750.3-1 of this subpart and Bureau of Land Management records of any previous private maintenance by the individual under the Act.

§ 4750.3-3 Supporting information and certification for private maintenance of more than 4 wild horses or burros.

(a) An individual applying for more than 4 wild horses or burros within a 12-month period, or an individual or group of individuals requesting to maintain more than 4 wild horses or burros at a single location shall provide a written report prepared by the authorized officer, or by a local humane official, veterinarian, cooperative extension agent, or similarly qualified person approved by the authorized officer, verifying that the applicant's facilities have been inspected appear adequate to care for the number of animals requested, and satisfy the requirements contained in § 4750.3-2(a).

(1) The report shall include a description of the facilities, including corral sizes, pasture size, and shelter, barn, or stall dimensions, and shall note any discrepancies between the facilities inspected and representations made in the application form.

(2) When an applicant requests 25 or more animals or when 25 or more animals will be maintained at any single location regardless of the number of applicants, the facilities for maintaining the adopted animals shall be inspected by the authorized officer prior to approving the application.

(b) Any individual or group represented by a power of attorney and applying for more than 4 animals shall provide the following:

(1) A summary of the age, sex, and number of wild free-roaming horses or burros requested by species;

(2) Requested adoption date and center location;

(3) If applicable, names, addresses and telephone numbers of all applicants represented by a power of attorney submitted with the request;

(4) A transportation plan that describes the transport vehicle and any rest-stops;

(5) A distribution plan for delivering the animals to their assigned adopters;

(6) Names, addresses, and a concise summary of the experience of the individuals who will handle the adopted animals during transportation and distribution; and

(7) When the adopted animals will be maintained at a single location or where the applicants have been solicited by the holder of their power of attorney, a concise statement outlining the arrangements, including duties and responsibilities of the parties, for maintaining the animals.

§ 4750.3-4 Approval or disapproval of applications.

If an application is approved, the authorized officer shall offer the individual an opportunity to select the appropriate number, sex, age and species of animals from those available. If the authorized officer disapproves an application for private maintenance because the applicant lacks adequate facilities or transport, the individual may correct the shortcoming and file a new application.

§ 4750.4 Private maintenance of wild horses and burros.

§ 4750.4-1 Private Maintenance and Care Agreement.

To obtain a wild horse or burro, a qualified applicant shall execute a Private Maintenance and Care Agreement and agree to abide by its terms and conditions, including but not limited to the following:

(a) Title to wild horses and burros covered by the agreement shall remain in the Federal Government for at least 1 year after the Private Maintenance and Care Agreement is executed and until a Certificate of Title is issued by the authorized officer.

(b) Wild horses and burros covered by the agreement shall not be transferred for more than 30 days to another location or to the care of another individual without the prior approval of the authorized officer;

(c) Wild horses and burros covered by the agreement shall be made available for physical inspection within 7 days of receipt of a written request by the authorized officer;

(d) The authorized officer shall be notified within 7 days of discovery of the death, theft or escape of wild horses and burros covered by the agreement;

(e) Adopters are financially responsible for the proper care and treatment of all wild horses and burros covered by the agreement.

(f) Adopters are responsible, as provided by State law, for any personal injury, property damage, or death caused by animals in their care; for pursing animals that escape or stray; and for costs of recapture.

(g) Adopters shall notify the authorized officer within 30 days of any change in the adopter's address; and

(h) Adopters shall dispose of remains in accordance with applicable sanitation laws.

§ 4750.4-2 Adoption fee.

(a) An individual obtaining wild horses and burros shall pay the Bureau of Land Management an adoption fee of $125 per horse and $75 per burro, except that no fee shall be paid for unweaned foals.

(b) The Director may adjust or waive the adoption fee on determining that wild horses or burros in the custody of the Bureau of Land Management are unadoptable when the full adoption fee is required, and that it is in the public interest to adjust or waive the adoption fee stated in paragraph (a) of this section. The adjustment or waiver shall extend only to those persons who are willing to maintain such animals privately, who demonstrate the ability to care for them properly, and who agree to comply with all rules and regulations relating to wild horses and burros.

§ 4750.4-3 Request to terminate Private Maintenance and Care Agreement.

An adopter may request to terminate his/her responsibility for an adopted animal by submitting a written relinquishment of the Private Maintenance and Care Agreement for that animal. The authorized officer shall arrange to transfer the animal to another qualified applicant or take possession of the animal at a location specified by the authorized officer within 30 days of receipt of the written request for relinquishment.

§ 4750.4-4 Replacement animals.

The authorized officer shall replace an animal, upon request by the adopter, if (a) within 6 months of the execution of the Private Maintenance and Care Agreement the animal dies or is required to be destroyed due to a condition that existed at the time of placement with the adopter; and (b) the adopter provides, within a reasonable time, a statement by a veterinarian certifying that reasonable care and treatment would not have corrected the condition. Transportation of the replacement animal shall be the responsibility of the adopter.

§ 4750.5 Application for title to wild horses and burros.

(a) The adopter shall apply for title, using a form designated by the Director, upon signing the Private Maintenance and Care Agreement.

(b) The authorized officer shall issue a Certificate of Title after 12 months, if the adopter has complied with the terms and conditions of the agreement and the authorized officer determines, based either on a field inspection or a statement provided by the adopter from a veterinarian, extension agent, local humane official, or other individual acceptable to the authorized officer, that the animal or animals covered by the Agreement have received proper care and humane treatment.

(c) An adopter may not obtain title to more than 4 animals per 12-month period of private maintenance. Effective the date of issuance of the Certificate of Title, Federal ownership of the wild horse or burro ceases and the animal loses its status as a wild horse or burro and is no longer under the protection of the Act or regulations under this title.

Subpart 4760—Compliance

§ 4760.1 Compliance with the Private Maintenance and Care Agreement.

(a) An adopter shall comply with the terms and conditions of the Private Maintenance and Care Agreement and these regulations. The authorized officer may verify compliance by visits to an adopter, physical inspections of the animals, and inspections of the facilities and conditions in which the animals are being maintained. The authorized officer may authorize a cooperative extension agent, local humane official or similarly qualified individual to verify compliance.

(b) The authorized officer shall verify compliance with the terms of the Private Maintenance and Care Agreement when an adopter has received 25 or more animals or when 25 or more animals are maintained at a single location.

(c) The authorized officer shall conduct an investigation when a complaint concerning the care, treatment, or use of a wild horse or

burro is received by the Bureau of Land Management.

(d) The authorized officer may require, as a condition for continuation of a Private Maintenance and Care Agreement, that an adopter take specific corrective actions if the authorized officer determines that an animal is not receiving proper care or is being maintained in unsatisfactory conditions. The adopter shall be given reasonable time to complete the required corrective actions.

Subpart 4770—Prohibited Acts, Administrative Remedies, and Penalties

§ 4770.1 Prohibited acts.

The following acts are prohibited:

(a) Maliciously or negligently in juring or harassing a wild horse or burro;

(b) Removing or attempting to remove a wild horse or burro from the public lands without authorization from the authorized officer;

(c) Destroying a wild horse or burro without authorization from the authorized officer except as an act of mercy;

(d) Selling or attempting to sell, directly or indirectly, a wild horse or burro or its remains;

(e) Commercially exploiting a wild horse or burro;

(f) Treating a wild horse or burro inhumanely;

(g) Violating a term or condition of the Private Maintenance and Care Agreement;

(h) Branding a wild horse or burro;

(i) Removing or altering a freeze mark on a wild horse or burro;

(j) Violating an order, term, or condition established by the authorized officer under this part.

§ 4770.2 Civil penalties.

(a) A permittee or lessee who has been convicted of any of the prohibited acts found in § 4770.1 of this title may be subject to suspension or cancellation of the permit or lease.

(b) An adopter's failure to comply with the terms and conditions of the Private Maintenance and Care Agreement may result in the cancellation of the agreement, repossession of wild horses and burros included in the agreement and disapproval of requests by the adopted for additional excess wild horses and burros.

§ 4770.3 Administrative remedies.

Any person who is adversely affected by a decision of the authorized officer in the administration of these regulations may file an appeal in accordance with 43 CFR 4.4 within 30 days of receipt of the written decision.

§ 4770.4 Arrest.

The Director of the Bureau of Land Management may authorize an employee who witnesses a violation of the Act or these regulations to arrest without warrant any person committing the violation, and to take the person immediately for examination or trial before an officer or court of competent jurisdiction. Any employee so authorized shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of the Act or these regulations.

§ 4770.5 Criminal penalties.

Any person who commits any act prohibited in § 4770.1 of these regulations shall be subject to a fine of not more than $2,000 or imprisonment for not more than 1 year, or both, for each violation. Any person so charged with such violation by the authorized officer may be tried and sentenced by a United States Commissioner or magistrate, designated for that purpose by the court by which he/she was appointed, in the same manner and subject to the same conditions as provided in 18 U.S.C. 3401.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List February 21, 1986

CFR CHECKLIST

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1, 2 (2 Reserved)	$5.50	Jan. 1, 1986
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
1-1199	18.00	Oct. 1, 1985
*1200-End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
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210-299	13.00	Jan. 1, 1985
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400-End	12.00	Jan. 1, 1985

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800-1299	10.00	Apr. 1, 1985
1300-End	5.50	Apr. 1, 1985
22	21.00	Apr. 1, 1985
23	14.00	Apr. 1, 1985
24 Parts:		
0-199	11.00	Apr. 1, 1985
200-499	19.00	Apr. 1, 1985
500-699	6.50	Apr. 1, 1985
700-1699	13.00	Apr. 1, 1985
1700-End	9.00	Apr. 1, 1985
25	18.00	Apr. 1, 1985
26 Parts:		
§§ 1.0-1.169	21.00	Apr. 1, 1985
§§ 1.170-1.300	12.00	Apr. 1, 1985
§§ 1.301-1.400	7.50	Apr. 1, 1985
§§ 1.401-1.500	15.00	Apr. 1, 1985
§§ 1.501-1.640	12.00	[2] Apr. 1, 1984
§§ 1.641-1.850	11.00	Apr. 1, 1985
§§ 1.851-1.1200	22.00	Apr. 1, 1985
§§ 1.1201-End	22.00	Apr. 1, 1985
2-29	15.00	Apr. 1, 1985
30-39	9.50	Apr. 1, 1985
40-299	18.00	Apr. 1, 1985
300-499	11.00	Apr. 1, 1985
500-599	8.00	[1] Apr. 1, 1980
600-End	4.75	Apr. 1, 1985
27 Parts:		
1-199	18.00	Apr. 1, 1985
200-End	13.00	Apr. 1, 1985
28	16.00	July 1, 1985
29 Parts:		
0-99	11.00	July 1, 1985
100-499	5.00	July 1, 1985
500-899	19.00	July 1, 1985
900-1899	7.00	July 1, 1985
1900-1910	21.00	July 1, 1985
1911-1919	5.50	[3] July 1, 1984
1920-End	20.00	July 1, 1985
30 Parts:		
0-199	16.00	July 1, 1985
200-699	6.00	July 1, 1985
700-End	13.00	July 1, 1985
31 Parts:		
0-199	8.50	July 1, 1985
200-End	11.00	July 1, 1985

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[4] July 1, 1984
1–39, Vol. II	19.00	[4] July 1, 1984
1–39, Vol. III	18.00	[4] July 1, 1984
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400–629	15.00	July 1, 1985
630–699	12.00	[3] July 1, 1984
700–799	15.00	July 1, 1985
800–999	7.50	July 1, 1985
1000–End	5.50	July 1, 1985
33 Parts:		
1–199	20.00	July 1, 1985
200–End	14.00	July 1, 1985
34 Parts:		
1–299	15.00	July 1, 1985
300–399	8.50	July 1, 1985
400–End	18.00	July 1, 1985
35	7.00	July 1, 1985
36 Parts:		
1–199	9.00	July 1, 1985
200–End	14.00	July 1, 1985
37	9.00	July 1, 1985
38 Parts:		
0–17	16.00	July 1, 1985
18–End	11.00	July 1, 1985
39	9.50	July 1, 1985
40 Parts:		
1–51	16.00	July 1, 1985
52	21.00	July 1, 1985
53–80	23.00	July 1, 1985
81–99	18.00	July 1, 1985
100–149	18.00	July 1, 1985
150–189	13.00	July 1, 1985
190–399	19.00	July 1, 1985
400–424	14.00	July 1, 1985
425–699	13.00	July 1, 1985
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41 Chapters:		
1, 1–1 to 1–10	13.00	[5] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[5] July 1, 1984
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18, Vol. III, Parts 20–52	13.00	[5] July 1, 1984
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1–100	7.50	July 1, 1985
101	19.00	July 1, 1985
102–200	8.50	July 1, 1985
201–End	5.50	July 1, 1985
42 Parts:		
1–60	12.00	Oct. 1, 1985
61–399	7.00	Oct. 1, 1985
400–429	16.00	Oct. 1, 1985
430–End	11.00	Oct. 1, 1985

Title	Price	Revision Date
43 Parts:		
1–999	10.00	Oct. 1, 1985
1000–3999	18.00	Oct. 1, 1985
4000–End	8.50	Oct. 1, 1985
44	13.00	Oct. 1, 1985
45 Parts:		
1–199	10.00	Oct. 1, 1985
200–499	7.00	Oct. 1, 1985
500–1199	13.00	Oct. 1, 1985
1200–End	9.00	Oct. 1, 1985
46 Parts:		
1–40	10.00	Oct. 1, 1985
41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
90–139	9.00	Oct. 1, 1985
140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
0–19	13.00	Oct. 1, 1985
20–69	21.00	Oct. 1, 1985
70–79	13.00	Oct. 1, 1985
80–End	18.00	Oct. 1, 1985
48 Chapters:		
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1 (Parts 52–99)	12.00	Oct. 1, 1985
2	15.00	Oct. 1, 1985
3–6	13.00	Oct. 1, 1985
7–14	17.00	Oct. 1, 1985
15–End	17.00	Oct. 1, 1985
49 Parts:		
1–99	7.00	Oct. 1, 1985
100–177	14.00	Nov. 1, 1984
178–199	15.00	Nov. 1, 1985
200–399	13.00	Oct. 1, 1985
400–999	16.00	Oct. 1, 1985
1000–1199	13.00	Oct. 1, 1985
1200–1299	13.00	Oct. 1, 1985
1300–End	2.25	Oct. 1, 1985
50 Parts:		
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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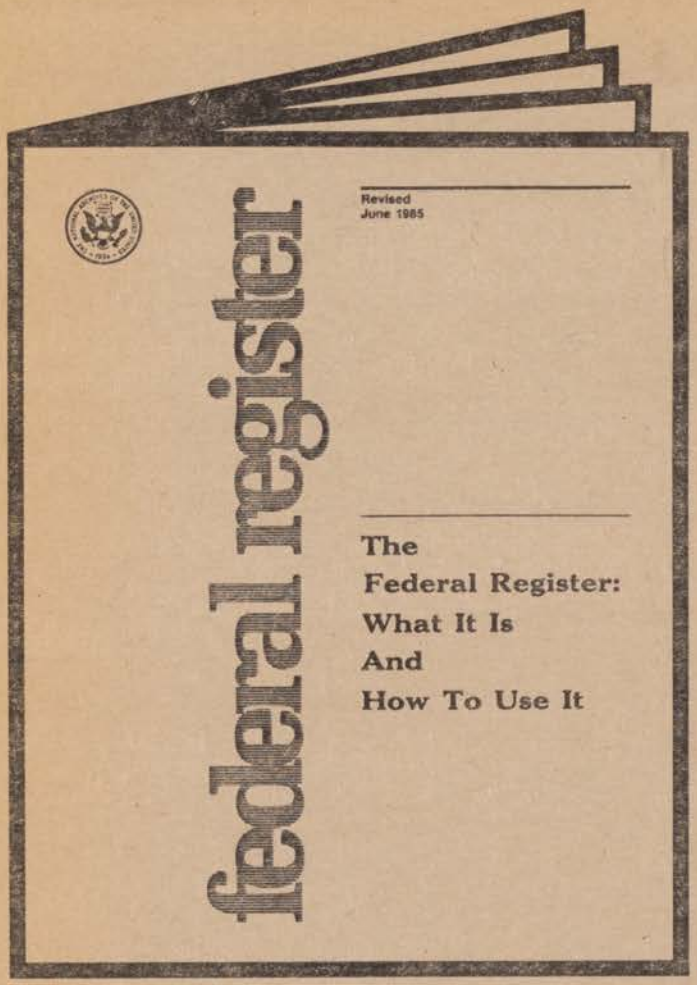
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March 4	March 19	April 3	April 18	May 5	June 2
March 5	March 20	April 4	April 21	May 5	June 3
March 6	March 21	April 7	April 21	May 5	June 4
March 7	March 24	April 7	April 21	May 6	June 5
March 10	March 25	April 9	April 24	May 9	June 9
March 11	March 26	April 10	April 25	May 12	June 9
March 12	March 27	April 11	April 28	May 12	June 10
March 13	March 28	April 14	April 28	May 12	June 11
March 14	March 31	April 14	April 28	May 13	June 12
March 17	April 1	April 16	May 1	May 16	June 16
March 18	April 2	April 17	May 2	May 19	June 16
March 19	April 3	April 18	May 5	May 19	June 17
March 20	April 4	April 21	May 5	May 19	June 18
March 21	April 7	April 21	May 5	May 20	June 19
March 24	April 8	April 23	May 8	May 23	June 23
March 25	April 9	April 24	May 9	May 27	June 23
March 26	April 10	April 25	May 12	May 27	June 24
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