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Monday
March 10, 1986

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

Selected Subjects

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Selected Subjects

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

WHO: The Office of the Federal Register.

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

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

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

RESERVATIONS: Ruth Reedy, 202-523-5329 for reservations

DENVER, CO

WHEN: March 24; at 9 am.

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

RESERVATIONS: Elizabeth Stout Denver Federal Information Center, 303-236-7181, for reservations

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23, Earl Cabell Federal Building, 1100 Commerce Street, Dallas, TX.

RESERVATIONS: local numbers:
Dallas 214-767-8585
Ft. Worth 817-334-3624
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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 443

[Doc. No. 0077A]

Hybrid Seed Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Tuesday, February 18, 1986, at 51 FR 5695, revising and reissuing the Hybrid Seed Crop Insurance Regulations (7 CFR Part 443), effective for the 1986 and succeeding crop years. The provision added in § 443.7(d) 1.b. (7) inadvertently cited inadequate germination as the basis for determining the loss of production to timely plant the male seed. This notice is published to correct that error and to clarify the FCIC's intent with respect to the necessity of referring to the male seed being timely planted in order to pollinate the female plant.

ADDRESS: Written comments on this correction should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250.

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

SUPPLEMENTARY INFORMATION: FR Doc. 86–3440, appearing at page 5698 is corrected as follows:

§ 443.7 [Corrected]

1. 7 CFR Part 443.7(d) 1.b. (7) is corrected as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Hybrid Seed Crop Insurance Policy

* * * * *

(7) The failure to plant the male seed at a time sufficient to assure adequate pollination of the female plant;

* * * * *

2. The authority citation for 7 CFR Part 443 continues to read as follows:

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

Done in Washington, DC, on February 27, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–5080 Filed 3–7–86; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule reflects a title change of the custodian of records at the El Paso Intelligence Center (EPIC). The Immigration and Naturalization Service Program Coordinator, or the designee authorized in writing, is delegated the authority to certify records in the custody of that facility.

EFFECTIVE DATE: March 10, 1986.

FOR FURTHER INFORMATION CONTACT: For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–3048.

For Specific Information: Tedd Spears, Management Analyst, Records Services Section, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633–2442.

SUPPLEMENTARY INFORMATION: This change has been made to reflect the current organizational structure and position title of the custodian for the records at EPIC. As a Supervisory Border Patrol Agent is no longer assigned to the El Paso Intelligence Center (EPIC), the position title of the custodian for the records at EPIC is now the Immigration and Naturalization Service Program Coordinator.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary as this rule relates to agency organiation and management.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have significant economic impact on substantial number of small entities. This is not a rule within the definition of section 1(a) of E.O. 12291 as it relates to agency organization and management.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records, Authority delegation, Fees, Forms.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for Part 103 of Title 8 continues to read as follows:

Authority: Sec. 103 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103).

2. Section 103.7 is amended by revising paragraph (d)(3) to read as follows:

§ 103.7 Fees.

* * * * *

(d) * * *

(3) The Immigration and Naturalization Service Program Coordinator, El Paso Intelligence Center, or the designee, authorized in writing to make certification in event of the Program Coordinator's absence—copies of files, documents, and records of the Immigration and Naturalization Service in the custody of that office

* * * * *

Dated: March 3, 1986

John W. Murray,

Associate Commissioner, Information System, Immigration and Naturalization Service.

[FR Doc. 86–5123 Filed 3–7–86; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563g

[No. 86-200]

Securities Offerings

Dated: February 28, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; technical and clarifying corrections.

SUMMARY: The Federal Home Loan Bank Board (the "Board") has adopted technical corrections and clarifications to its final regulation governing securities offerings made by insured institutions. Besides correcting certain typographical and punctuation errors, the amended regulation: (1) Clarifies the exemption from the offering circular requirements for offers and sales to officers, directors and employees by revising the exemption to cover employee benefit plans and dividend or interest reinvestment plans and provides for definitions of such plans; (2) clarifies the definition of "security" to make clear that accounts insured by the Federal Deposit Insurance Corporation ("FDIC"), like accounts insured by the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), are not securities subject to the Board's securities offerings regulation; (3) clarifies the definition of "underwriter" by incorporating a safe harbor holding period of two years and deletes the two year consent transfer restriction which was originally a part of § 563g.4 (relating to certain exempt non-public offerings); (4) clarifies other exemptions to the offering circular requirements by more clearly defining when an offering commences for purposes of § 563g.3(a) and that cash is a permissible form of collateral for purposes of § 563g.3(f); (5) clarifies the effective date of post-effective amendments by adding new 563g.6(e) providing for effectiveness on such date as the Corporation may determine; and (6) clarifies that the accounting requirements for offering circulars set forth at § 563g.7(b) includes the accounting requirements of Regulation S-X promulgated by the Securities and Exchange Commission ("Commission") as provided for in Part 563c of the Board's Insurance Regulations. For ease of reference, the regulations are being republished in their entirety, with the foregoing technical and clarifying amendments incorporated therein.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Scott E. Bartel, Attorney, Corporate and Securities Division, (202-377-6963), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On December 20, 1985, the Board, as operating head of the FSLIC, adopted final regulations governing securities offerings by insured institutions. *See* Board Res. No. 85-1197, dated December 20, 1985, effective March 1, 1986 (50 FR 53284 (December 31, 1985)). In response to public comments, the final regulations contained substantial revisions to the regulations first proposed in March of 1983 and later re-proposed in September of 1985. *Compare* Board Res. No. 85-1197, dated December 20, 1985 (50 FR 53284 (December 31, 1985)) *with* Resolution No. 83-126, dated March 3, 1983 (48 FR 10684 (March 14, 1983)) and Board Res. No. 85-822, dated September 13, 1985 (50 FR 38839 (September 25, 1985)). Since adoption of the final regulations, the Office of General Counsel, Corporate and Securities Division, has received a variety of requests for clarification with respect to the scope and meaning of certain provisions of the regulation. While the majority of the requests concerned provisions which were not in need of clarification, the Board has recognized that other provisions, which are being amended today, should be amended to make clear the Board's intention in adopting such regulations. In addition, the Board is taking this opportunity to correct certain typographical and technical errors which appear in the regulations as adopted on December 20, 1985. See Board Res. No. 85-1197, dated December 20, 1985 (50 FR 53284 (December 31, 1985)). For the convenience of the public, the Board is republishing the entire text of new Part 563g, as amended by its action today.

Exemption for Employee Benefit Plans and Employee Dividend or Interest Reinvestment Plans—§ 563g.3(h)

As originally adopted, the regulations provided an exemption from the offering circular requirements of § 563g.2 for offers and sales "to its [an issuer's] employees or directors pursuant to any qualified pension, profit-sharing, or stock bonus plan meeting the requirements of Section 401(a) of the Internal Revenue Code of 1954, as amended [26 U.S.C. 401(a)]. See § 563g.3(h), 50 FR 53284, 53290 (December 31, 1985.) Originally, the Board believed that the vast majority of other employee compensation plans, such as option, appreciation and reinvestment plans, would be exempt from the offering circular requirements of § 563g.2 by reason of other available exemptions, such as the Board's non-public offering safe-harbor exemption § 563g.4. However, because of a perceived reluctance by counsel and others to use the Board's safe-harbor exemption for compensation plans not specifically included in the above quoted § 563g.3(h) exemption, the Board has decided to clarify its intention to exempt employee compensation plans, including stock option and rights plans, from the offering circular requirement of § 563g.2. As amended today, § 563g.3(h) provides an exemption from the offering circular requirements of § 563g.2 for offers and sales of securities by an issuer to its officers, directors or employees pursuant to an employee benefit plan or a dividend or interest reinvestment plan. To qualify for the exemption, however, the plan must be approved by the shareholders at a legal meeting and must be an employee benefit plan or a dividend or interest reinvestment plan as defined in the regulation. "Employee benefit plan" is defined in new § 563g.1(a)(4) and includes most of the common types of employee compensation, option, and pension plans. "Dividend or interest reinvestment plan" is defined in new § 563g.1(a)(3). To qualify for the exemption, however, the dividend or interest reinvestment plan must be limited to the issuer's officers, directors or employees. Plans which are not so limited, but instead allow all shareholders of an insured institution to participate, are not included in the amended § 563g.3(h) exemption. Unless another independent exemption is available, these unlimited plans would be subject to § 563g.2's offering circular requirements.[1] When drafting the offering circular for non-exempt plans, the issuer should refer to Commission Form S-8 as a guide to disclosure pertaining to the plan.

Safe-Harbor Definition of Underwriter—§ 563g.1(a)(14)

The offering circular requirements of § 563g.2 apply to insured institutions that offer or sell, directly or indirectly, any security issued by it. *See*, § 563g.2(a), 50 FR 53284, 53289 (December 31, 1985). In turn, "insured institution" is defined to include, solely for purposes of § 563g.2, any underwriter participating in the distribution of the securities offered. *See*, § 563g.1(a)(7), 50 FR 53289 (December 31, 1985). Therefore, the offering circular requirements of Part

[1] Under certain limited conditions, the filing of an offering circular may not be required. In this respect, the Board intends to follow the position of the Commission set forth in SEC Release 33-5515 (August 8, 1974). *See also* SEC Release 33-4790 (July 13, 1965). *See generally*, SEC Releases 33-6281 (July 15, 1981); 33-6188 (February 1, 1980).

563g work in a manner similar to the registration requirements of Section 5 of the Securities Act of 1933, as amended (15 U.S.C. 77e (1982)) ("Securities Act"), except that different approaches were taken to reach similar results. For example, in enacting the Securities Act, Congress made the registration provisions applicable to all persons, but then provided an exemption for all persons *except* issuers, underwriters and dealers. *Compare*, section 5 of the Securities Act (15 U.S.C. 77e (1982)) with section 4(1) of the Securities Act (15 U.S.C. 77d(1) (1982)). In contrast, the Board made the offering circular requirements of its securities offerings regulation applicable only to insured institutions and then, solely for purposes of the offering circular requirements, defined insured institution as including, *inter alia*, underwriters participating in the distribution. *See*, §§ 563g.1(a)(7), § 563g.2(a), 50 FR 53284, 53289 (December 31, 1985).

In the final regulations as adopted by the Board on December 20, 1985, § 563g.1(a)(14) defined "underwriter" to mean the same as the meaning set forth in the Board's Conversion Regulations at § 563b.2(a)(36), 12 CFR 563b.2(a)(36) (1985). *See*, 50 FR at 53289. This definition,[2] retained many of the uncertainties which exist in the Securities Act's definition of underwriter.[3] Whether a person has purchased with a view to distribution, or is participating, directly or indirectly, in a distribution of securities and hence is an underwriter of the securities, has been one of the more difficult questions in securities regulation. These uncertainties motivated the Commission to adopt a safe-harbor rule, Rule 144, which purports to define persons not engaged in a distribution and, therefore, not underwriters. *See*, 17 CFR 230.144 (1985). Basically, the Commission's Rule 144 requires a two (2) year holding period, after which the restricted securities may be "trickled" into the market in small amounts provided there is adequate public information available on the issuer in the market place.

Instead of promulgating a separate regulation similar to the Commission's Rule 144, the Board has decided to incorporate a safe-harbor directly into its definition of "underwriter." As amended, § 563g.1(a)(14) specifically provides that an "underwriter" does not include persons who have purchased from an issuer where the persons have continually held the securities being transferred for a period of two (2) consecutive years, and the amount of securities sold in any one (1) transaction is less than ten percent (10%) of the issued and outstanding securities of the same class. The safe-harbor also includes tacking provisions similar to Commission's Rule 144(d) (17 CFR 230.144(d) (1985)) for purposes of calculating the holding period of the securities. In addition, the safe-harbor also allows the tacking of holding periods in transactions involving exchanges of securities of one issuer for the securities of another issuer.

Sales made prior to the completion of the two (2) year holding period or sales made in an amount greater than, or equal to, ten percent (10%) of the issued and outstanding securities of the same class will not necessarily be deemed a sale by an underwriter under § 563g.1(a)(14). In interpreting § 563g.1 (a)(14), the Board will apply an analysis, on a case by case basis, similar to the analysis used by the courts and the Commission in interpreting the Securities Act's definition of underwriter.[4] In addition, the language of § 563g.1(a)(14) is in the disjunctive. Therefore, it is insufficient to conclude that a person is not an underwriter solely because such person did not purchase the securities with a view to their distribution to the public. It must also be established that the person is not offering or selling for the insured institution in connection with the distribution of the securities or participating in nor have a direct or indirect interest in any such distribution.

Whether a person is an underwriter by reason of participation in a distribution of securities depends upon the facts and circumstances surrounding the transaction. An investment banking firm which arranges with the issuer for a public sale of the issuer's securities is clearly an underwriter under § 563g.1(a)(14). Likewise, individual investors who are not securities professionals could be underwriters within the meaning of § 563g.1(a)(14). Because it is difficult to ascertain the mental state of the purchasers at the time of acquisition, subsequent acts and circumstances may be probative in determining whether the purchaser took with a view to distribution at the time of the acquisition. Factors to be considered in making such a determination include, but are not limited to, the length of time the purchaser has held the securities prior to re-sale, whether there has been an unforeseeable change in the circumstances of the purchaser, and whether the purchaser has assumed the economic risks of the investment, and therefore, is not acting as a conduit for sales to the public of the securities, directly or indirectly, on behalf of the issuer.

A notable difference between § 563g.1(a)(14)'s definition of underwriter and the Securities Act's definition of underwriter is that § 563g.1(a)(14) does not include the Securities Act's control clause." Under the Securities Act, for purposes of the Act's definition of underwriter only, " . . . the term 'issuer' shall include, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer."[5] The Board has decided not to adopt a "control clause" at this time because it believes that the regulation's current definition of underwriter, as amended, adequately implements the Board's securities offering regulation without being overly broad or expansive. However, the Board may reconsider the necessity of a "control clause" as part of § 563g.1(a)(14)'s definition of underwriter if, in the future, it appears that the absence of such clause is undermining the effectiveness of the Board's securities offerings regulation.

Finally, with the incorporation of a safe-harbor provision in the Board's definition of underwriter, the Board is

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[2] 12 CFR 563b.2(a)(36) (1985) provides the following definition for "underwriter": The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which he is the underwriter.

[3] *See*, Section 2(11) of the Securities Act, 15 U.S.C. 77(b)(11) (1982) which provides: The term "underwriter" means any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, participates or has participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter of dealer not in excess of the usual and customary distributors' or sellers' commission. As used in this paragraph, the term "issuer" shall include, in addition to an issuer, any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer.

[4] For example, it is possible for a person to be an underwriter within the meaning of § 563g.1(a)(14) even though such person has no contractual relationship or understanding with the issuer. *See*, Securities and Exchange Commission v. Chinese Consolidated Benevolent Assn., Inc., 120 F.2d 738, 740 (2d Cir), *cert. denied*, 314 U.S. 618 (1941); L. Loss, Fundamentals of Securities Regulation, 277–295 (1983).

[5] 15 U.S.C. 77b(11)(1982).

also amending its safe-harbor non-public offering exemption in § 563g.4 by deleting the two (2) year consent transfer restriction. As originally adopted, § 563g.4(d) required, for a period of two (2) years, the written consent of the Corporation prior to any re-sale of securities purchased in reliance on the safe-harbor. *See*, § 563g.4(d), 50 FR 53284, 53290 (December 31, 1985). At the time the exemption was adopted, the Board believed that the consent transfer restriction was necessary to prevent unlawful distributions of securities in circumvention of Part 563g's offering circular requirements. From the inquiries made to the staff since the adoption of the exemption in final form on December 20, 1985, the Board is concerned that the exemption's consent transfer restriction is deterring its use, thereby undermining the Board's intent to provide certainty and comfort in this area by adopting a safe-harbor non-public offering exemption. With the Board's revision to § 563g.1(a)(14) providing a safe-harbor in connection with its definition of underwriter, the Board is amending § 563g.4(d) by replacing the two (2) year consent transfer restriction with the requirement that, *inter alia*, the issuer exercise reasonable care to ensure that purchasers of securities relying on the safe-harbor are not underwriters within the meaning of § 563g.1(a)(14). Reasonable care includes, but is not limited to, (a) reasonable inquiry to determine if the purchaser is acquiring the securities for the purchaser, or for other persons; (b) written disclosure to the purchaser that the securities are not offered pursuant to an offering circular filed with, and declared effective by, the Corporation; and (c) placement of a legend on the certificate evidencing the security stating that the securities have not been offered under an offering circular filed with, and declared effective by, the Corporation and that due care should be taken to ensure that the seller of the securities is not an underwriter within the meaning of § 563g.1(a)(14).

FDIC Insured Accounts not a Security—§ 563g.1(a)(13)

As originally adopted, § 563g.1(a)(13) provided that "security" means the same as the meaning set forth at 561.41 of the Board's Insurance Regulations (12 CFR 561.41 (1985)). *See*, §§ 563g.1(a)(13), 50 FR 53284, 53289 (December 31, 1985). Section 561.41 specifically excludes from the definition of security any "insured account" which, in turn, is defined in § 561.3 as including only accounts insured by the FSLIC. (12 CFR 561.3 (1985)). Because the Board's securities offerings regulation applies to federally chartered savings banks whose accounts are insured by the Federal Deposit Insurance Corporation, the Board is clarifying its definition of "security" in § 563g.1(a)(13) by providing that a security shall not include accounts insured by either the FSLIC or FDIC. However, the amendment is not intended to affect the applicability of § 563.3–10 regulating earnings-based accounts.

Grandfather Provision—§ 563g.3(a)

As originally adopted, § 563g.3(a) provided that the offering circular requirements of § 563g.2 shall not apply to offers and sales of securities "made" prior to March 1, 1986 provided, *inter alia*, that the "offer or sale" does not continue for more than 60 days after March 1, 1986. In clarification of the words "made" and "offer or sale", the Board is amending § 563g.3(a) by substituting the word "commencing" for "made" and the word "offering" for "offer or sale." In this respect, whether an offering has commenced prior to March 1, 1986 depends upon the facts and circumstances of each situation. However, the Board is of the view that an offering will commence at least at the time an offering document, such as a preliminary prospectus or offering circular, is first publicly distributed to potential purchasers. An offering ceases on the last date consideration may be received from the purchasers pursuant to the terms of the offering. With respect to foreign offerings the Board recognizes that different practices are followed in offering securities abroad and is of the view that, for purposes of § 563g.3(a), an offering commences on the publication of the invitation to subscribe for the securities.

Cash Permitted as Collateral—§ 563g.2(f)

The Board is also amending its exemption for collateralized debt securities by revising the list of permissible collateral in § 563g.3(f) to include cash. This amendment is intended to clarify that the Board intended cash to be a permissible form of collateral and to more fully conform with industry practices.

Effective Date-Post Effective Amendments—§ 563g.6

Section 563g.8(c) currently requires post-effective amendments to be filed with the Corporation reflecting changes in material fact which are not reflected in the offering circular on the date it was declared effective by the Corporation. While § 563g.8(c) is clear in providing that such post-effective amendments are not automatically effective in twenty (20) days, but instead must be declared effective by the Corporation, the Board is taking this opportunity to amend § 563g.6 which generally discusses the effective date of an offering circular by adding a new paragraph (e) which provides that an amendment to an offering circular filed after the effective date shall become effective on such date as the Corporation may determine. The other paragraphs in § 563g.6 have been re-lettered to incorporate new paragraph (e).

Content of the Offering Circular—§ 563g.7(a)(4)

The Board is amending § 563g.7(a)(4) for the purposes of clarifying the information required to be included in an offering circular filed pursuant to § 563g.2. As amended, § 563g.7(a)(4) provides that, in addition to the information required by the Commission's Regulation S–K, all of the information required by Item 7 of the Board's Form PS (12 CFR 563b.101) should be included in the offering circular.

Accounting Requirements—§ 563g.7(b)

The Board is also amending § 563g.7(b) concerning the accounting requirements for offering circulars filed with, and declared effective by, the Corporation. The Board is revising the language of § 563g.7(b) to make clear that Subpart A of Part 563c of the Board's Insurance Regulations set forth the applicable accounting requirements for offering circulars, which includes, to the extent required by Part 563c, applicable provisions of the Commission's Regulation S–X.

Other Technical Amendments

By its action today, the Board is also taking the opportunity to make other amendments which are generally technical in nature. The Board is deleting the definitions of "Beneficial Owner" (§ 563g.1(a)(3), 50 FR 53284, 53289 (December 31, 1985)) as unnecessary at this time; and is also making non-substantive corrections of punctuation and form to §§ 563g.1(a) (6), (7), (9); 563g.1(c); 563g.2(b) (1), (2); 563g.3(g); 563g.4(b)(1); 563g.7(a) (7), (8); 563g.10; 563g.11; 563g.12(a), (b) (1), (2); 563g.17 and 563g.18(a), 563g.20; 563.21; 50 FR 53284, 53289, 53291–93 (December 31, 1985).

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because of the technical and clarifying nature of the amendments, notice and public procedure are unnecessary, as is the 30-

day delay of the effective date. Furthermore, the Board is making the amendments effective as of March 1, 1986, in order to secure for insured institutions the full benefit of the exemption granted and the restrictions relieved.

List of Subjects in 12 CFR Part 563g

Savings and loan associations, Securities.

Accordingly, the Federal Home Loan Bank Board hereby revises Part 563g, Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth and republished in its entirety below.

PART 563g—SECURITIES OFFERINGS

Sec.

Authority: Secs. 402, 403 and 407 of the National Housing Act, 48 Stat. 1256, 1257 and 1260, as amended 12 U.S.C. 1725, 1726 and 1730; sec. 5 of the Home Owners' Loan Act of 1933, 48 Stat. 132, as amended, 12 U.S.C. 1464; secs. 3(b), 12, 13, 14, 16, and 23 of the Securities Exchange Act of 1934, 48 Stat. 882, 892, 894, 895, 896, and 901, as amended, 15 U.S.C. 78c(b), 78*l*, m, n, p, and w; the Federal Home Loan Bank Act, 12 U.S.C. 1421 *et seq.*; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

§ 563g.1 Definitions.

(a) For purposes of this Part, the following definitions apply:

(1) "Accredited investor" means the same as in Commission Rule 501(a) (17 CFR 230.501(a)) under the Securities Act, and includes any insured institution.

(2) "Commission" means the Securities and Exchange Commission

(3) "Dividend or interest reinvestment plan" means a plan which is offered solely to existing security holders of the insured institution which allows such persons to reinvest dividends or interest paid to them on securities issued by the insured institution, and which also may allow additional cash amounts to be contributed by the participants in the plan, provided that the securities to be issued are newly issued, or are purchased for the account of plan participants, at prices not in excess of current market prices at the time of purchase, or at prices not in excess of an amount determined in accordance with a pricing formula specified in the plan and based upon average or current market prices at the time of purchase.

(4) "Employee benefit plan" means any purchase, savings, option, rights, bonus, ownership, appreciation, profit sharing, thrift, incentive, pension or similar plan solely for offices, directors or employees.

(5) "Exchange Act" means the Securities Exchange Act of 1934 (15 U.S.C. 78a–78jj).

(6) "Filing date" means the date on which a document is actually received during business hours, 9:00 a.m. to 5:00 p.m. Eastern Standard Time, by the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, DC 20552. However if the last date on which a document can be accepted falls on a Saturday, Sunday, or holiday, such document may be filed on the next business day.

(7) "Insured institution" means the same as in § 561.1 of this Subchapter, and includes a federally-chartered insured institution in organization under this Chapter, and a state-chartered institution in organization which is granted conditional approval of insurance of accounts by the Corporation. In addition, for purposes of § 563g.2 of this part, "insured institution" includes any underwriter participating in the distribution of securities of an insured institution.

(8) "Issuer" means an insured institution which issues or proposes to issue any security.

(9) "Offer;" "Sale" or "sell." For purposes of this Part, the term "offer," "offer to sell," or "offer for sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. However, these terms shall not include preliminary negotiations or agreements between an issuer and any underwriter or among underwriters who are or are to be in privity of contract with the issuer. "Sale" and "sell" includes every contract to sell or otherwise dispose of a security or interest in a security for value. Every offer or sale of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert the security into another security of the same or another issuer, includes an offer and sale of the other security only at the time of the offer or sale of the warrant or right or convertible security; but neither the exercise of the right to purchase or subscribe or to convert nor the issuance of securities pursuant thereto is an offer or sale.

(10) "Person" means the same as in § 563b.2(a)(24) of this subchapter, and includes an insured institution.

(11) "Purchase" and "buy" means the same as in § 563b.2(a)(26) of this Subchapter.

(12) "Securities Act" means the Securities Act of 1933 (15 U.S.C. 77a–77aa).

(13) "Security" means any non-withdrawable account, note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization or subscription, transferable share, investment contract, voting trust certificate or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing, except that a "security" shall not include an account insured, in whole or in part, by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation. Nothing in this part shall affect the applicability of § 563.3–10 of this Subchapter.

(14) "Underwriter" means any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a participation in the direct or indirect underwriting of any such undertaking; but such term shall not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission and such term shall also not include any person who has continually held the securities being transferred for a period of two (2) consecutive years provided that the securities sold in any one (1) transaction shall be less than ten percent (10%) of the issued and oustanding securities of the same class. The following shall apply for the

purpose of determining the period securities have been held:

(i) *Stock Dividends, Splits and Recapitalizations.* Securities acquired from the issuer as a dividend or pursuant to a stock split, reverse split or recapitalization shall be deemed to have been acquired at the same time as the securities on which the dividend or, if more than one, the initial dividend was paid, the securities involved in the split or reverse split, or the securities surrendered in connection with the recapitalization.

(ii) *Conversions.* If the securities sold were acquired from the issuer for a consideration consisting solely of other securities of the same issuer surrendered for conversion, the securities so acquired shall be deemed to have been acquired at the same time as the securities surrendered for conversion.

(iii) *Contingent Issuance of Securities.* Securities acquired as a contingent payment of the purchase price of an equity interest in a business, or the assets of a business, sold to the issuer or an affiliate of the issuer shall be deemed to have been acquired at the time of such sale if the issuer was then committed to issue the securities subject only to conditions other than the payment of further consideration for such securities. An agreement entered into in connection with any such purchase to remain in the employment of, or not to compete with, the issuer or affiliate or the rendering of services pursuant to such agreement shall not be deemed to be the payment of further consideration for such securities.

(iv) *Pledged Securities.* Securities which are bona fide pledged by any person other than the issuer when sold by the pledgee, or by a purchaser, after a default in the obligation secured by the pledge, shall be deemed to have been acquired when they were acquired by the pledgor, except that if the securities were pledged without recourse they shall be deemed to have been acquired by the pledgee at the time of the pledge or by the purchaser at the time of purchase.

(v) *Gifts of Securities.* Securities acquired from any person, other than the issuer, by gift shall be deemed to have been acquired by the donee when they were acquired by the donor.

(vi) *Trusts.* Securities acquired from the settler of a trust by the trust or acquired from the trust by the beneficiaries thereof shall be deemed to have been acquired when they were acquired by the settler.

(vii) *Estates.* Securities held by the estate of a deceased person or acquired from such an estate by the beneficiaries thereof shall be deemed to have been acquired when they were acquired by the deceased person, except that no holding period is required if the estate is not an affiliate of the issuer or if the securities are sold by a beneficiary of the estate who is not such an affiliate.

(viii) *Exchange Transactions.* A person receiving securities in a transaction involving an exchange of the securities of one issuer for securities of another issuer shall be deemed to have acquired the securities received when such person acquired the securities exchanged.

(b) A term not defined in this Part but defined in another part of this Subchapter, when used in this Part, shall have the meanings given in such other part, unless the context otherwise requires.

(c) When used in the rules, regulations, or forms of the Commission referred to in this Part, the term "Commission" shall be deemed to refer to the Corporation or the Board, the term "registrant" shall be deemed to refer to an issuer defined in this Part, and the term "registration statement" or "prospectus" shall be deemed to refer to an offering circular filed under this Part, unless the context otherwise requires.

§ 563g.2 Offering circular requirement.

(a) *General.* No insured institution shall offer or sell, directly or indirectly, any security issued by it unless:

(1) The offer or sale is accompanied or preceded by an offering circular which includes the information required by this Part and which has been filed and declared effective pursuant to this Part; or

(2) An exemption is available under this part.

(b) *Communications not deemed an offer.* The following communications shall not be deemed an offer under this section:

(1) Prior to filing an offering circular, any notice of a proposed offering which satisfies the requirements of Commission Rule 135 (17 CFR 230.135) under the Securities Act;

(2) Subsequent to filing an offering circular, any notice circular, advertisement, letter, or other communication published or transmitted to any person which satisfies the requirements of Commission Rule 134 (17 CFR 230.134) under the Securities Act; and

(3) Oral offers of securities covered by an offering circular made after filing the offering circular with the Corporation.

(c) *Preliminary offering circular.* Notwithstanding paragraph (a) of this section, a preliminary offering circular may be used for an offer of any security prior to the effective date of the offering circular if:

(1) The preliminary offering circular has been filed pursuant to this part;

(2) The preliminary offering circular includes the information required by this part, except for the omission of information relating to offering price, discounts or commissions, amount of proceeds, conversion rates, call prices, or other matters dependent on the offering price; and

(3) The offering circular declared effective by the Corporation is furnished to the purchaser prior to, or simultaneously with, the sale of any such security.

§ 563g.3 Exemptions.

The offering circular requirement of § 563g.2 of this part shall not apply to an issuer's offer or sale of securities:

(a) Commencing prior to March 1, 1986: *Provided,* that (1) the offering does not continue for more than 60 days after March 1, 1986, and (2) the issuer is not a *de novo* federally-chartered institution in organization;

(b) Complying with the requirements for retail repurchase agreements of § 563.8–4 of this subchapter, except where the issuer has a net-worth deficiency under that section;

(c) Exempt from registration under either section 3(a) or section 4 of the Securities Act, but only by reason of an exemption other than section 3(a)(5) (for regulated savings and loan associations), and section 3(a)(11) (for intrastate offerings) of the Securities Act;

(d) In a conversion from the mutual to the stock form of organization pursuant to Part 563b of this subchapter, except for a supervisory conversion undertaken pursuant to Subpart C of Part 563b of this subchapter;

(e) In a non-public offering which satisfies the requirements of § 563g.4 of this part;

(f) That are debt securities issued in denominations of $100,000 or more, which are fully collateralized by cash, any security issued, or guaranteed as to principal and interest, by the United States, the Federal Home Loan Mortgage Corporation, Federal National Mortgage Association, Government National Mortgage Association or by interests in mortgage notes secured by real property;

(g) Distributed exclusively abroad to foreign nationals: *Provided,* that (1) the offering is made subject to safeguards reasonably designed to preclude distribution or redistribution of the securities within, or to nationals of, the United States, and (2) such safeguards include, without limitation, measures

that would be sufficient to ensure that registration of the securities would not be required if the securities were not exempt under the Securities Act; or

(h) To its officers, directors or employees pursuant to an employee benefit plan or a dividend or interest reinvestment plan, and provided that any such plan has been approved by the majority of shareholders present in person or by proxy at an annual or special meeting of the shareholders of the insured institution.

§ 563g.4 Non-public offering.

Offers and sales of securities by an issuer that satisfy the conditions of paragraph (a) or (b) and the requirements of paragraphs (c) and (d) of this section shall be deemed to be transactions not involving any public offering within the meaning of section 4(2) of the Securities Act and §§ 563g.3(c) and 563g.3(e) of this part. However, an issuer shall not be deemed to be not in compliance with the provisions of this section solely by reason of making an untimely filing of the notice required to be filed by paragraph (c) of this section so long as the notice is actually filed and all other conditions and requirements of this section are satisfied.

(a) *Regulation D.* The offer and sale of all securities in the transaction satisfies the Commission's Regulation D (17 CFR 230.501–230.506), except for the notice requirements of Commission Rule 503 (7 CFR 230.503) and the limitations on resale in Commission Rule 502(d) (17 CFR 230.502(d)).

(b) *Sales to 35 persons.* The offer and sale of all securities in the transaction satisfies each of the following conditions:

(1) Sales of the security are not made to more than 35 persons during the offering period, as determined under the integration provisions of Commission Rule 502(a) (17 CFR 230.502(a)). The number of purchasers referred to above is exclusive of any accredited investor, officer, director or affiliate of the issuer. For purposes of this paragraph (b), a husband and wife (together with any custodian or trustee acting for the account of their minor children) are counted as one person and a partnership, corporation or other organization which was not specifically formed for the purpose of purchasing the security offered in reliance upon this exemption, is counted as one person.

(2) All purchasers either have a pre-existing personal or business relationship with the issuer or any of its officers, directors or controlling persons, or by reason of their business or financial experience or the business or financial experience of their professional advisors who are unaffiliated with and who are not compensated by the issuer or any affiliate or selling agent of the issuer, directly or indirectly, could reasonably be assumed to have the capacity to protect their own interests in connection with the transaction.

(3) Each purchaser represents that the purchaser is purchasing for the purchaser's own account (or at trust account if the purchaser is a trustee) and not with a view to or for sale in connection with any distribution of the security.

(4) The offer and sale of the security is not accomplished by the publication of any advertisement.

(c) *Filing of notice of sales.* Within 30 days after the first sale of the securities, every six months after the first sale of the securities and not later than 30 days after the last sale of securities in an offering pursuant to this section, the issuer, shall file with the Corporation a report describing the results of the sale of securities as required by § 563g.12(b) of this part.

(d) *Limitation on resale.* The issuer shall exercise reasonable car to assure that the purchasers of the securities are not underwriters within the meaning of § 563g.1(a)(14) of this part, which reasonable care shall include, but not be limited to, the following:

(1) Reasonable inquiry to determine if the purchaser is acquiring the securities for the purchaser or for other persons;

(2) Written disclosure to each purchaser prior to the sale that the securities are not offered by an offering circular filed with, and declared effective by, the Corporation pursuant to § 563g.2 of this part, but instead are being sold in reliance upon the exemption from the offering circular requirement provided for by this section; and

(3) Placement of a legend on the certificate, or other document evidencing the securities, indicating that the securities have not been offered by an offering circular filed with, and declared effective by, the Corporation and that due care should be taken to ensure that the seller of the securities is not an underwriter within the meaning of § 563g.1(a)(14) of this part.

§ 563g.5 Filing and signature requirements.

(a) *Procedures.* An offering circular, amendment, notice, report, or other document required by this part shall, unless otherwise indicated, be filed in accordance with the requirements of § 563b.8(e) (1), (3) and (4), (f) through (q), and (s), of this subchapter.

(b) *Number of copies.* (1) Unless otherwise required, any filing under this part shall inlcude 10 copies of the document to be filed with the Corporation, as follows:

(i) Seven copies, which shall include one manually signed copy with exhibits, three conformed copies with exhibits, and three conformed copies without exhibits, to the Corporate and Securities Division, Office of General Counsel; and

(ii) Three copies, which shall include one manually signed copy with exhibits and two conformed copies without exhibits, to the Principal Supervisory Agent.

(2) Within five days after the effective date of an offering circular or the commencement of a public offering after the effective date, whichever occurs later, 25 copies of the offering circular used shall be filed with the Corporation, as follows: 22 copies to the Corporate and Securities Division, Office of General Counsel, and three copies to the Principal Supervisory Agent.

(3) After the effective date of an offering circular, an offering circular which varies from the form previously filed shall not be used, unless it includes only non-material supplemental or additional information and until 10 copies have been filed with the Corporation in the manner required.

(c) *Signature.* (1) Any offering circular, amendment, or consent filed with the Corporation pursuant to this Part shall include an attached manually signed signature page which authorizes the filing and has been signed by:

(i) The issuer, by its duly authorized representative;

(ii) The issuer's principal executive officer;

(iii) The issuer's principal financial officer;

(iv) The issuer's principal accounting officer; and

(v) At least a majority of the issuer's directors.

(2) Any other document filed pursuant to this Part shall be signed by a person authorized to do so.

(3) At least *one copy* of every document filed pursuant to this Part shall be manually signed, and every copy of a document filed shall:

(i) Have the name of each person who signs typed or printed beneath the signature;

(ii) State and capacity or capacities in which the signature is provided;

(iii) Provide the name of each director of the issuer, if a majority of directors is required to sign the document; and

(iv) With regard to any copies not manually signed, bear typed or printed signatures.

§ 563g.6 Effective date.

(a) Except as provided for in paragraph (d) of this section, an offering circular filed by an insured institution shall be deemed to be automatically declared effective by the Corporation on the twentieth day after filing or on such earlier date as the Corporation may determine for good cause shown.

(b) If any amendment is filed prior to the effective date, the offering circular shall be deemed to have been filed when such amendment was filed.

(c) The period until automatic effectiveness under this section shall be stated at the bottom of the facing page of the Form OC or any amendment.

(d) The effectiveness will be delayed if a duly authorized amendment, telegram confirmed in writing, or letter states that the effective date is delayed until a further amendment is filed specifically stating that the offering circular will become effective in accordance with this section.

(e) An amendment filed after the effective date of the offering circular shall become effective on such date as the Corporation may determine.

(f) If it appears to the Corporation at any time that the offering circular includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading, then the Federal Home Loan Bank Board, as the operational head of the Corporation, may pursue any remedy it is authorized to pursue under section 407 of the National Housing Act of 1934, as amended, (12 U.S.C. 1730) including, but not limited to, institution of cease-and-desist proceedings.

§ 563g.7 Form, content, and accounting.

(a) *Form and content.* Any offering circular or amendment filed pursuant to this part shall:

(1) Be filed under cover of Form OC, which is under Part 563b of this subchapter;

(2) Comply with the requirements of Items 3 and 4 of Form OC and the requirements of all items of the form for registration (17 CFR Part 239) that the issuer would be eligible to use were it required to register the securities under the Securities Act;

(3) Comply with all item requirements of the Form S–1 (17 CFR Part 239) for registration under the Securities Act, if the institution issuing the securities is not in compliance with the Corporation's regulatory net-worth requirements during the time the offering is made;

(4) Where a form specifies that the information required by an item in the Commission's Regulation S–K (17 CFR Part 229) should be furnished, include such information and all of the information required by Item 7 of Form PS, which is under Part 563b of this Subchapter;

(5) Include after the facing page of the Form OC a cross-reference sheet listing each item requirement of the form for registration under the Securities Act and indicate for each item the applicable heading or subheading in the offering circular under which the required information is disclosed;

(6) Include in Part II of the Form OC the applicable undertakings required by the form for registration under the Securities Act;

(7) If the issuer has not previously been required to file reports pursuant to section 13(a) of the Exchange Act or § 563g.18 of this Part, include in Part II of Form OC the following undertaking: "The issuer hereby undertakes, in connection with any distribution of the offering circular, to have a preliminary or effective offering circular including the information required by this Part distributed to all persons expected to be mailed confirmations of sale not less than 48 hours prior to the time such confirmations are expected to be mailed;"

(8) In offerings involving the issuance of options, warrants, subscription rights or conversion rights within the meaning of § 563g.1(a)(9), include in Part II of Form OC an undertaking to provide a copy of the issuer's most recent audited financial statements to persons exercising such options, warrants or rights promptly upon receiving written notification of the exercise thereof;

(9) Include as supplemental information and not as part of the Form OC and only with respect to *de novo* offerings, a copy of the application for permission to organize for federally-chartered institutions, and a copy of the application for insurance of accounts for state-chartered institutions; and

(10) In addition to the information expressly required to be included by this section, there shall be added such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading.

(b) *Accounting requirements.* To be declared effective, an offering circular or amendment shall satisfy the accounting requirements in Subpart A of Part 563c of this subchapter.

§ 563g.8 Use of the offering circular.

(a) An offering circular or amendment declared effective by the Corporation shall not be used more than nine months after the effective date, unless the information contained therein is as of a date not more than 16 months prior to such use.

(b) An offering circular filed under § 563g.5(b)(3) of this part shall not extend the period for which an effective offering circular or amendment may be used under paragraph (c) of this section.

(c) If any event arises, or change in fact occurs, after the effective date and such event or change in fact, individually or in the aggregate, results in the offering circular containing any untrue statement of material fact, or omitting to state a material fact necessary in order to make statements made in the offering circular not misleading under the circumstances, then no offering circular, which has been declared effective under this part, shall be used until an amendment reflecting such event or change in fact has been filed with, and declared effective by, the Corporation.

§ 563g.9 Escrow requirement.

(a) Any funds received in an offering which is offered and sold on a best efforts all-or-none condition or with a minimum-maximum amount to be sold shall be held in an escrow or similar separate account until such time as all of the securities are sold with respect to a best efforts all-or-none offering or the stated minimum amount of securities are sold in a minimum-maximum offering.

(b) If the amount of securities required to be sold under escrow conditions in paragraph (a) of this section are not sold within the time period for the offering as disclosed in the offering circular, all funds in the escrow account shall be promptly refunded unless the Corporation otherwise approves an extension of the offering period upon a showing of good cause and provided that the extension is consistent with the public interest and the protection of investors.

§ 563g.10 Unsafe or unsound practices.

It shall constitute an unsafe or unsound practice within the meaning of Section 5(d) of the Home Owner's Loan Act of 1933 (12 U.S.C. 1464(d)) and section 407(e) of the National Housing Act of 1934 (12 U.S.C. 1730(e)) for any person, directly or indirectly,

(a) To employ any device, scheme or artifice to defraud,

(b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make statements made, in light of the circumstances under which they were made, not misleading, or

(c) To engage in any act, practice, or course of business which operates as a fraud or deceit upon any person, in connection with the purchase or sale of any security of an insured institution. Nothing in this section shall be construed as a limitation on the applicability of section 10(b) of the Exchange Act (15 U.S.C. 78j(b)) or Rule 10b–5 promulgated thereunder (17 CFR 240.10b–5).

§ 563g.11 Withdrawal or abandonment.

(a) Any offering circular, amendment, or exhibit may be withdrawn prior to the effective date. A withdrawal shall be signed and state the grounds upon which it is made. Any document withdrawn will not be removed from the files of the Corporation, but will be marked "Withdrawn upon the request of the issuer on (date)."

(b) When an offering circular or amendment has been on file with the Corporation for a period of nine months and has not become effective the Corporation may, in its discretion, determine whether the filing has been abandoned, after notifying the issuer that the filing is out of date and must either be amended to comply with the applicable requirements of this Part or be withdrawn within 30 days after the date of such notice. When a filing is abandoned, the filing will not be removed from the files of the Corporation, but will be marked "Declared abandoned by the FSLIC on (date)."

§ 563g.12 Securities sale report.

(a) Within 30 days after the first sale of the securities, every six months after such 30 day period and not later than 30 days after the later of the last sale of securities in an offering pursuant to § 563g.2 of this part or the application of the proceeds therefrom, the issuer shall file with the Corporation a report describing the results of the sale of the securities and the application of the proceeds, which shall include all of the information required by Form G–12 set forth at § 563g.20 of this part and shall also include the following:

(1) The name, address, and docket number of the issuer;

(2) The title, number, aggregate and per-unit offering price of the securities sold;

(3) The aggregate and per-unit dollar amounts of actual itemized expenses, discounts or commissions, and other fees;

(4) The aggregate and per-unit dollar amounts of the net proceeds raised, and the use of proceeds therefrom; and

(5) The number of purchasers of each class of securities sold and the number of owners of record of each class of the issuer's equity securities after the issuance of the securities or termination of the offer.

(b) Within 30 days after the first sale of the securities, every six months after the first sale of the securities and not later than 30 days after the last sale of securities in an offering pursuant to § 563g.4 of this Part, the issuer shall file with the Corporation a report describing the results of the sale of securities, which shall include all of the information required by Form G–12 set forth at § 563g.20 of this part, and shall also include the following:

(1) All of the information required by paragraph (a) of this section; and

(2) A detailed statement of the factual and legal grounds for the exemption claimed.

§ 563g.13 Public disclosure and confidential treatment.

(a) Any offering circular, amendment, exhibit, notice, or report filed pursuant to this part will be publicly available. Any other related documents will be treated in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Parts 505 and 505a of this chapter.

(b) Any requests for confidential treatment of information in a document required to be filed under this Part shall be made as required under Commission Rule 24b–2 (17 CFR 240.24b–2) under the Exchange Act.

§ 563g.14 Waiver.

(a) The Corporation may waive any requirement of this Part, or any required information:

(1) Determined to be unnecessary by the Corporation;

(2) In connection with a transaction approved by the Corporation for supervisory reasons, or

(3) Where a provision of this Part conflicts with a requirement of applicable state law.

(b) Any condition, stipulation or provision binding any person acquiring a security issued by an insured institution which seeks to waive compliance with any provision of this Part shall be void, unless approved by the Corporation.

§ 563g.15 Requests for interpretive advice or waiver.

Any requests to the Corporation for interpretive advice or a waiver with respect to any provision of this Part shall satisfy the following requirements:

(a) A copy of the request, including any attachments, shall be filed with the Office of General Counsel, Corporate and Securities Division;

(b) The provisions of this Part to which the request relates, the participants in the proposed transaction, and the reasons for the request, shall be specifically identified or described; and

(c) The request shall include a legal opinion as to each legal issue raised and an accounting opinion as to each accounting issue raised.

§ 563g.16 Delayed or continuous offering and sale of securities.

Any offer or sale of securities under § 563g.2 of this part may be made on a continuous or delayed basis in the future, if:

(a) The securities would satisfy all of the eligibility requirements of the Commission's Rule 415, 17 CFR 230.415; and

(b) The institution issuing the securities is in compliance with the Corporation's regulatory net-worth requirements during the time the offering is made.

§ 563g.17 Direct sales of securities at an office.

Securities of an insured institution or an affiliate may only be offered or sold at an office of an insured institution or an affiliate, if:

(a) No commissions are paid to any employee or other person;

(b) No offers or sales are made by tellers or at the teller counter, or by comparable persons at comparable locations;

(c) Offers and sales are made only by regular, full-time employees; and

(d) The institution issuing the securities is in compliance with the Corporation's regulatory net-worth requirements during the time the offering is made, except that such compliance is not required for repurchase agreements issued in compliance with § 563.8–4 of this subchapter.

§ 563g.18 Current and periodic reports.

(a) Each insured institution which files an offering circular which becomes effective pursuant to this Part, after such effective date, shall file with the Corporation periodic and current reports on Forms 8–K, 10–Q and 10–K as may be required by section 13 of the Exchange Act (15 U.S.C. 78m) as if the securities sold by such offering circular were securities registered pursuant to section 12 of the Exchange Act (15 U.S.C. 78*l*). The duty to file periodic and current reports under this section shall be automatically suspended if and so long as any issue of securities of the insured institution is registered pursuant to

section 12 of the Exchange Act (15 U.S.C. 78*l*). The duty to file under this section shall also be automatically suspended as to any fiscal year, other than the fiscal year within which such offering circular became effective, if, at the beginning of such fiscal year, the securities of each class to which the offering circular relates are held of record by less than three hundred persons.

(b) For purposes of registering securities under sections 12(b) or 12(g) of the Exchange Act, an issuer subject to the reporting requirements of paragraph (a) of this section may use the Commission's registration statement on Form 10 or Forms 8–A or 8–B as applicable.

§ 563g.19 Approval of the security.

Any securities of an insured institution which are not exempt under this Part and are offered or sold pursuant to an offering circular which becomes effective under this Part, are deemed to be approved as to form and terms for purposes of § 563.1 of this subchapter.

§ 563g.20 Form for securities sale report.

Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552

[Form G–12]

Securities Sale Report Pursuant to Section 563g.12

FHLBB No.
Issuer's Name:
Address:
If in organization, state the date of certification of insurance of accounts:.....
State the title, number, aggregate and per-unit offering price of the securities sold:.....
State the aggregate and per-unit dollar amounts of actual itemized offering expenses, discounts, commissions, and other fees:.....
State the aggregate and per-unit dollar amounts of the net proceeds raised:.....
Describe the use of proceeds. If unknown, provide reasonable estimates of the dollar amount allocated to each purpose for which the proceeds will be used:.....
State the number of purchasers of each class of securities sold and the number of owners of record of each class of the issuer's equity securities at the close or termination of the offering:.....
For a non-public offering, also state the factual and legal grounds for the exemption claimed (attach additional pages if necessary):.....
For a non-public offering, all offering materials used should be listed:.....
Person to Contact:.....
Telephone No.:.....

This issuer has duly caused this securities sale report to be signed on its behalf by the undersigned person.
Date of securities sale report.....
Issuer:.....
Signature:.....
Name:.....
Title:.....

Instruction: Print the name and title of the signing representative under his signatures. Ten copies of the securities sale report should be filed, including one copy manually signed, as required under 12 CFR 563g.5.

Attention

Intentional misstatements or omissions of fact constitute violations of Federal law (See 18 U.S.C. 1001 and 12 CFR 563.18(b)).

§ 563g.21 Filing of copies of offering circulars in certain exempt offerings.

A copy of the offering circular, or similar document, if any, used in connection with an offering exempt from the offering circular requirement of § 563g.2 by reason of §§ 563g.3(f) or 563g.4 of this part shall be mailed to the Corporation within 30 days after the first sale of such securities. Such copy of the offering circular, or similar document, is solely for the information of the Corporation and shall not be deemed to be "filed" with the Corporation pursuant to § 563g.2 of this part. The mailing to the Corporation of such offering circular, or similar document, shall not be a pre-condition of the applicable exemption from the offering circular requirements of § 563g.2 of this part.

§ 563g.22 Delegation of authority.

The General Counsel, Deputy General Counsel, Associate General Counsel for Corporate and Securities or their designee, is authorized to act on, or exercise the Corporation's authority pursuant to, this Part.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–5169 Filed 3–7–86; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83–ANE–27; Amdt. 39–5240]

Airworthiness Directives; McCauley Accessory Division, Models 2A34C66, E2A34C73, and 2A36C23 Constant Speed Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires a one-time inspection of certain McCauley Model 2A34C66 and E2A34C73 propellers. The amendment is needed to make the AD applicable to the Model 2A36C23 propeller because the FAA has determined that these propellers are susceptible to blade retention failure to which the AD is directed.

DATES: Effective March 12, 1986.

Compliance required as prescribed in body of AD.

Incorporation by Reference—Approved by the Director of the Federal Register effective on March 12, 1986.

ADDRESSES: The applicable service bulletin may be obtained from McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377.

A copy of the service bulletin is contained in the Rules Docket, Office of Regional Counsel, FAA, Attn: Rules Docket No. 83–ANE–27, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Alpiser, Chicago Aircraft Certification Office, Propulsion Branch, ACE–140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone 312–694–7130.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–4768, 48 FR 54588, AD 83–24–11, which currently requires a one-time inspection of the retention threads on the blades and ferrules for scratches and sharp edges, and repair as necessary, on certain McCauley 2A34C66 and E2A34C73 model propellers. After issuing Amendment 39–4768, the FAA has determined, through service experience, that the Model 2A36C23 propellers are susceptible to the same blade retention failure to which the AD is directed. Therefore, the FAA is amending Amendment 39–4768 by requiring a one-time inspection of the retention threads on the blades and ferrules for scratches and sharp edges, and repair as necessary, on certain McCauley Model 2A36C23 propellers.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of the final evaluation when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

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

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

2. By amending Amendment 39-4768 (48 FR 54588) AD 83-24-11, as follows:

(a) By revising the applicability statement to read as follows:

Applies to certain McCauley Model 2A34C66/90AT-2, E2A34C73/90AT-8, and 2A36C23/84B-0 constant speed propellers with specific serial numbers listed in McCauley Service Bulletin No. 151A dated December 6, 1985, or FAA approved equivalent, installed on, but not limited to, Cessna 180, 180A through 180J, Cessna 188, 188A, and 188B, Cessna P206, P206A through P206E, Cessna 210E through 210L, and Beech 33, 35, and 36 series aircraft certificated in any category.

(b) By revising paragraphs (1), (2), and (4) of the amendment by changing the McCauley Service Bulletin citation from "No. 151 dated September 15, 1983," to "No. 151A dated December 6, 1985, or FAA approved equivalent".

McCauley Service Bulletin No. 151A dated December 6, 1985, identified and described in this directive, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Company, 3535 McCauley Drive, P.O. Box 430, Vandalia, Ohio 45377. This document also may be examined at the Office of the Regional Counsel, FAA, Attn: Rules Docket No. 83-ANE-27, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

This amendment becomes effective on March 12, 1986.

This amendment amends Amendment 39-4768 (48 FR 54588), AD 83-24-11.

Issued in Burlington, Massachusetts, on February 11, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-5073 Filed 3-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWA-8]

Alteration of VOR Federal Airway V-181, South Dakota

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of V-181 located in the vicinity of Yankton, SD. The Yankton very high frequency omni-directional radio range distance measuring equipment (VOR/DME) has been relocated and is currently on the Yankton Airport. The NPRM was originally published in the Federal Register on December 23, 1983, as Airspace Docket 83-AWA-28 (48 FR 56769). However, due to engineering and technical problems associated with the new site location Yankton VOR/DME did not receive a satisfactory flight check for commissioning and acceptance in the National Airspace System (NAS). We have now been advised that Yankton, SD, VOR/DME has successfully passed the required flight check for commissioning into the NAS.

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

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

SUPPLEMENTARY INFORMATION:

History

On December 23, 1983, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of V-181 located in the vicinity of Yankton, SD (48 FR 56769). Due to engineering and technical problems associated with the new site location, the Yankton, SD, VOR/DME did not receive a satisfactory flight check for commissioning and acceptance into the NAS, therefore, ASD 83-AWA-23 was cancelled on February 19, 1986 (51 FR 5989). We have been advised that Yankton, SD, VOR/DME has now successfully passed the required flight check for commissioning into the NAS. 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 this action being given a new docket number 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 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of V-181 located in the vicinity of Yankton, SD. Yankton VOR/DME has been relocated on the Yankton Airport from its present position to a position approximately 1,350 feet north. The only airway description change is for V-181W. This action redescribes V-181W to insure adequate divergence from V-181 for air traffic control purposes.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

2. Section 71.123 is amended as follows:

By deleting the words "Sioux Falls, SD, including a W alternate via INT Yankton 016° and Sioux Falls, SD, 230° radials; Watertown, SD," and substituting the words "Sioux Falls, SD, including a W alternate via INT Yankton 015° and Sioux Falls 231° radials; Watertown, SD,"

Issued in Washington, DC, on March 3, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-5076 Filed 3-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-10]

Realignment of VOR Federal Airways V-144 and V-45

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns V-144 in the states of Indiana and Ohio and V-45 in the states of Ohio and West Virginia. This action is taken to help relieve traffic congestion, provide a more direct route for airspace users and enhance air traffic control nonradar services.

EFFECTIVE DATE: 0901 UTC, 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, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On November 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign V-144 from Ft. Wayne, IN, to Appleton, OH, to alleviate traffic congestion and to provide a more direct route for airspace users and extend V-45 from Charleston, WV, to Henderson, WV, to Appleton, OH (50 FR 47061). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received expressing concern for the effect the extended airway V-45 would have on sport flying in the area. The commenter subsequently concurred after dialog with the FAA and the common conclusion that safety in aviation was the uppermost concern. Also, due to budgetary and workload consideration, flight check action for the proposed V-45 segment between Henderson, WV, and Charleston, WV, cannot be completed in the foreseeable future. Therefore, that segment of the proposed route will not be implemented with this docket. Except for the above, 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 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations realigns V-144 from Ft. Wayne, IN, to Appleton, OH, and extends V-45 from Henderson, WV, to Appleton, OH. This action is taken to help relieve traffic congestion and provide a more direct route for airspace users and enhance air traffic control nonradar services.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

2. Section 71.123 is amended as follows:

V-144 [Amended]

By removing the words "Findlay, OH; INT Findlay, 131° and Appleton, OH, 312° radials; Appleton;" and substituting "Appleton, OH;"

V-45 [Amended]

By adding the words "From Henderson, WV; Appleton, OH." after the words "Charleston, WV."

Issued in Washington, DC, on March 3, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-5077 Filed 3-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWA-3]

Establishment of Airport Radar Service Areas; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of the Palm Beach International Airport, West Palm Beach, FL, Airport Radar Service Area (ARSA). In the final rule an error was made in the radius of the cutout for Palm Beach County Park Airport. This action corrects that error.

EFFECTIVE DATE: 0901 UTC, March 13, 1986.

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

SUPPLEMENTARY INFORMATION:

History

Federal Register document 86–2712 was published on February 7, 1986, in which an ARSA was designated for Palm Beach International Airport, West Palm Beach, FL. A cutout was provided for Palm Beach County Park Airport delineated by a 1.5-mile radius of the latter and west of Interstate 95. It should have been a 2-mile radius. This action corrects that error.

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, Airport radar service areas.

Adoption of the Correction

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 86–2712, as published in the **Federal Register** on February 7, 1986 (51 FR 4872) is corrected as follows:

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

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

2. Section 71.501 is amended as follows:

Palm Beach International Airport, FL [Amended]

By removing the words "within a 1½-mile radius" and by substituting the words "within a 2-mile radius"

Issued in Washington, DC, on March 3, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–5075 Filed 3–7–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Parts 71 and 75

[Airspace Docket No. 86–ANM–5]

Alteration of VOR Federal Airways and Jet Routes; Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the descriptions of all airways and jet routes that have Gunnison, CO, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) in their route/airway alignments. The Gunnison VORTAC has been renamed Blue Mesa and these actions make editorial changes to those descriptions. These actions make no changes to controlled airspace.

EFFECTIVE DATE: 0901 UTC, May 8, 1986.

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

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations reflect the change in name of the Gunnison, CO, VORTAC to Blue Mesa, CO, VORTAC, which requires changes to all airway and jet route descriptions that have Gunnison, CO, in their route alignment. Since these actions are merely editorial in nature, and involve no changes to the current controlled airspace, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because these actions are minor amendments in which the public would not be particularly interested. Section 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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 Parts 71 and 75

Aviation safety, VOR Federal airways, Jet routes.

Adoption of the Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are 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–26, V–95, V–244, V–421 and V–484 [Amended]

By removing the word "Gunnison" and substituting the words "Blue Mesa".

PART 75—[AMENDED]

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

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

4. Section 75.100 is amended as follows:

J–10, J–28, J–128, J–146, J–197 and J–206 [Amended]

By removing the word "Gunnison" and substituting the words "Blue Mesa".

Issued in Washington, DC, on March 3, 1986

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–5074 Filed 3–7–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego Regulation 85–17]

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

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone at Naval Air Station North Island, San Diego, California, consisting of the water area

within 100 yards (91.5 meters) of the cruiser pier (berths J–K) and within 300 yards (275 meters) of the carrier pier (quay wall, berths L–P). This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Air Force, U.S. Pacific Fleet, the Commander, Naval Base San Diego, or the Commanding Officer, Naval Air Station North Island.

EFFECTIVE DATE: This regulation is effective on April 9, 1986.

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

SUPPLEMENTARY INFORMATION: On January 3, 1986, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (51 FR 224).

Interested persons were requested to submit comments, and no comments were received.

Drafting Information

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

Discussion of Comments

No comments were received on the notice of proposed rule making, and no changes have been made in the regulation as proposed.

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

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; 26 February 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The area within the zone is a small area outside the normal shipping channels. The only vessels normally using these waters are U.S. Naval vessels. There will be minimal effect on routine navigation.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. In Part 165, a new § 165.1105 is added, to read as follows:

§ 165.1105 Security Zone: San Diego Bay, California.

(a) *Location.* The following area is a security zone: The water area adjacent to Naval Air Station North Island, Coronado, California, and within 100 yards (91.5 meters) of the Cruiser (J–K) Pier and within 300 yards (275 meters) of the Carrier (L–P) Pier, described as follows:

From a point on the shoreline of Naval Air Station North Island, on North Island, Coronado, California, at latitude 32°42'47.5" N., longitude 117°11'25.0" W. (Point A), for a place of beginning; thence northeasterly to latitude 32°42'52.0" N., longitude 117°11'21.5" W. (Point B); thence southeasterly to latitude 32°42'44.5" N., longitude 117°11'11.0" W. (Point C); thence southerly to latitude 32°42'31.0" N., longitude 117°11'16.4" W. (Point D); thence southeasterly to latitude 32°42'21.4" N., longitude 117°10'44.5" W. (Point E); thence southerly to latitude 32°42'12.8" N., longitude 117°10'47.8" W. (Point F); thence generally northwesterly along the shoreline of Naval Air Station North Island to the place of beginning (Point A).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Air Force, U.S. Pacific Fleet, the Commander, Naval Base San Diego, or the Commanding Officer, Naval Air Station North Island. Section 165.33 also contains other general requirements.

Dated: February 24, 1986.

E.A. Harmes,

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

[FR Doc. 86–5154 Filed 3–7–86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP San Diego Regulation 85–19]

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

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone at Naval Submarine Base, San Diego, California. This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Commander, Naval Base San Diego, the Commander, Submarine Force, U.S. Pacific Fleet Representative, West Coast, or the Captain of the Port.

EFFECTIVE DATE: This regulation is effective on April 9, 1986.

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

SUPPLEMENTARY INFORMATION: On January 3, 1986, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (51 FR 225). Interested persons were requested to submit comments, and one comment was received.

Drafting Information

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

Discussion of Comments

One commenter from the Defense Mapping Agency stated that the area of the security zone as proposed overlaps two existing restricted areas established under 33 U.S.C. 1, and that this could create confusion and conflict in the enforcement of these regulations. The commenter suggested that the boundary of the security zone be redrawn to eliminate these conflicts. The Coast Guard concurs with this comment and the boundary of the security zone has been changed slightly to eliminate conflict with the existing restricted areas. The eastern boundary has been moved westward approximately 200 feet (61 meters), and the northern boundary

has been moved southward approximately 250 feet (77 meters). This change slightly reduces the area of the security zone, and is not a significant change.

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

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; 26 February 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The area within the zone is a small area outside the normal shipping channels. The only vessels normally using these waters are U.S. Naval vessels. There will be minimal effect on routine navigation.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. In Part 165, a new § 165.1104 is added to read as follows:

§ 165.1104 Security Zone: San Diego Bay, California.

(a) *Location.* The following area is a security zone: The water area adjacent to Naval Submarine Base, San Diego, California, described as follows:

Commencing at a point on the shoreline of Ballast Point, at latitude 32°41'11.2" N., longitude 117°13'57.0" W. (Point A), for a place of beginning; thence northerly (approximately 352 °T) to latitude 32°41'31.8" N., longitude 117°14'00.6" W (Point B); thence westerly (approximately 243 °T) to latitude 32°41'24.5" N., longitude 117°14'18.7" W. (Point C); thence generally southeasterly along the shoreline of the Naval Submarine Base to the place of beginning (Point A).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commander, Submarine Force, U.S. Pacific Fleet Representative, West Coast. Section 165.33 also contains other general requirements.

Dated: February 24, 1986.

E.A. Harmes,

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

[FR Doc. 86-5155 Filed 3-7-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[COTP San Diego Regulation 85-20]

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

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone at Naval Ocean Systems Center and Naval Supply Center, San Diego, California. This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, the the Commander, Naval Base, San Diego, the Commander, Naval Ocean Systems Center, San Diego, or the Commanding Officer, Naval Supply Center, San Diego.

EFFECTIVE DATE: This regulation is effective on April 9, 1986.

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

SUPPLEMENTARY INFORMATION: On January 3, 1986, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (51 FR 226). Interested persons were requested to submit comments, and no comments were received.

Drafting Information

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

Discussion of Comments

No comments were received on the notice of proposed rule making, and no changes have been made in the regulation as proposed.

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

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The area within the zone is a small area outside the normal shipping channels. The only vessels normally using these waters are U.S. Naval vessels. There will be minimal effect on routine navigation.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. In Part 165, a new § 165.1103 is added to read as follows:

§ 165.1103 Security Zone: San Diego Bay, California.

(a) *Location.* The following area is a security zone: The water area adjacent to the Naval Ocean Systems Center, San Diego, California, and the Naval Supply Center, San Diego, California, described as follows:

Commencing at a point on the shoreline of Point Loma, at latitude 32°41'57.8" N, longitude 117°14'17.5" W (Point A), for a place of beginning; thence easterly to latitude 32°41'56.0" N, longitude 117°14'09.9" W (Point B); thence northeasterly to latitude 32°42'03.8" N, longitude 117°14'04.7" W (Point C); thence northeasterly to latitude 32°42'10.2" N, longitude 117°14'00.6" W (Point D); thence northwesterly to latitude

32°42'14.6" N, longitude 117°14'02.1" W (Point E); thence northwesterly to latitude 32°42'22.7" N, longitude 117°14'05.8" W (Point F); thence northwesterly to latitude 32°42'28.3" N, longitude 117°14'08.4" W (Point G); thence westerly to latitude 32°42'28.3" N, longitude 117°14'09.6" W (Point H); thence generally southerly along the shoreline of Point Loma to the place of beginning (Point A).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base, San Diego, the Commander, Naval Ocean Systems Center, San Diego, or the Commanding Officer, Naval Supply Center, San Diego. Section 165.33 also contains other general requirements.

Dated: February 24, 1986.

E. A. Harmes,

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

[FR Doc. 86-5156 Filed 3-7-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP San Diego Regulation 85-21]

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

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone at Naval Station, San Diego, California. This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commanding Officer, Naval Station, San Diego.

EFFECTIVE DATE: This regulation is effective on April 9, 1986.

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

SUPPLEMENTARY INFORMATON: On January 3, 1986, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (51 FR 227).

Interested persons were requested to submit comments, and no comments were received.

Drafting Information

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

Discussion of Comments

No comments were received on the notice of proposed rule making, and no changes have been made in the regulation as proposed.

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

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; 26 February 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The area within the zone is a small area outside the normal shipping channels. The only vessels normally using these waters are U.S. Naval vessels. There will be minimal effect on routine navigation.

Since the impact of these regulations is expected to be minimal the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. In Part 165, a new § 165.1102 is added, to read as follows:

§ 165.1102 Security Zone: San Diego Bay, California.

(a) *Location.* The following area is a security zone: The water area within Naval Station, San Diego, California, described as follows:

Commencing at a point at the mouth of Chollas Creek, at latitude 32°41'12.5" N, longitude 117°07'0.57.0" W, (Point A), for a place of beginning; thence southwesterly to a point on the U.S. Pierhead Line 100 yards (92 meters) northwest of the head of Pier 1, at latitude 32°41'05.8" N, longitude 117°08'05.6" W, (Point B); thence southeasterly along the U.S. Pierhead Line to the south side of Pier 13 (Point C); thence northeasterly along the south side of Pier 13 to the shoreline of the Naval Station (Point D); thence generally northwesterly along the shoreline of the Naval Station to the place of beginning (Point A).

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commanding Officer, Naval Station, San Diego. Section 165.33 also contains other general requirements.

Dated: February 24, 1986.

E.A. Harmes,

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

[FR Doc. 86-5157 Filed 3-7-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP San Diego Regulation 85-23]

Security Zone Regulations; Pacific Ocean off Mission Beach, San Diego, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a security zone around the Naval Ocean Systems Center (NOSC) Research Tower located approximately 0.9 mile off Mission Beach, San Diego, California. This security zone is established at the request of the United States Navy and is needed to safeguard U.S. Naval vessels and property from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature. Entry into this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commander, Naval Ocean Systems Center, San Diego.

EFFECTIVE DATE: This regulation is effective on April 9, 1986.

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

SUPPLEMENTARY INFORMATION: On January 3, 1986, the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (51 FR 228).

Interested persons were requested to submit comments and two comments were received.

Drafting Information

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

Discussion of Comments

One commenter, a marine biologist with San Diego State University, stated that these regulations would restrict access to the NOSC Tower for research on marine species that are unique to that environment. He stated that they have enjoyed unrestricted access to the tower for their research, and that restricting that access would significantly impact on their scientific research. The commenter stated that he has not routinely sought or obtained NOSC permission to collect specimens at that location. In the past, the Captain of the Port, San Diego, has been requested by NOSC to assist in removing unauthorized persons from the area around the tower, because of sensitive or dangerous projects in place there. A key provision of these regulations is the ability of the Captain of the Port and certain Naval commanders to allow access to the area of the security zone under certain conditions. Access to the tower can be permitted if the necessary permission has been obtained. These regulations will enhance safety of the public by providing for contact between prospective visitors to the tower and the tower operators to ensure there is no danger to visitors during the planned visit. No change has been made to the regulations as a result of this comment.

Another commenter from the Defense Mapping Agency pointed out that the latitude of the research tower was described in error as 323°46.4' N. It should read 32°46.4' N, and has been corrected accordingly.

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

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; 26 February 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The area within the zone is a small area outside the normal shipping channels. The only vessels normally using these waters are U.S. Naval vessels. There will be minimal effect on routine navigation.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulation

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

PART 165—[AMENDED]

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

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

2. In Part 165, a new § 165.1101 is added to read as follows:

§ 165.1101 Security Zone: Pacific Ocean off Mission Beach, San Diego, California.

(a) *Location.* The following area is a security zone: The water area within 100 yards (92 meters) of the Naval Ocean Systems Center Research Tower (Light List Number 6) located approximately 0.9 mile off Mission Beach, San Diego, California at latitude 32°46.4' N, longitude 117°16.1' W.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base, San Diego, or the Commander, Naval Ocean Systems Center, San Diego. Section 165.33 also contains other general requirements.

Dated: February 24, 1986.

E.A. Harmes,

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

[FR Doc. 86–5153 Filed 3–7–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD–FRL–2981–2]

National Emission Standards for Hazardous Air Pollutants: Asbestos Standard; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule for amendments to the asbestos standard that was published April 5, 1984 (49 FR 13658). This action is necessary to correct typographical errors.

FOR FURTHER INFORMATION CONTACT: Mr. Sims Roy, Standards Development Branch, ESED (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578.

Dated: March 3, 1986.

Charles L. Elkins,

Acting Assistant Administrator for Air and Radiation.

PART 61—[AMENDED]

40 CFR Part 61 is amended as follows:

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

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

2. In § 61.152 of Subpart M, the introductory text is corrected to read as follows:

§ 61.152 Standard for waste disposal for manufacturing, demolition, renovation, spraying, and fabricating operations.

Each owner or operator of any source covered under any of the provisions of §§ 61.144, 61.147, 61.148, and 61.149 shall:

* * * * *

§ 61.154 [Corrected]

3. In section 61.154 the introductory text of paragraph (a) is corrected to read as follows:

(a) The owner or operator who elects to use air cleaning, as permitted by §§ 61.142, 61.144(b)(2), 61.147(c)(2), 61.147(d)(2), 61.148(b)(2), 61.149(b)(2), 61.151(b), 61.151(c)(1)(ii), 61.152(b)(1)(ii), and 61.152(b)(2)(ii) shall:

* * * * *

[FR Doc. 86–5162 Filed 3–7–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

Qualification and Disqualification of Drivers; Technical Amendment

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule concerning disqualification of drivers for criminal offenses that appeared at page 44215 in the Federal

Register on Monday, November 5, 1984 (49 FR 44215). The action is necessary to replace a paragraph that was inadvertently omitted in the rule.

EFFECTIVE DATE: December 5, 1984.

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

The FHWA amends 49 CFR Part 391 as follows:

PART 391—[AMENDED]

1. The authority citation for Part 391 continues to read as follows:

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

2. In 391.15, paragraph (c)(3)(ii) is returned to its rightful place and reads as follows:

§ 391.15 Disqualification of drivers.

* * * * *

(c) * * *

(3) * * *

(ii) *Subsequent offenders.* A driver is disqualified for 3 years after the date of his conviction of forfeiture of bond or collateral if, during the 3 years preceding that date, he was convicted of, or forfeited bond or collateral upon a charge of, an offense that would disqualify him under the rules in this section.

(Catalog of Federal Domestic Assistance Program No. 20.217, Motor Carrier Safety)

List of Subjects in 49 CFR Part 391

Highways and roads, Motor carriers, Motor vehicles, Qualification of drivers.

Issued on February 28, 1986.

Anthony J. McMahon,

Chief Counsel, Federal Highway Administration.

[FR Doc. 86–5100 Filed 3–7–86; 8:45 am]

BILLING CODE 4910-22-M

Proposed Rules

Federal Register
Vol. 51, No. 46
Monday, March 10, 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 Parts 982 and 999

Filberts/Hazelnuts Grown in Oregon and Washington; Filbert Imports; Grade Requirements for Domestic and Imported Shelled Filberts

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: The proposed rules would amend the grade requirements under Marketing Order No. 982 for domestic shelled filberts, by reducing from two percent to one percent the tolerance for mold, insect injury, rancidity, or decay. The proposal would make the same changes in the grade requirements for imported shelled filberts under § 999.400. The proposed amendments were developed by the Filbert Marketing Board and submitted to the Department for evaluation and approval. Public comments on the Board's proposal, and related alternatives thereto, are invited.

DATE: Comments due April 9, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Acting Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC, 20250, (202) 447–5053.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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

This rule proposes amendment of the grade requirements for domestic shelled filberts under Marketing Order No. 982 and grade requirements for imported shelled filberts under § 999.400.

It is estimated that approximately 14 handlers and 22 importers of filberts/hazelnuts will be subject to regulation under the marketing order for filberts/hazelnuts grown in Oregon and Washington during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers and the number of such firms may be substantial, the added burden on small entities if present at all is not significant.

Notice is hereby given of a proposal to amend Subpart—Grade and Size Regulation (7 CFR 982.101), by amending § 982.101, Exhibit A. This subpart is issued under the marketing agreement, as amended, and Order No. 982, as amended (7 CFR 982), regulating the handling of filberts grown in Oregon and Washington. The marketing agreement and order are collectively referred to in this document as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act".

Notice also is given of a proposal to amend the grade requirements for imported shelled filberts in § 999.400; Exhibit A. That section is issued pursuant to section 8e (7 U.S.C. 608e-1) of the Act. Section 8e provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of the Act contains any terms and conditions regulating the grade, size, quality, or maturity of filberts produced in the United States the importation of filberts into the United States shall be prohibited unless the commodity complies with the grade, size, quality, and maturity provisions of the order or comparable restrictions promulgated under section 8e.

The current requirements for domestic shelled filberts under the order and imported shelled filberts under the import regulation were published in the **Federal Register** March 24, 1982 (47 FR 12609; 13504). These requirements include a tolerance of two percent for mold, rancidity, insect injury, or decay, but not more than one percent for mold, rancidity, or insect injury. They became effective May 24, 1982, and were scheduled to continue in effect until July 31, 1983. During this time, interested parties were given an opportunity to review and evaluate the effects of the standards on quality improvement, trade, and consumption, and to determine whether a further reduction of the tolerance levels was justified. Prior to May 24, 1982, the requirements for both imported and domestic shelled filberts allowed a five percent tolerance for serious defects including decay, but not more than one percent for mold, rancidity, or insect injury.

When it became apparent that the review and evaluation could not be completed by July 31, 1983, this date was suspended (48 FR 34014) to keep the standards from reverting to those standards in effect prior to May 24, 1982, which would have caused unnecessary confusion and disruption in the marketplace for both domestic and imported shelled filberts. It has not been proposed by the domestic filbert industry that the current tolerances for domestic and imported shelled filberts be reduced.

With respect to the standards for domestic shelled filberts, the Filbert/Hazelnut Marketing Board, which works with the Department in administering the filbert/hazelnut marketing program, recommended tightening the two percent tolerance in those standards for mold, insect injury, rancidity, or decay to one and one-half percent for one year. It

further proposed that one year after this tolerance becomes effective, the total tolerance for these four defects would be reduced automatically to one percent.

The Board indicated that domestic packers currently pack at better than the one percent overall defect level. The domestic industry believes that if the less restrictive standards continue in effect, some handlers in the industry will begin packing at the higher tolerance level to decrease processing costs.

The Board states that if that occurred, the high quality image associated with the domestic shelled filberts could suffer which could have an adverse effect on the domestic consumption of shelled filberts. The Board indicated that some brokers, confectionery manufacturers, and other potential users have already expressed concern about inconsistent filbert quality and have therefore been reluctant to develop new bakery and confectionery products containing shelled filberts.

Pursuant to section 8e, the same change in defect tolerances is proposed to be applied to filberts offered for importation. However, the proposed change in the import regulation requirement has been met by serious objections from filbert importers and users of imported filberts. Importers have expressed concern that any further reduction of the tolerance, especially to the one percent level, would have a severe adverse effect on their ability to import shelled filberts. They state that while imported shelled filberts have generally been able to meet the tolerance level in effect since May 1982, a large quantity of the imported filberts would have failed to meet import requirements if the proposed reduced tolerances were in place. A survey of imports indicates that 15 percent of the lots which passed the current requirements would have failed at the one and one-half percent tolerance level and 34 percent would have failed at the one percent tolerance level during the period August 1983 through November 1985. For these reasons, some importers have proposed that the current two percent defect tolerance be established as the permanent standard for both domestic and imported filberts. On the other hand, the major user of imported filberts processed into filbert paste has suggested the establishment of an industrial standard for filberts that would raise the tolerance for mold, insect injury, rancidity, or decay to three percent but not more than one percent for mold, insect injury, or rancidity.

Most of the imported shelled filberts are solar dried and stored in non-refrigerated facilities as opposed to domestically produced filberts which are mechanically dried and held in refreigerated storage.

Because of the divergent positions that exist on this issue, namely (1) the domestic industry represented by the Board which proposed to reduce the defect tolerance to one percent, (2) the importers which proposed to retain the current two percent defect tolerance, and (3) the major user of imported filberts which proposed to establish an industrial grade with a three percent defect tolerance, the Department is not only interested in receiving comments on the proposed rule, but on all possible alternatives to the proposal set forth in this notice as well. For instance, one alternative that has not been specifically suggested but would address the different positions expressed by the domestic filbert industry and the importers would be to establish a tolerance for defects applicable to both domestic and imported shelled filberts at not more than one and one-half percent for mold, rancidity, decay, or insect injury, with no more than one percent for mold, rancidity, or insect injury. Adoption of such a compromise tolerance level would assure that the domestic industry could continue to maintain a supply of filberts that meet the high quality standards it has achieved, would allow for a supply of imported shelled filberts as necessary to meet the needs of importers and would give the Department, the Board, and the importers time to evaluate the effects of the reduced tolerances before consideration of any further reduction in tolerance levels is considered. Of course, other alternatives may exist that would likewise accommodate both points of view, and the Department reiterates that comments on such alternatives would likewise be welcomed.

List of Subjects

7 CFR Part 982

Marketing agreements and orders, Filberts, Hazelnuts, Oregon, Washington.

7 CFR Part 999

Food grades and standards, Imports, Dates, Walnuts, Prunes, Raisins, Filberts.

1. The authority citation for 7 CFR Parts 982 and 999 continues to read as follows:

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

Therefore, §§ 982.101 and 999.400, for domestic and imported filberts, respectively, are proposed to be amended as follows:

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

1. The tolerances in subparagraph (2) of Exhibit A of § 982.101 of Subpart—Grade and Size Regulation are revised to read as follows:

§ 982.101 Grade requirements for shelled filberts.

* * * * *

Tolerances

* * * * *

(2) *For Defects:* Five percent for kernels or portions of kernels which are below the requirements of this grade, including not more than the following: One and one-half percent for mold, rancidity, decay, or insect injury, with no more than one percent for mold, rancidity, or insect injury; *Provided,* That there shall be no more than one percent for mold, rancidity, decay, or insect injury beginning one year after the date such one and one-half percent tolerance becomes effective.

* * * * *

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

2. The tolerances in subparagraph (2) of Exhibit A of § 999.400 are revised to read as follows:

§ 999.400 Regulation governing importation of filberts.

* * * * *

Tolerances

(2) *For Defects:* Five percent for kernels or portions of kernels which are below the requirements of this grade, including not than the following: One and one-half percent for mold, rancidity, decay, or insect injury, with no more than one percent for mold, rancidity, or insect injury; *Provided,* That there shall be no more than one percent for mold, rancidity, decay, or insect injury beginning one year after the date such one and one-half percent tolerance becomes effective.

* * * * *

Dated: March 5, 1986.

Thomas R. Clark,

Deputy Director, Fruit and and Vegetable Division.

[FR Doc. 86–5177 Filed 3–7–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

[Docket No. 85N–0373]

New Animal Drugs; Proposed Amendment

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the animal drug regulations by consolidating the exemptions from certification requirements for certain antibiotic drugs. The proposal would revoke the regulation providing for exemption from certification for antibiotic drugs for treating fish disease and would amend another regulation to cover the products that are subject to the regulation to be revoked.

DATE: Comments by April 9, 1986.

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

FOR FURTHER INFORMATION CONTACT: Frank Pugliese, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4500.

SUPPLEMENTARY INFORMATION: The Federal Food, Drug, and Cosmetic Act (the act), requires that antibiotic drugs for human use and certain antibiotics for animal use (i.e., antibiotic drugs composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, or bacitracin, or any derivative thereof) be batch certified before being marketed unless FDA determines that certification is not necessary. When FDA finds that certification is not necessary, it is required to publish a regulation exempting the drug or class of drugs from certification. A prerequisite for exempting an antibiotic from the certification requirements is that the antibiotic meet the premarket approval requirements for new drugs or for new animal drugs. (See sections 507 and 512(n) of the act (21 U.S.C. 357, 360b(n).)

FDA determined that certification was not necessary for certain classes of antibiotic drugs for treating fish diseases if the fish so treated are not intended for human consumption. FDA exempted such products from the certification requirements of the act in § 510.505 *Antibiotic drugs subject to section 512(n) of the act for fish diseases* (originally § 146.72 *Antibiotics for fish diseases;* 17 FR 2359, March 19, 1952). On September 7, 1982, FDA published regulations (47 FR 39155) exempting all classes of antibiotic drugs from the certification requirements of the act. The regulations included new § 510.520 *Exemption from batch certification requirements for antibiotic drugs for animal use subject to section 512(n) of the act* which exempts from certification all antibiotic animal drugs not previously exempted.

FDA has reviewed §§ 510.505 and 510.520 and concludes that they can be consolidated. This change would make the animal drug regulations more concise. The agency is, therefore, proposing to revoke § 510.505 and to amend § 510.520 so that it covers antibiotic drugs for treating fish diseases.

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

The agency has examined the economic effects of this proposed rule and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis as defined in the Regulatory Flexibility Act (Pub. L. 96–354). The proposed rule does not impose new or different requirements on industry, as it consolidates into one regulation the exemptions from the certification requirements of the Federal Food, Drug, and Cosmetic Act that are currently contained in two regulations. The agency therefore concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Furthermore, the agency certifies that the proposed rule will not have a significant impact on a substantial number of small business entities, as defined in the Regulatory Flexibility Act.

Comments

Interested persons may, on or before April 9, 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. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments 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 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, it is proposed that Part 510 be amended as follows:

PART 510—NEW ANIMAL DRUGS

1. 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.

§ 510.505 [Removed]

2. By removing § 510.505 *Antibiotic drugs subject to section 512(n) of the act for fish diseases.*

§ 510.520 [Amended]

3. In § 510.520 *Exemption from batch certification requirements for antibiotic drugs for animal use subject to section 512(n) of the act,* paragraph (a) is amended by revising the phrase "in §§ 510.505, 510.510, and 510.515" to read "in §§ 510.510 and 510.515."

Dated: February 3, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–5082 Filed 3–7–86; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10–FRL–2981–1]

Approval and Promulgation of State Implementation Plan; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this Notice, EPA is proposing approval of the Alaska State Implementation Plan (SIP) revision pertaining to the carbon monoxide (CO) attainment plan for the Anchorage area. The SIP revisions were submitted to EPA by the Alaska Department of Environmental Conservation (ADEC) on September 29, 1982, resubmitted on November 15, 1983, and updated on May 31, 1985. Successful implementation of the plan will result in attainment of the CO standard prior to the statutorily required date of December 31, 1987. The plan relies heavily upon the aggressive implementation of a vehicle inspection and maintenance (I/M) program and check for tampering. When approved, this plan will become a federally enforceable part of the SIP.

EPA is also proposing with this notice to remove all conditions of approval on

the 1979 Anchorage CO SIP published on December 30, 1980 (45 FR 85744), based upon the original CO SIP revision submitted to EPA on September 29, 1982.

DATE: Comments must be postmarked on or before April 9, 1986.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, (10A–82–9), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Alaska Department of Environmental Conservation, 3220 Hospital Drive, Juneau, Alaska 99871.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442–4233, FTS: 399–4233.

SUPPLEMENTARY INFORMATION:

I. Background

The original Anchorage CO SIP was submitted in June 1979 to satisfy the requirements of Part D of the Clean Air Act. At that time an extension of the attainment date was requested. EPA conditionally approved the plan with the understanding that the Municipality of Anchorage (MOA) would (1) expand its 1980 emission inventory to include emissions from off-street parking, and (2) verify that population projections for air and water planning activities are consistent.

On February 3, 1983 (48 FR 5135), EPA proposed to remove the two conditions of approval based upon a SIP revision submitted on September 29, 1982. However, there was a disagreement between the EPA analysis and the Anchorage analysis as to the value of the design concentration and the location of the representative CO monitor as chosen by MOA. A CO design value verification study with saturation monitoring was then required and was completed in Spring, 1983.

Results of this study showed that the monitor at Spenard and Benson was more representative of the CO problem than the monitor at 7th and C Streets. A design value of 18.1 parts per million (ppm) was selected, and revisions of traffic control strategies were made, and submitted to EPA showing attainment in all areas by December 31, 1987.

On the February 3, 1983 (48 FR 5135), EPA also requested that if the results of the cold climate study conducted by EPA and the Alaska Department of Environmental Conservation (ADEC) determines that an inspection/maintenance (I/M) program is effective in cold climates, then Anchorage must make the commitment to implement an I/M program in order to attain the CO standard prior to December 31, 1987.

The cold climate definitely concluded that the I/M program results in significant reduction of CO emission levels in cold temperatures and specifically during cold starts. The program effectiveness is significantly increased when a check or vehicular tampering is incorporated into the program. The Anchorage Assembly adopted the necessary ordinances and legal authority, thus showing their commitment to implement the I/M program in their May 31, 1985, amendment to the CO plan.

II. Plan Review

The 1985 Anchorage CO Plan contains several control measures and elements which were originally proposed for approval as part of the 1982 SIP revision. Those measures and elements are briefly described in the next subsection. For additional information, see the February 3, 1983 **Federal Register** (48 FR 5135). Two new components, I/M and Attainment Demonstration, are discussed in Section B.

A. Original Elements of the SIP

EPA is proposing to approve the following control strategies that were contained in the original 1982 SIP revision. The following is a list of these control measures:

1. Mechanics training;
2. Public transit improvement and expansion;
3. Traffic flow improvements;
4. Carpool program; and
5. Staggered work hours.

The commitment to these measures ensures that the requirements for basic transportation needs are met and that improved mobility will be emphasized. Therefore, EPA is proposing to approve the element pertaining to basic transportation needs.

Additionally, the SIP revision contains procedures to ensure that federal actions will be reviewed for conformity with the SIP in a manner consistent with the criteria contained in the April 1, 1980 (45 FR 21590) notice on conformity. Procedures for specifically evaluating Department of Transportation plans and programs are included in the SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment. It should be noted that the most recent EPA emissions factors must be used in these analyses.

Therefore, EPA is also proposing to approve the element of the plan pertaining to conformity of federal actions with the SIP.

B. New Elements of the SIP

1. Attainment Demonstration

Numerous violations of the 8-hour CO standard of 9 ppm have been recorded in the Anchorage area. Based upon an analysis of ambient air quality monitoring data for the latest full three years, the adjusted CO design concentration is 18.1 ppm, which corresponds to a required emission reduction of 50.8 percent in order to meet the standard. To offset the anticipated growth, emissions would have to be reduced by an additional 4.2 percent or a total of 55.0 percent.

A rollback model was used to predict air quality concentrations. The analysis shows that the controls adopted in this plan will more than achieve the 55.0 percent reduction and bring the area into attainment by December 31, 1987. More specifically, transportation control measures such as carpooling, traffic improvements, and transit improvements will reduce emissions 10.7 percent; the federal motor vehicle emission control program, 24.5 percent; and the I/M program, 20.4 percent, for a total of 55.6 percent, slightly more than enough to attain. In order to help ensure attainment of the National Ambient Air Quality Standard by December 31, 1987, local officials also adopted a tampering check as a part of the I/M program. Because cost waiver provisions apply to the required replacement of emission control devices, the actual effectiveness of the tampering check is uncertain.

2. Inspection and Maintenance (I/M) Program

Anchorage began its I/M program on July 1, 1985. Owners of model year 1970 and newer cars and trucks are required to have their vehicles annually inspected for emissions problems, or upon initial registration in the state. The model year of vehicles subject land to the program changes over time because inspections are not required for vehicles that are more than 15 years old. Vehicles determined to have excessive

pollution levels are required to be repaired prior to renewal of registration by the Alaska Division of Motor Vehicles (DMV). A tampering check is also conducted as part of the I/M program. Basically the tampering test includes a visual check for the catalytic converter, fuel restrictor, air pump, PCV valve, hose and wire connections, and a plumbtesmo (lead) test.

Since the program is decentralized, inspections required under the I/M program must be made at a Certified I/M Station. Up to a $50.00 fee may be charged for the inspections, and vehicles which fail the inspection because of defects in their emission control system must be repaired and then retested by a Certified I/M Station. The program incorporates the use of Bar–84 analyzers which are calibrated on a regular basis.

Repairs required under the I/M program may be performed by anyone, including vehicle owners. However, incentives are provided for the repair of vehicles by Certified I/M Mechanics working at Certified I/M Stations. Except for certain Fleet Operator owned vehicles, vehicle owners are guaranteed of either passing the retest or receiving a waiver if they have repairs performed at a Certified I/M Station. A cost waiver is available if repairs exceed $150.00 during the first year. The cost limit will gradually be increased to $500.00 by January 1, 1987. Work done or parts purchased and installed by vehicle owners or at uncertified facilities will not count toward this cost ceiling.

The MOA is responsible for conducting quality assurance tests at the individual stations. Currently there are approximately 100 independent, certified stations. The MOA is also responsible for collecting data and ensuring program effectiveness.

C. Removal of Previous Conditions

As proposed in the February 3, 1983 **Federal Register** (48 FR 5135), EPA is again proposing to remove all conditions of approval published December 30, 1980 (45 FR 85744), dealing with emission inventory omissions, population projection consistency, and a procedure for determining conformity of federal projects with the SIP.

III. Proposed Rulemaking

EPA is proposing to approve the Anchorage CO attainment plan and its attainment date of December 31, 1987. This proposed approval is based upon plan revisions submitted by the ADEC to EPA on September 29, 1982, and May 31, 1985. EPA is also proposing to remove all conditions of approval on the 1979 Anchorage CO SIP published on December 30, 1980 (45 FR 85744).

Interstated parties are invited to comment on all aspects of this proposed approval of the Alaska SIP revision. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments postmarked by April 9, 1986 will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities (46 FR 8709).

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

Authority: 42 U.S.C. 7401–7642

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping.

Dated: September 20, 1985.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 86–5111 Filed 3–7–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 61

[AD-FRL-2981-6]

National Emissions Standards for Hazardous Air Pollutants: Standard for Radon-222 Emissions From Licensed Uranium Mill Tailings; Rescheduled Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of new date for public hearing.

SUMMARY: The hearing date, previously announced by EPA to consider a proposed emission standard for radon-222 emissions from licensed uranium mill tailings, has been changed to March 25–26, 1986.

DATES: A public hearing on the proposed rule will be held on March 25–26, 1986, in Denver, Colorado. Interested parties are invited to testify. Requests to participate in the hearing should be make in writing by March 21, 1986. Written statements and comments on the proposed rule may be entered into the record by April 28, 1986.

ADDRESSES: The hearing will be held at the Holiday Inn, 1450 Glenarm Place, Denver, Colorado, from 9:00 a.m. to 5:00 p.m. each day. Requests to participate in the hearing should be made in writing to Richard J. Guimond, Director, Criteria and Standards Division (ANR–460), U.S. Environmental Protection Agency, Washington, DC 20460. All requests should include an outline of the topics to be addressed in the opening statements and the names of the participants. Presentations should be limited to 30 minutes. Please indicate a preferred date for testimony

Written comments should be submitted to: Central Docket Section (LE–131), U.S. Environmental Protection Agency, Washington, DC 20460, Attention: Docket No. A–79–11. The rulemaking docket, containing information used by EPA in developing the proposed standard, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at EPA's Central Docket Section, West Tower Lobby, Gallery One, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Terrence A. McLaughlin, Chief, Environmental Standards Branch, Criteria and Standards Division (ANR–460), Office of Radiation Programs, U.S. Environmental Protection Agency, Washington, DC 20460, (703) 557–8977.

SUPPLEMENTARY INFORMATION: The previous date was the result of a Court-ordered schedule (Civil No. C–84–0656 WHO, In the United States District Court for the Northern District of California). The revised date is the result of a tentative agreement between the Sierra Club and EPA to revise the schedule. The revised schedule must still be submitted to and approved by the Court. However, EPA is rescheduling the public hearing and the comment period based on the tentative agreement.

The proposed standard was announced in the **Federal Register** on February 21, 1986 (51 FR 6382), and considers alternative work practices for limiting radon-222 emissions from tailings at licensed uranium mill sites. This action is being taken because EPA has preliminarily concluded that radon-222 emissions from uranium mill tailings cause significnt risks to nearby people and to populations. The proposed rule is intended to reduce these risks to levels that are protective of public health with an ample margin of safety.

Dated: March 5, 1986.

Charles L. Elkins,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-5160 Filed 3-7-86; 8:45 am]

BILLING CODE 6560-28-M

40 CFR Parts 261

[SWN-FRL-2981-3]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Notice of data availability and request for comments.

SUMMARY: On November 29, 1985, the Agency proposed under Subtitle C of the Resource Conservation and Recovery Act (RCRA) to amend its regulations by listing used oil as a hazardous wase. At the same time, EPA proposed special management standards for used oil that is recycled. During the public hearings on these proposed rules, a number of commenters suggested that EPA consider a regulatory option of only listing used oil as a hazardous waste when disposed, while retaining the proposed special management standards for used oil that is recycled. EPA is making the transcripts of these hearings available for public inspection and requesting comments on this regulatory option. EPA also is requesting public comments on additional data that the Agency has obtained as well as certain other issues that have been raised during the public comment period.

DATE: EPA will accept public comment on this notice until April 9, 1986.

ADDRESSES: Comments on this notice should be addressed to the Docket Clerk (Docket No. 3001/Listing of Used Oil), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments received by EPA may be inspected in Room S-212, U.S. Environmental Protection Agency, 401 Street SW., Washington, D.C. from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, call toll-free at (800) 424-9346 or (202) 382-3000. For technical information contact Robert Scarberry, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-7735.

SUPPLEMENTARY INFORMATION:

I. Background

On November 29, 1985, the Agency proposed to amend the hazardous waste regulations by listing used oil as a hazardous waste (50 FR 49258). The Agency evaluated this waste against the criteria for listing (§ 261.11(a)(3)) and determined that used oil typically and frequently contains highly toxic contaminants in significant quantities, that these contaminants are mobil and persistent in the environment, and that used oil is generated is large quantities. Thus, these wastes may pose a substantial present or potential threat to human health or the environment if improperly managed. This notice also proposed a regulatory definition of used oil and proposed to exempt certain mixtures containing used oil from the mixture rule. See proposed § 261.3(a)(2)(iv) (F) and (e)(1) at 50 FR 49269, 49270. The effect of this proposal, if promulgated, would be to control used oil that is disposed of (including its generation, transportation, accumulation, storage, treatment, or disposal), by subjecting it to the full hazardous waste regulations under Subtitle C of RCRA. At the same time, used oil that is recycled would be subject to the special management standards for recycled oil that were also proposed on November 29, 1985 (see 50 FR 49212-49258).

II. Notice of Data Availability

A. Listing of Used Oil as a Hazardous Waste

Public hearings were held in Dallas, TX; San Francisco, CA; and Washington, DC on January 8, 10, and 16, respectively, to discuss the used oil rules were proposed on November 29, 1985. The vast majority of speakers urged the Agency *not* to list used oil as a hazardous waste when the oil is recycled. The commenters argued that if used oil were listed as a hazardous waste, it could discourage its recylcing because of concerns associated with the term "hazardous waste." For a number of reasons which are discussed in detail in the hearing transcripts, the commenters argued that by calling used oil which is recycled a hazardous waste, it would lead to increased disposal and dumping of used oil (especially uncontrolled do-it-yourself (DIY) used oil) and, therefore, could lead to increased harm to human health and the environment. In addition, commenters argued that if used oil were listed as hazardous waste, generators, transporters, collectors, processors, and users of the used oil would become subject to Superfund liability which would further discourage the recycling of used oil (i.e., joint and several liability and increased insurance costs). It should be noted, in this regard, that even if used oil were not listed as a hazardous waste, but contained hazardous substances at levels exceeding those normally found in petroleum, the used oil would be (and currrently is) subject to Superfund liability. Therefore, we wonder whether this argument is really valid or whether this is a perception problem. The Agency specifically solicits comment on this point.

The Agency is inviting the public to further comment and provide specific documentation on the issue of whether or not, and to what extent, listing used oil as a hazardous waste when recycled will have a discouraging effect on used oil recycling activities. The Agency is requesting comment on the regulatory option of listing used oil as a hazardous waste only when disposed, but retaining the proposed management standards for used oil that is recycled. We specifically request comments and data on the following points:

1. Will insurance costs increase if recycled used oil is listed as hazardous waste? If so, given that used oil contains hazardous substances and therefore is subject to Superfund liability, what is the incremental cost associated with listing used oil as a hazardous waste?

2. The Agency also solicits information on non-Superfund liabilities. How do generators, transporters, processors, and burners perceive potential liabilities from used oil mismanagement (including on-site and off-site mismanagement)? How would the proposed special management standards change this?

3. If recycled used oil is listed a hazardous waste, to what extent will burners stop using it and use some other fuel? In particular, how much used oil fuel that is used by burners will be sold as specification fuel, and off-specification fuel? What is the price differential between burning used oil (both specification and off-specification fuel) and other fuels? How is the price differential likely to change over the next few years? What other factors (other than cost) will burners consider in deciding whether to accept used oil as a fuel? (The Agency's predictions of burners' response to the proposed rules appears in the Used Oil Regulatory Impact Analysis (RIA), which is available in the public docket at the address cited above.)

4. If recycled used oil is listed as a hazardous waste, what impact will it have on service stations, oil change stations, and retailers who perform oil

changes? If compliance with the special management standards will result in an increase in costs, provide documentation which supports what this increase will be. Are there data to support whether this impact or cost will significantly reduce the number of stations that change used oil? Are there data to indicate what percentage of oil change service operators will become unwilling to accept DIY used oil? (The Agency's evaluation of the proposed rules' impact on non-industrial generators appears in the Used Oil RIA, which is available in the public docket at the address cited above.)

5. Approximately 12 states currently list used oil as a hazardous waste or subject it to special management standards. What impact have these rules had on the recycling of used oil in these states? In particular, has there been a significant change in the quantity of used oil managed in the recycled oil system? How has the recycling of DIY used oil been affected by these rules? Have the used oil regulations in these states affected liabilities and insurance rates? [1]

6. If used oil is not listed as a hazardous waste when recycled, then the proposed special management standards for recycled used oil would be promulgated under authority of Section 3014(a). This approach has a number of implications on which we invite comment. Section 3014(a) does not explicitly provide for delegation of a regulatory program to States under the established 40 CFR Part 271 authorization procedures. Also, EPA's criminal enforcement under Section 3008 (d) and (e) would be limited. In addition, if used oil is not listed as a hazardous waste, there is no delisting mechanism in these proposed management standards that would be available to generators who feel that their wastes do not contain significant levels of toxic constituents and, therefore, should not be subject to the special management standards for recycled used oil.

B. Other Issues Raised During the Public Comment Period

In addition to the general listing issue, several other points were raised during the public comment period on which the Agency requests further comment. These comments can be separated into three major categories: (1) Mixture rule exemptions, (2) halogen testing, and (3) analytical data to support exemptions from the used oil regulations for certain used oils or residues from used oil recycling.

1. Mixture Rule Exemptions

EPA's general policy concerning mixtures has been incorporated into the recycled oil rules. If used oil is listed as a hazardous waste, then a mixture of used oil and other solid waste will be considered a hazardous waste subject to all applicable requirements under Parts 262–265 when it is disposed. See 40 CFR 261.3. The November 29 **Federal Register** notice, however, proposed an amendment to the mixture rule that would exempt from regulatory control (1) industrial wipers [2] that are contaminated with small amounts of used oil and (2) wastewaters that are contaminated with small amounts of used oil, which are subject to regulation under section 402 or 307(b) of the Clean Water Act. During the public comment period, the Agency received requests to exempt from the mixture rule sorptive minerals [3] that are placed on the floors of industrial establishments primarily to clean up spills of used oil resulting from incidental or routine drips, sprays, or seepages. The Agency specifically requests comment as to whether oil-soaked sorbent minerals also should be exempt from regulation. In particular, the Agency requests any technical data to support such exemptions. For examle, what is the basis for exempting these oil-soaked materials from regulations? Do the toxic contaminants become irreversibly bound up in the sorptive minerals? What percentage of the sorptive minerals will the oil comprise? Should there be a quantitative limit (either total amount of used oil cleaned up or a per spill limit) placed on such an exemption? The Agency will consider exempting these sorptive minerals from regulations based on the additional information provided.

2. Test Method for Determining Halogen Level

In the proposed used oil management standards, the Agency proposed to exempt used oil fuel meeting certain specifications from most requirements (see § 266.40(a)(2)(i)). (This specification standard has already been adopted in the final burning and blending rules—Phase I (see 50 FR 49181, November 29, 1985).) Among other things, the specification standard includes a specification for total halogens of 4,000 ppm. In addition, the Agency is proposing to adopt a rebuttable presumption that *any* recycled oil containing an excess of 1,000 ppm total halogen will be presumed to be mixed with a hazardous waste and, thus, the resulting mixture will be a hazardous waste.[4] Several used oil processors and re-refiners have claimed that the test method currently recommended by EPA to test for total halogen (ASTM D808–81) has a number of problems.[5] Therefore, we are today making available for comment other test methods that EPA is evaluating as possible alternate methods. One method is a modification of ASTM Method D808–81 which employs a closed system (bomb) to combust the oil sample. The modified procedure would analyze the combustate for chlorine, bromine, and fluorine anions by ion chromatography to avoid the difficulties encounterd when carrying out gravimetric determinations. Another method, X-ray fluorescence, is suitable for the determination of chlorine in used oils. The sample is placed in an X-ray beam and the intensity of the appropriate fluorescence X-ray is measured with correction to its background.[6]

The Agency further intends to propose additional procedures employing pyrolysis/microcoulometric, flame photometric, and visible spectrophotometric methods upon completion of our evaluation of these procedures. Comments and information are requested on these methods and any others that may be available.

3. New data on the Composition of Used Oil and Used Oil Processing Residues

EPA has obtained certain new information on the composition of certain types of used oil as well as residues which may result from the recycling used oils. These new data are

[1] The Agency has conducted preliminary discussions with State officials from California, Delaware, Illinois, Massachusetts, Michigan, Missouri, New Jersey, New York, Oklahoma, South Carolina, Texas, and Vermont to assess the impact from their used oil regulatory programs. Their comments are available for public inspection in the RCRA docket at the address cited above.

[2] The term industrial wipers (as discussed in this regulation) includes shop towels, rags, and disposable wipers.

[3] The term "sorptive minerals" includes absorbent clay or absorbent diatomaceaous earth.

[4] EPA has already adopted this presumption in the final Phase I burning rule to determine when hazardous waste has been mixed with used oil fuel (see 50 FR 49176–49178 (November 29, 1985). The presumption can be rebutted if it can be shown that hazardous waste (e.g., spent halogenated solvents) have not been mixed with the used oil.

[5] A method to detect total halogen in new and used petroleum products (bomb method).

[6] The reader should note that this method measures chlorine, not halogen. However, EPA would allow chlorine measurement in lieu of halogen because we are not aware of hazardous bromine or fluorine compounds in used oil. In fact, we only promulgated a halogen limit because we were not aware of methods to measure chlorine only. See 50 FR 49176, November 29, 1985. In the event that the X-ray fluorescence method is approved by EPA, the specification for chlorine would be 1,000 ppm.

available for public inspection in the RCRA docket at the address listed above.

III. Availability of Documents

Copies of the transcripts for the three public hearings, the summary of discussions with State officials regarding their used oil regulations, documentation for the evaluation of halogen test methods, and additional data on the composition of used oils and used oil processing residues are available for public inspection in the RCRA Docket, Room S-212. In addition, copies of all comments received by the Agency as of February 21, 1986, on the used oil proposals also are available for inspection.

Comments on the issues raised in this notice of data availability must be received by EPA on or before April 9, 1986 to ensure their consideration. It should be noted that we are reopening the comment period for only those issues discussed in this notice. Any comments received on any other issues will be considered as late.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: February 28, 1986.

J. W. McGraw,

Acting Assistant Administrator Office of Solid Waste and Emergency Response.

[FR Doc. 86-5159 Filed 3-7-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[BERC-326-P]

Medicare Program; Clarification of Policy on Adjusting the Hospital-Specific Portion of the Prospective Payment Rate

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would clarify Medicare's policy regarding changes to the hospital-specific portion of the prospective payment rate for inpatient hospital services. We would clarify that exemptions, exceptions, and adjustments to base year costs permitted under the Medicare cost limits and rate-of-increase ceiling authority will affect the hospital-specific portion of the prospective payment rate.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on April 19, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-326-P, P.O. Box 26676, Baltimore, Maryland 21207.

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

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC.;

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

In commenting, please refer to file code BERC-326-P.

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

FOR FURTHER INFORMATION CONTACT: Edward Rees (301) 597-6403.

SUPPLEMENTARY INFORMATION:

I. General Background

Under section 1886(d) of the Social Security Act (the Act), enacted by the Social Security Amendments of 1983 (Pub. L. 98-21) on April 20, 1983, a prospective payment system for Medicare payment of inpatient hospital services was established effective with hospital cost reporting periods beginning on or after October 1, 1983. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). This list currently contains 471 specific categories.

In order to implement the prospective payment system for inpatient hospital services as required by section 1886(d) of the Act, we published the following documents in the **Federal Register.**

- On September 1, 1983, we published an interim final rule with comment period (48 FR 39752), effective for hospital cost reporting periods beginning on or after October 1, 1983. Technical corrections were issued on October 19, 1983 (48 FR 48467).
- On January 3, 1984, we published a final rule (49 FR 234) that made changes to the regulations as the result of our consideration of the public comments that were received in response to the interim final rule. Technical corrections for this document were issued on June 1, 1984 (49 FR 23010).
- In order to update the prospective payment rates for Federal fiscal year 1985, we published a proposed rule on July 3, 1984 (49 FR 27422) and a final rule on August 31, 1984 (49 FR 34728), for which technical corrections were issued on October 15, 1984 (49 FR 40167).
- On March 29, 1985, we published a final rule (50 FR 12740) redesignating the prospective payment regulations, originally set forth in 42 CFR Part 405 (§§ 405.470 through 405.477), to a new 42 CFR Part 412 (§§ 412.1 through 412.125). That final rule was a technical document, the purpose of which was to make the prospective payment regulations easier to use.
- In order to update the prospective payment rates for Federal fiscal year 1986, we published a proposed rule June 10, 1985 (50 FR 24366) and a final rule on September 3, 1985 (50 FR 35646), for which technical corrections were issued on October 28, 1985 (50 FR 43570). However, section 5 of Pub. L. 99-107, as amended by section 2 of Pub. L. 99-201, postponed implementation of the revised Medicare payment rules through March 14, 1986. (See the February 3, 1986 **Federal Register** notice (51 FR 4166).)

As a result of our experience with the prospective payment system to date, we are now proposing to clarify 42 CFR 412.72 (formerly § 405.474(b)), which describes modifications to base year costs.

II. Current Policy and Proposed Clarification

A. Background

Section 1886(d)(1)(A) of the Act provides for a three-year transition period during which a declining portion of a hospital's total prospective payment amount (that is, the "hospital-specific portion") is based on a hospital's historical Medicare costs in a given base year, and a gradually increasing portion of the payment (that is, the "Federal portion") is based on a regional rate per discharge in the first year and a blend of regional and national rates per discharge in the second and third years. Beginning with the fourth year, and continuing thereafter (that is, for hospital cost reporting periods beginning on or after October 1, 1986), Medicare payments for inpatient hospital services will be determined under a national DRG payment methodology.

The hospital-specific portion of the prospective payment rate paid during the transition period is calculated in

accordance with section 1886(d)(1)(A)(i)(I) of the Act for cost reporting periods beginning in Federal fiscal year 1984, and in accordance with section 1886(d)(1)(A)(ii)(I) of the Act for cost reporting periods beginning in Federal fiscal years 1985 and 1986. Under these provisions, the hospital-specific portion of the rate is a specified percentage of the hospital's "target amount" for the cost reporting period, as defined in section 1886(b)(3)(A) of the Act.

The "target amount" is a concept introduced into the Act for purposes of the reimbursement system that preceded the prospective payment system. The Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) established limits on the permissible rate of increase of Medicare reimbursement for hospital operating costs during cost reporting periods beginning in fiscal year (FY) 1983 through FY 1985. These limits were defined in terms of a target amount, which, under section 1886(b)(3) of the Act, was in turn defined for each hospital as the allowable operating costs per case incurred by the hospital during the cost reporting period immediately preceding the first cost reporting period subject to the rate-of-increase ceiling (that is, generally, cost reporting periods beginning between October 1, 1981 and September 30, 1982), adjusted by a specified annual update factor. Thus, for example, the target amount for a hospital whose cost reporting period began October 1, 1982, was determined by reference to the hospital's operating costs per case during the year beginning October 1, 1981 (its "base year"). Under section 1886(b)(3) of the Act, the target amount for each succeeding year is determined by applying the specified increase factor to the previous year's target amount. For a further explanation, see our regulations at 42 CFR 405.463, which explain the ceiling on the rate of hospital cost increases.

For most hospitals, the rate-of-increase limitations were in effect for only one year when they were superseded by the prospective payment system. However, in accordance with §§ 405.463(a)(2) and 412.22(b) (formerly § 405.471(b)), the rate-of-increase limits continue to apply to those hospitals that are excluded from the prospective payment system. Because the prospective payment system bases the hospital-specific portion on a percentage of the hospital's "target amount" (determined using its base year costs), each hospital's costs during its base year continue to be relevant under the prospective payment system.

B. Current Policy

Although section 1886(d)(1)(A) of the Act bases the hospital-specific portion of the prospective payment rate on the target amount without any reference to adjustments or modifications of that amount, our implementing regulations at § 412.71(b) (formerly § 405.474(b)) provide for a number of modifications to base year costs that affect the amount of the hospital specific portion of the prospective payment rate. These regulations were issued in accordance with section 1886(d)(5)(C)(iii) of the Act, which authorizes the Secretary to provide by regulation for such exceptions and adjustments to the prospective payment rates as the Secretary deems appropriate.

In determining what changes are appropriately made to base year costs (and hence to the hospital-specific portion of the prospective payment rate), we must be consistent with the statute's reliance on a particular base year as the foundation for determining the amount of the hospital-specific portion of the rate. The hospital-specific portion of the rate was not intended to reflect a hospital's actual current per-case costs, but rather its per-case costs during the designated base year, increased by an annual update factor. The legislative history for Pub. L. 98-21 explains in the House Committee on Ways and Means report that, "the payment amount, like the target amount under present law, is projected from the hospital's cost base. Because the payment can be determined without reference to the hospital's costs in the current year, it can be prospectively determined." (See H.R. Rep. No. 98-25 Part 1, 98th Cong., 1st Sess., 136 (1983).) Similarly, the conference committee report for Pub. L. 98-21 noted that the hospital-specific portion is related to each hospital's own experience in a base cost reporting year. (See H.R. Rep. No. 98-47, 98th Cong., 1st Sess., 181 (1983).)

The statute's use of base year per-case costs rather than more current information is not surprising in light of the limited purpose of the hospital-specific portion of the rate. For hospitals other than sole community providers, the hospital-specific portion of the prospective payment rate exists for transitional purposes only, and is completely eliminated after a hospital has been subject to the prospective payment system for three years. Many hospitals have per-case costs that differ significantly from the Federal rates that will apply when the transition is complete and that form an increasingly large portion of a hospital's payments during the transition period. In light of the potentially poor correlation between a hospital's current costs and the important national (and regional) rates, it is not plausible that Congress intended for the hospital-specific portion of the rate to be finely adjusted to reflect the hospital's current situation. Rather, the hospital-specific portion of the rate was designed simply to cushion, to some degree, the transition to a prospective payment system based on Federal rates. The Senate report on Pub. L. 98-21 states that "the phase-in of national DRG rates over the three-year period is designed to minimize disruption that might otherwise occur because of sudden changes in reimbursement levels." (See S. Rep. No. 98-23, 98th Cong., 1st Sess., 53 (1983).)

Thus, the regulations governing modifications to base year costs authorize only those adjustments that do not undermine the statute's reliance on a particular year of hospital operations as the basis for the amount of the hospital-specific portion of the payment rate. Modifications are limited to those necessary to make the hospital's base year experience comparable to costs that will be paid under the prospective payment system. In other words, the modifications currently authorized in § 412.71(b) of our regulations are made for the purpose of more accurately estimating the costs that would be incurred in the future by a hospital that carried on the same operations that it did in the base year. This approach is consistent with the conference committee managers' statement expressed in the Conference Committee Report on Pub. L. 98-21 that "the managers recognize that, in some cases, the Secretary will have to use estimates to adjust some portions of the hospital's base year experience to make it comparable to inpatient operating costs that will be paid under the prospective system—e.g., FICA taxes that would have been paid if the hospital had been in the Social Security system or the adjustment needed to exclude the nursing differential which is no longer payable." (See H.R. Rep. No. 98-47, noted above, at 181-182.)

C. Proposed Clarification of Current Policy

Since the hospital-specific portion relates to the target amount under the rate-of-increase ceiling, some hospitals have questioned whether changes to inpatient operating costs permitted under §§ 405.460 and 405.463 of our regulations will affect the hospital-specific portion of the rate under the prospective payment system. Because the regulations do not address this

question specifically, this proposal would clarify our position on this issue.

Our current policy is to revise the hospital-specific portion of the prospective payment rate to take into account exceptions, exemptions and adjustments granted under §§ 405.460 and 405.463 to the extent that they apply to base year costs. Exceptions, exemptions, or adjustments granted for periods subsequent to the base year do not change the hospital-specific portion of the prospective payment rate since neither base year costs nor the target amount itself is altered by such action.

Under current operating procedures, it is the onset of the event that caused the distortion that dictates which period's costs are adjusted. Thus, if a cost distorting event occurs in the base year, operating costs in the base year (for purposes of application of the rate-of-increase ceiling) are adjusted.

Since the target amount is defined as base year operating costs increased by a target percentage, an adjustment due to an event that occurs in the base year would result in an increase in the target amount. Likewise, since section 1886(d)(1)(A) of the Act, which defines the hospital specific portion of the prospective payment rate, references the target amount, the hospital-specific portion of the rate would also be revised. Because at least a portion of the cost for the service that gives rise to the adjustment occurred in the base year, we believe this policy is consistent with the legislative history of Pub. L. 98–21, which states that "during the phase-in period, some portion of the prospective payment rate will be related to each hospital's own experience in a base cost reporting year." (See H.R. Rep. No. 98–47, 98th Cong., 1st Sess., 181 (1983).) This is also consistent with the position, previously discussed in this preamble, that modifications of base year costs be limited not those necessary to make the hospital's base year experience comparable to the inpatient operating costs that will be incurred under the prospective payment system by a hospital that carried on the same operations that it did in the base year.

In granting an exception or adjustment for a cost distorting event that occurs in a period subsequent to the base year, operating costs of that period would be adjusted downward for purposes of comparison to the target amount. In this situation, however, the target amount is not altered, and therefore would not give rise to a change in the hospital-specific portion of the rate. Thus, we believe that neither the statutory language, which references the target amount, nor the committee reports, which reference the hospital's experience in the base year, contemplates that costs arising from a change in operations subsequent to the base year would be recognized in the prospective payment rates.

Moreover, we believe any policy of allowing rate-of-increase adjustments for post-base year experience to affect the hospital-specific portion of the prospective payment rate would create difficult problems. If changes were limited to those resulting in increased hospital reimbursement, there would be an unwarranted upward bias in Medicare expenditures. If, however, HCFA pursued a policy of reducing rate-of-increase target amounts to account for lowered hospital costs, the result might unfairly penalize hospitals throughout the prospective payment transition period for cost-reduction efficiencies introduced in anticipation of the prospective payment system.

Accordingly, for all these reasons, we are proposing to amend § 412.72(a)(3) (formerly § 405.474(b)(3)) of the regulations to make clear that any exemptions, exceptions, or adjustments granted under §§ 405.460 and 405.463 of the regulations for the base year would result in a change in the hospital-specific portion of the prospective payment rate.

In view of the prospective nature of the payment system and the conference committee's expectation that determinations would be made on the basis of the best information available at a time prior to a hospital's entering the system (See H.R. Rep. No. 98–47 Part 1, 98th Cong., 1st Sess., 182 (1983)), we believe that changes to base year costs arising from the granting of an exception, exemption, or adjustment to base year costs should affect the hospital-specific portion of the rate only on a prospective basis. Since the hospital-specific portion of the rate was to be determined by an intermediary in accordance with the regulations, based on its assessment of the best information available for a base period, we do not believe that a subsequent change to the base period costs that occurs as the result of HCFA granting an exception, or adjustment under §§ 405.460 and 405.463 would impugn the validity of the intermediary's efforts to make a good faith assessment of the data available to it. Therefore, a retroactive revision would be inappropriate. However, we believe a prospective revision for subsequent years would be appropriate. Therefore, the proposed regulation specifies that changes to the hospital-specific portion of the rate that result from exemptions, exceptions or adjustments granted under §§ 405.460 and 405.463 would be made on a prospective basis effective with the first day of the hospital's first cost reporting period beginning on or after the date of a favorable determination by HCFA on the hospital's exemption, exception or adjustment request.

We have also considered whether additional regulations should be issued under section 1886(d)(5)(C)(iii) of the Act, the general authority for the prospective payment system exceptions and adjustments, to recognize changes (other than those already permitted in § 412.72 (formerly § 405.474) in a hospital's cost per case after the base period. For the same reasons stated above in connection with statute's and legislative history's dependence upon base year costs, we do not believe that, in general, it would be appropriate to adjust base year costs to reflect changes in a hospital's operations subsequent to the base year.

We have, however, considered it appropriate to recognize certain changes in operations for sole community hospitals. We intend to propose to these adjustments in a separate proposed notice.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to perform and publish a regulatory impact analysis for any major rule. A major rule is any regulation that is likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based ones.

We have determined that this proposed rule does not meet any of the criteria for a major rule. This proposal would clarify our current policy and practice, not change it, and would not affect the level of payments that hospitals receive under existing regulations. Therefore, it would not have an effect that would meet any of the major rule criteria of E.O. 12291. For these reasons, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 through 612, requires us to perform and publish an initial regulatory flexibility analysis for any proposed rule unless the Secretary certifies, in accordance with 5 U.S.C. 605(b), that the

rule would not, if promulgated, have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all hospitals as small entities. However, as discussed above with reference to E.O. 12291, this proposed rule would merely clarify our current policy, not change it. We do not expect this proposal to significantly affect hospitals, since they will continue to be paid at the same level as they are paid under existing reguations. Therefore, we have determined, and the Secretary certifies, that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

This proposed change would not impose information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

IV. Other Required Information

A. Public Comment

Because of the large number of pieces of correspondence we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date specified in the "Dates" section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 412

Health Facilities, Medicare.

42 CFR Part 412 would be amended as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for Part 412 continues to read as follows:

Authority: Secs. 1102, 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395ww).

2. In § 412.72, the introductory language of paragraph (a) is reprinted unchanged for the convenience of the reader; a new paragraph (a)(3)(ii) is added; and current paragraph (a)(3)(ii) is revised and redesignated as paragraph (a)(3)(iii) to read as follows:

§ 412.72 Modification of base-year costs.

(a) *Bases for modification of base-year costs.* Base-year costs as determined under § 412.71(d) may be modified under the following circumstances:

* * * * *

(3) *Recognition of additional costs.* * *

(ii) The intermediary may adjust base year costs to take into account any exception, exemption, or adjustment to base year costs granted under §§ 405.460 or 405.463 of this chapter. Exceptions, exemptions or adjustments to a hospital's operating costs for a period subsequent to the base year that arise from an event that occurs after the base year may not be used for the purposes of changing the base year costs used in determining the hospital-specific rate.

(iii) The intermediary will recalculate the hospital's base-year costs, incorporating the additional costs recognized as allowable for the hospital's base-year. Adjustments to base-year costs to take into account these additional costs and any exceptions, exemptions, or adjustments permitted under paragraph (a)(3)(ii) of this section—

(A) Will be effective with the first day of the hospital's first cost reporting period beginning on or after the date of the revision, order, finding, review decision, or granting of the exception, exemption or adjustment.

(B) Will not be used to recalculate the hospital-specific portion as determined for fiscal years beginning before the date of the revision, order, finding, review decision, or granting of the exception, exemption, or adjustment.

* * * * *

[Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance Program]

Dated: March 15, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: May 24, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 86-5067 Filed 3-7-86; 8:45 am]

BILLING CODE 4120-01-M

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42 CFR Part 412

[BERC-329-P]

Medicare Program; Payment Adjustments for Sole Community Hospitals

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would change Medicare prospective payment regulations for inpatient hospital services in order to allow an adjustment (if warranted) of the hospital-specific portion of the prospective payment rate for sole community hospitals.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on April 9, 1986.

ADDRESS: Mail comments to: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-329-P, P.O. Box 26676, Baltimore, Maryland 21207.

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

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC;

or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

In commenting, please refer to file code BERC-329-P.

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

FOR FURTHER INFORMATION CONTACT: Ed Rees, (301) 597-6403.

SUPPLEMENTARY INFORMATION:

I. General Background

Section 1886(d) of the Social Security Act (the Act), enacted by the Social Security Amendments of 1983 (Pub. L. 98-21) on April 20, 1983, established a prospective payment system for Medicare payment of inpatient hospital services, effective with hospital cost reporting periods beginning on or after October 1, 1983. Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge. All discharges are classified according to a list of diagnosis-related groups (DRGs). This list contains 470 specific categories.

In order to implement the prospective payment system for inpatient hospital services as required by section 1886(d) of the Act, we published the following documents in the **Federal Register.**

- On September 1, 1983, we published an interim final rule (48 FR 39752), effective for hospital cost reporting periods beginning on or after October 1, 1983. Technical corrections were issued on October 19, 1983 (48 FR 48467).

• On January 3, 1984, we published a final rule (49 FR 234) that made changes as the result of our consideration of the public comments that were received in response to the interim final rule. Technical corrections were issued for this document on June 1, 1984 (49 FR 23010).

• In order to update the prospective payment rates for fiscal year 1985, we published a proposed rule on July 3, 1984 (49 FR 27422) and a final rule on August 31, 1984 (49 FR 34728), for which technical corrections were issued on October 15, 1984 (49 FR 40167).

• On March 29, 1985, we published a final rule (50 FR 12740) to redesignate the prospective payment regulations under a new Part 412. These regulations were previously located in 42 CFR 405.470 through 405.477.

• In order to update the prospective payment rates for fiscal year 1986, we published a proposed rule on June 10, 1985 (50 FR 24366) and a final rule on September 3, 1985 (50 FR 35646), for which technical corrections were issued on October 28, 1985 (50 FR 43570). However, section 5 of Pub. L. 99–107 as amended by section 2 of Pub. L. 99–201 postponed implementation of the revised Medicare payment rules through March 14, 1986 (51 FR 4166).

As a result of our experience with the prospective payment system to date, we are proposing in this document, to amend the Medicare rules that provide for special treatment of certain facilities under the prospective payment system, to allow an adjustment of the hospital-specific rate for sole community hospitals. We are also proposing to make other technical conforming changes to the prospective payment regulations.

II. Provisions for Sole Community Hospitals

A. Background

Section 1886(d)(5)(C)(ii) of the Act requires that the special needs of sole community hospitals (SCHs) be taken into account under the prospective payment system. The statute specifies a special payment formula for hospitals so classified and further provides for additional payments to SCHs experiencing a significant volume decrease because of extraordinary circumstances beyond their control. This section of the Act defines SCHs as those hospitals that, by reason of factors such as isolated location, weather conditions, travel conditions or absence of other hospitals (as determined by the Secretary), are the sole source of impatient hospital services reasonably available to individuals in a geographic area, who are entitled to benefits under Part A of Medicare. Regulations regarding the special treatment of SCHs under the prospective payment system are set forth in 42 CFR 412.92.

B. Current Policy

As noted above, section 1886(d)(5)(C)(ii) of the Act provides that unlike other short term, acute care hospitals that are paid under the prospective payment system, SCHs are to be paid under a unique payment formula. Generally, under section 1886(d)(1)(A) of the Act, hospitals paid under the prospective payment system progress through a three-year transition period during which a declining portion of their prospective payment rate is based on their historical Medicare costs, and an increasing portion is based on a Federal rate. However, rather than progressing through the transition period to fully national payment rates, SCHs continue to receive payment rates comprised primarily from their individual historical cost base (that is, 75 percent of the hospital-specific rate and 25 percent of the Federal rate) adjusted by an update factor. Therefore, the hospital-specific portion of the prospective payment rate has a unique significance for SCHs, when compared to other hospitals under the prospective payment system in which the hospital-specific portion of the rate rapidly declines in importance during a relatively short transition period.

C. Proposed Changes

In enacting the Social Security Amendments of 1983 (Pub. L. 98–21), Congress clearly acknowledged the unique contribution and vulnerability of SCHs by providing a special payment formula that places a continuing, heavy reliance on the hospital-specific rates calculated from Medicare costs in the base year, generally the 12-month hospital cost reporting period that ended on or after September 30, 1982 and before September 30, 1983. The legislative history of Pub. L. 98–21 expresses Congressional intent that the Secretary provide exceptions and adjustments under the prospective payment system to take into account the special circumstances faced by SCHs. (See Senate Report No. 98–23, 98th Cong., 1st Sess., p. 54 (1983) and House Report No. 98–25 Part I, 98th Cong. 1st Sess., p. 141 (1983)). Congress provided in section 1886(d)(5)(C)(iii) of the Act that, "the Secretary shall provide by regulation for such other exceptions and adjustments to such payment amounts as the Secretary deems appropriate." Thus, additional adjustments under the prospective payment system for SCHs are authorized as the Secretary believes appropriate.

Generally, SCHs tend to be small hospitals in rural areas furnishing a limited range of services. However, the payment mechanism for SCHs, relying as it does on historic costs, clearly discourages the addition or expansion of services in a group of hospitals that are most likely to need to respond to changing local circumstances. However, for these hospitals there are no provisions for the recognition of such changes other than additional payments for SCHs experiencing a decline in the volume of discharges due to extraordinary circumstances (available for cost reporting periods beginning on or after October 1, 1983 and before October 1, 1986, as described in § 412.92(e)). Consequently, we believe it appropriate to utilize the Secretary's authority under section 1886(d)(5)(C)(iii) of the Act to provide for an additional adjustment for SCHs under certain circumstances. Without such an adjustment, we believe that the current payment mechanism for SCHs would not fully respond to the obvious congressional intent that these unique providers be accorded special recognition.

Because such a large portion of the payment to SCHs is based on the hospital's individual historical cost experience, we believe SCHs should be afford the opportunity to request an adjustment of the hospital-specific portion of the payment rate. Consequently, we are proposing to amend § 412.92 to allow SCHs experiencing certain significant cost distortions to request an adjustment of the hospital-specific portion of their prospective payment rate. The SCHs would be required to submit documentation to their fiscal intermediaries of the circumstances that give rise to the cost distortion, the community need for the additional health care services or change in circumstances that has occurred and its resulting cost impact. Adjustments would not be granted if the cause of the cost distortion is not related to community medical needs. For example, an adjustment would not be authorized for any additional costs arising from entering a management contract or for expansion of beds in a hospital operating at low occupancy levels, regardless of the fact that a certificate of need had been granted for the expansion, because the changes are not required for purposes of the delivery of patient care.

The intermediary would forward, within 90 days of receipt of the

necessary information, all submitted documentation, its analysis of the provider's claims, a copy of the overall cost data for the base year and the year in which the the distortion occurs, and its recommendation for acceptance or rejection of the request to our central office for processing. We would determine if an adjustment to the hospital-specific portion is justified based on the overall costs in the year of the cost distortion as compared to the overall base-year costs and, if so, the amount of the adjustment granted. We would notify the intermediary of our decision within 90 days of receiving all the necessary information. Adjustments granted under this provision would be made on a *prospective basis* beginning with the first day of the first cost reporting period after a favorable determination.

Generally, when hospital adds to or expands existing services there may be significant cost distortions arising from the initiation of the services (that is, start-up costs). Additionally, there is likely to be an initial period of abnormally low utilization until the availability of the new services becomes well known in the medical community. This combination of abnormally high costs and minimal utilization is likely to result initially in cost per treatment that does not represent costs that the hospital would incur in future cost reporting periods.

Because the adjustment made to the hospital-specific portion of the prospective payment rate under this proposed provision would carry forward to future cost reporting periods (when utilization should be higher and start-up costs no longer exist), we believe it would be inappropriate to establish an amount to be used for all future cost reporting periods that represents mainly start-up costs and intital low utilization. Similarly, we believe the costs recognized must be subject to a test of reasonableness. Consequently, if we determine that an adjustment is warranted, we would calculate the per discharge adjustment amount recognizing reasonable costs and utilization levels appropriate to the time period involved. At the end of a year from the effective date of the final rule, we would evaluate the adjustment process to assess whether revisions are necessary or appropriate. If changes are warranted, we would propose appropriate changes in the Federal Register.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any 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 result in significant adverse effects on competition, employment, investment, productivity, or innovation. As of October 1, 1985, 363 hosptials were classified as sole community hospitals. We expect that a small number of these hospitals would meet the criteria for an adjustment based on factors resulting in significant distortions in operating costs. Additionally, we expect that in most cases the amounts of adjustments would be small relative to total payment for all hospitals. Therefore,—

- We do not expect an annual effect on the economy to approach the $100 million threshold.
- The effects on costs or prices for consumers, hospitals and the Medicare program would be small.
- While it is possible that there may be a small effect on employment, for those hospitals that qualify for an adjustment, the effect would not be adverse.

In summary, the provisions of this proposal are not likely to bring about effects that would qualify it as a major rule under section 1(b) of Executive Order 12291. Therefore, an impact analysis is not required.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 through 612) requires us to prepare and publish a regulatory flexibility analysis for proposed regulations unless the Secretary certifies that the regulations would not have a significant economic impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, we treat all hospitals as small entities. However, we expect that a relatively small number of hospitals will apply and qualify for an adjustment under this regulation. Therefore, the Secretary certifies under 5 U.S.C. 605(b) that this proposed rule would not result in a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

Section 412.92(f) of this proposed rule contains information collection requirements. As required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), we have submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of these requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Agency address stated earlier in this preamble, and to the Office of Information and Regulatory Affairs, OMB New Executive Office Building (Room 3208), Washington, DC 20503, Attn: Desk Officer for HCFA.

IV. Other Required Information

A. Public comment

Because of the large number of comments we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, in preparing the final rule, we will consider all comments that we receive by the date specified in the "Date" section of this preamble, and, if we decide to proceed with a final rule, we will respond to the comments in the preamble of that rule.

List of Subjects in 42 CFR Part 412

Cancer hospitals, Christian Science sanatoria, Discharges and transfers, Inpatient hospital services, Medicare, Outlier cases, Prospective payment, Referral centers, Renal transplantation centers, Sole community hospitals.

We are proposing to amend 42 CFR Part 412 as set forth below:

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for Part 412 continue to read as follows:

Authority: Secs. 1102, 1871, and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1395hh, and 1395ww).

2. Section 412.72 is amended by adding a new paragraph (a)(6) to read as follows (the introductory language of paragraph (a) is being reprinted without change for the convenience of the reader):

§ 412.72 Modification of base-year costs.

(a) *Base for modification of base-year costs.* Base-year costs as determined under § 412.71(d) may be modified under the following circumstances: * * *

(6) *Adjustments for sole community hospitals.* (i) For sole community hospitals, to take into account factors necessary for delivery of patient care that result in significant cost distortions subsequent to the base year, in accordance with § 412.92(f). Adjustments that are authorized by HCFA under § 412.92(f), or that are based on an administrative decision (§ 405.1871 of this chapter) or judicial review decision (§ 405.1877 of this chapter) that is no longer subject to

reveiw by a higher reviewing authority, are effective beginning with the first day of the first cost reporting period after a final determination on a sole community hospital's request is made.

(ii) Adjustments granted are effective for one cost reporting period and may be renewed by HCFA, in whole or in part, based upon the submission of such information as HCFA may require. In addition, HCFA may—

(A) Request information from the hospital at any time to determine whether an adjustment previously granted remains appropiate; and

(B) Terminate or revise an adjustment upon 30 days' notice to the hospital whenever HCFA determines that such action is appropriate.

* * * * *

3. Section 412.92 is amended by adding a new paragraph (f) to read as follows:

§ 412.92 Special treatment: Sole community hospitals.

* * * * *

(f) *Adjustment of the hospital-specific rate for sole community hospitals*—(1) *General rule.* HCFA may adjust the amount of operating costs considered in establishing the hospital-specific base payment rate for SCHs (as determined under § 412.71) to take into account factors necessary for patient care that would result in a significant distortion in the operating costs of inpatient hospital services. These factors may include, but are not limited to, the addition of needed health care services that were not available in the hospital during its base year.

(2) *Documentation.* To qualify for an adjustment to its hospital-specific rate under this section, an SCH must submit documentation, including cost information as requested by HCFA, to the intermediary demonstrating the—

(i) Occurrence responsible for the cost distoration;

(ii) Necessity of, and justification for, the occurrence; and

(iii) Amount of the distortion that results from the specified event.

(3) *Intermediary recommendation.* The intermediary forwards the hospital's submittal, along with its analysis and recommendation, to HCFA within 90 days of receipt of the necessary documentation.

(4) *Determination by HCFA.* HCFA determines, within 90 days of receiving all the necessary information from the intermediary, whether a per discharge payment adjustment amount is justified based on—

(i) The needs of the SCH and of the community;

(ii) The increase in the SCH's operating costs arising from the additional health care service or other change; and

(iii) Reasonable utilization of the services, if the cost distortion is caused by the addition or expansion of services.

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance Program)

Dated: March 15, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: May 22, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 86-5068 Filed 3-7-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 252

[Docket R-102]

Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in World-Wide Services

AGENCY: Maritime Administration, DOT.

ACTION: Notice of public hearing.

SUMMARY: On December 23, 1985, the Maritime Administration (MARAD) published a Notice of Proposed Rulemaking (NPRM) on Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in World-Wide Services. (50 FR 52338) The proposed rule would expedite and simplify the determination of final amounts for all ODS items. The notice provided a period of public comment that expired on February 21, 1986. Based on a request from law firms representing affected subsidized operators, MARAD extended the comment period until March 26, 1986. MARAD has now decided to hold a public hearing, pursuant to an informal request by counsel for three of the subsidized operators.

DATE: The meeting will be held on Tuesday, March 18, 1986, at 10:00 a.m.

ADDRESS: Room 8442, Nassif Building, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Arthur B. Sforza, Director, Office of Ship Operating Costs, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590 Tel. (202) 382-6036. Persons desiring to particiapte in this hearing should notify the contact person by March 13, 1986. Prepared statements and comments may be submitted by persons unable to be at the hearing. MARAD should receive these submissions by March 13, 1986, to facilitate their reproduction and availabity at the hearing.

SUPPLEMENTARY INFORMATION: MARAD is responsible for administering provisions in Title VI of the Merchant Marine Act 1936 (46 U.S.C. 1173, 1176), concerning the determination of ODS rates and the payment of ODS. The Act is specific in prescribing the method for determining ODS wage rates, but provides no guidance for the determination of other subsidizable expenses of the subsidized ship operator, namely, maintenance and repair (M&R), hull and machinery premiums (H&M) and protection and indemnity insurance premiums and deductible (P&I). MARAD now determines ODS for wages on a fiscal period basis, paid as a daily rate, while ODS for other expenses is paid for calendar periods and based on estimated expenses accrued by the operators. This system of calculation and payment is reflected in existing MARAD regulations at 46 CFR Part 252. The NPRM proposes to provide for the payment of all components of ODS as a fixed and final daily amount under ODS contracts currently in force. The NPRM provided a comment period of 60 days that expired on February 21, 1986. During that comment period MARAD received written requests from two law firms that represent subsidized operators, for a 30-day extension of the comment period. One law firm cited the complexity of the issues involved and the inability to schedule a meeting with its clients as reasons for the extension. By notice published in the **Federal Register** on February 26, 1986, MARAD extended the comment period to March 26, 1986. (51 FR 6760) MARAD has now decided, based on representations made by a law firm representing three subsidized operators, to hold a public hearing. The purpose is to clarify the procedure for calculating ODS for wages and enhance the understanding of the methodology being proposed to calculate the final daily ODS rate.

E.O. 12291, Statutory and DOT Requirements

The Maritime Administrator has determined that this proposed rulemaking is not major, as defined in E.O. 12291, and is significant under DOT regulatory policies and procedures due to considerable public interest (49 FR 11034); February 26, 1979. This rulemaking would place the ODS receipts of the operators and the

obligations of the government on a current basis, with no appreciable overall change in such receipts and obligations. Since it would only facilitate the payment of final ODS amounts in a more timely manner, the economic impact of this proposal has been found to be minimal and further evaluation is unnecessary.

Since this proposal would affect principally ship operators with substantial annual revenues, the Maritime Administrator certifies that, if finalized, this rulemaking would not exert a significant economic impact on a substantial number of small entities under The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.). It does not include new information collection requirements, but maintains existing information requirements which have been approved by OMB under control numbers 2133–0004 and 2133–0024, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Dated: March 5, 1986.

By Order of the Maritime Administrator.

Murray A. Bloom,

Assistant Secretary.

[FR Doc. 86–5152 Filed 3–7–86; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Withdrawal of Proposed Rule To List the Fish Creek Springs Tui Chub as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of withdrawal.

SUMMARY: The Service is withdrawing the proposed rule published in the Federal Register of June 6, 1984 (49 FR 23409), that the Fish Creek Springs tui chub (*Gila bicolor euchila*) be listed as a threatened species with critical habitat. New data indicate that the Fish Creek Springs tui chub is presently more abundant and widely distributed in its habitat, and subject to less threat, than believed at the time of the propose rule. The species is not considered likely to become threatened or endangered in the foreseeable future.

DATES: The withdrawal is effective March 10, 1986.

ADDRESSES: The complete file for this notice is available for inspection, by appointment, during normal business hours at the Regional Office, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne White, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232. (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION: .

Background

The Service is withdrawing the proposed rule to list the Fish Creek Springs tui chub (*Gila bicolor euchila*) as a threatened species. On December 30, 1982, the Service published a Notice of Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species (47 FR 58453), which included the Fish Creek Springs tui chub as a category 1 taxon. Such inclusion indicated that the Service had substantial information on hand to support the proposal of this fish for listing under provisions of the Endangered Species Act. Subsequently, the Service received a petition from the Desert Fishes Council on April 12, 1982, to list 17 species of southwestern fishes, including the Fish Creek Springs tui chub. The Service reviewed the petition and determined that it did present substantial information indicating that the petitioned action was warranted. On June 6, 1984, the Fish Creek Springs tui chub was proposed for listing as a threatened species with critical habitat. The only known population of this species occurs in Fish Creek Springs, located entirely within private land in Little Smoky Valley of southeastern Eureka County, Nevada. The proposed listing was undertaken because the range and numbers of this species appeared to have substantially decreased since collections of the fish were first made in 1938. Primary threats identified in the proposed rule included predation by introduced trouts, and overgrazing of adjacent lands. Critical habitat was included with the proposed rule, as were special rules to allow take of the Fish Creek Springs tui chub for certain purposes in accordance with Nevada State laws and regulations.

The Service sought data and comments from the public, and from State, local, and Federal agencies on the proposal, and received five written letters of comment. Additionally, a status report on the Fish Creek Springs tui chub funded under Section 6 of the Endangered Species Act, was completed in July 1984 by University of Nevada, Las Vegas, personnel. Also in July 1984, Service biologists from the Great Basin Complex, Reno, Nevada, and Region I office in Portland, Oregon, conducted field observations at Fish Creek Springs.

Of the written comment letters received, none provided additional data regarding the status of the Fish Creek Springs tui chub. The Nevada Department of Wildlife (NDOW) and the Nevada Division of State Parks opposed the listing on the basis of adverse effects to the recreational fishery. Letters supporting the proposed listing came from the Desert Fishes Council and the International Union for Conservation of Nature and Natural Resources. The Eureka County Planning Commission voiced concern for the rights of the private landowner but neither supported nor opposed listing.

Tui chub (*Gila bicolor*) were originally observed and documented from Fish Creek Springs in 1938, but the population was not described as a unique subspecies, *Gila bicolor euchila*, until 1972 (Hubbs and Miller 1972). Fish Creek Springs historically consisted of a series of four interconnected springs which formed the headwaters of Fish Creek. In 1938, tui chub range included all four springs and associated outflow creeks (Hubbs, *et al.* 1974). Since the original field work in 1938, the Fish Creek Springs habitat, primarily the spring outflow channels, has been modified for livestock, irrigation, and domestic uses. In addition, rainbow (*Salmo gairdneri*) and brown trout (*Salmo trutta*) were introduced to provide sport fishing. Surveys conducted in 1978 and 1979 recorded tui chub from only one of the four springheads and reported no chub present in any of the outflows or in the creek (Hardy 1980a, 1980b). In addition, livestock had trampled the surrounding area and caused the elimination of most riparian vegetation.

In July 1984, biologists from the University of Nevada, Las Vegas (UNLV), under contract to the NDOW, conducted a status survey of Fish Creek Springs tui chub. UNLV biologists reported the presence of large numbers of both *Gila bicolor euchila* adults and fry throughout the spring system (Deacon 1984). In addition, the species was found 3 to 4 miles further downstream than previously reported. No trout were seen or captured although stocking of rainbow trout by NDOW occurred each spring. Deacon (1984) reported that channelization of Fish Creek had proceeded from the Fish Creek Ranch headquarters upstream to a point approximately 1 mile below the springhead.

Also, in late July 1984, Service personnel from Reno, Nevada and

Portland, Oregon visited the site and observed large numbers of chub, especially fry, throughout the headwater system. Though livestock use of the area was evident, substantial riparian vegetation was present and no evidence of bank trampling, erosion, or visible pollution was observed except around the westernmost springhead which had been modified to serve as a livestock watering pond. Thousands of chub fry were present in all vegetated spring outflows, including the outflow from the westernmost spring. Because of the obvious conflict between information presented in the proposed rule and information received during the comment period, the Service requested a 6-month extension of the proposed rule. The notice of such extension was published in the **Federal Register** on June 18, 1985 (50 FR 25283).

UNLV biologists surveyed the Fish Creek Springs system again in June 1985 and reported similar numbers as in 1984 including fish 3 to 4 miles downstream from the originally described limit of occurrence (Pedretti *et al.* 1985). Catch per trap-hour was greater at all sites sampled in 1985 than in 1984 even though additional channeling and deepening of spring pools and outflows had occurred during winter and spring, 1985.

NDOW stocking records from 1973 to 1985 report that between 620 and 3195 rainbow trout have been stocked annually into the waters at Fish Creek Springs. Apparently more important, however, brown trout were stocked in 1973, 1976–1978, and in 1981. From 1976–1978, a total of over 7,000 catchable-sized brown trout were released in the springheads, which collectively cover less than one-half acre of open water. Since 1979, brown trout have been stocked only once, in 1981. Rainbow trout have continued to be stocked annually, but at much reduced levels when compared with stocking rates in the mid-to-late 1970's. The dramatic increase in tui chub numbers and range corresponds with the cessation of brown trout stocking in the springheads. As brown trout grow larger, they tend to become more and more piscivorous (Staley 1966, Minckley 1973, Moyle 1976). Rainbow trout, on the other hand, tend to feed more heavily on aquatic invertebrates, and are not generally regarded as being piscivorous, even at large sizes (McAfee 1966, Minckley 1973, Moyle 1976).

Because of considerable evidence that the observed decrease in tui chub abundance in the late 1970's and early 1980's was due to presence of brown trout, the Service met with NDOW to discuss trout stocking procedures at Fish Creek Springs. NDOW (1985) has subsequently agreed "not to stock brown trout in Fish Creek Springs to enhance the protection of the tui chub in that locale." Additionally, NDOW stated that the rainbow trout "is not a significant predator and anglers remove a large percentage of the annual planting within 3 months. We consider this practice compatible with the Fish Creek Springs tui chub population and plan to continue to stock this water with low levels of rainbow trout, similar to what has occurred from 1980 through 1985." The Service concurs that continued stocking of rainbow trout at current levels will not detrimentally affect the tui chub population.

The Service believes that the documented large numbers of individuals and different age classes of tui chubs, combined with the cessation of brown trout stocking, and stocking of rainbow trout only at current low levels, insures that the major threat to the Fish Creek Springs tui chub has been eliminated. Data and observations do not indicate that overgrazing of riparian vegetation or livestock trampling of pool and outflow banks causing siltation problems is an identifiable threat, at this time, nor has channelizing and deepening of portions of the system by the landowner appeared to have detriminentally affected the tui chub range or abundance. In actuality, the range of the species now appears to be larger than when initial collections were made by Hubbs and Miller in 1938 (Deacon 1984, Pedretti *et al.* 1985).

For the above stated reasons, the Service concludes that listing the Fish Creek Springs tui chub or delineating critical habitat under authority of the Endangered Species Act of 1973, as amended is not warranted at this time. The Service will continue to monitor the species and its habitat. Listing would be appropriate in the future if any of the previously identified or additional threats are identified and documented.

Findings and Withdrawal

In compliance with Sections 4(b)(6)(A)(i)(IV) and 4(b)(6)(B)(ii) of the Endangered Species Act, as amended, the Service hereby withdraws its proposed rule of June 6, 1984 (49 FR 23409), to list the Fish Creek Springs tui chub (*Gila bicolor euchila*) as threatened with critical habitat. Recent data document the presence of a large population of different age classes of the tui chub throughout its historical habitat, and indicate that the primary threats upon which the proposal was based are no longer present.

References Cited

Deacon, J.E. 1984. Population status and distribution of *Gila* in Fish Creek Springs. Report to Nevada Department of Wildlife, Project E–1–1, Job No. 1.

Hardy, T. 1980a. Interbasin report to the Desert Fishes Council 1978. Proceeding Desert Fishes Council 10:68–70.

Hardy, T. 1980b. The interbasin area report-1979. Proceedings Desert Fishes Council 11:5–21.

Hubbs, C.L., and R.R. Miller. 1972. Diagnoses of new cyprinid fishes of isolated waters of the Great Basin of western North America. Transactions San Diego Society Natural History 17:101–106.

Hubbs, C.L., R.R. Miller, and L.C. Hubbs. 1974. Hydrographic history and relict fishes of the north-central Great Basin. Memoirs California Academy Sciences 7:1–259.

McAfee, W.R. 1966. Rainbow Trout. Pages 192–215 *in* A.J. Calhoun (ed.). Inland Fisheries Management. California Department of Fish and Game. 546 pp.

Minckley, W.L. 1973. Fishes of Arizona. 293 pp. Arizona Game and Fish Department.

Moyle, P.B. 1976. Inland Fishes of California. University of California Press, Berkeley. 405 pp.

Nevada Department of Wildlife, 1985. Letter dated September 5, 1985, from William Molini, Director, to Bill Shake, Assistant Regional Director, U.S. Fish and Wildlife Service, Portland, Oregon.

Pedretti, J.W., T.M. Baugh, and J.E. Deacon. 1985. Status of the Fish Creek Springs tui chub, *Gila bicolor euchila*. Report to Nevada Department of Wildlife, Project E–1–1, Job No. 1

Staley, J. 1966. Brown Trout. Pages 233–242 *in* A.J. Calhoun (ed.). Inland Fisheries Management. California Department of Fish and Game. 546 pp.

Author

The primary author of this notice is Dr. Randy McNatt, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C, Reno, Nevada 89502 (702/784–5227 or FTS 470–5227).

Authority

The authority for this action continues to read as follows:

Authority:

16 U.S.C. 1531 *et seq.*; Pub. L. 93–205, 87 Stat. 884, Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: March 2, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–5171 File 3–7–86; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Trifolium Stoloniferum (Running Buffalo Clover) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list a plant, *Trifolium stoloniferum* (running buffalo clover) as an endangered species. Until perhaps the mid-1800's, this clover ranged from eastern Kansas to West Virginia and was apparently abundant in certain locations. Presently, only two extant populations of *T. stoloniferum* are known. Both occur in West Virginia on private land and are very small, totalling 22 individuals. The status of one of these populations is uncertain. This species is endangered by its rarity alone; additional threats include trampling and other inadvertent destruction by humans and livestock, crushing by off-road vehicles, and competition from weedy species. This proposal, if made final, will implement the protection provided by the Endangered Species Act of 1973, as amended, for *Trifolium stoloniferum*. Critical habitat is not being proposed at this time. The Service seeks data and comments from interested parties on this proposal.

DATE: Comments from all interested parties must be received by May 9, 1986. Public hearing requests must be received April 24, 1986.

ADDRESS: Comments and materials concerning this proposal should be sent to the Annapolis Field Office, U.S. Fish and Wildlife Service, 1825 Virginia Street, Annapolis, Maryland 21401. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Jacobs, at the above address (301/269–6324 or FTS 922–4197).

SUPPLEMENTARY INFORMATION

Background

Running buffalo clover, *Trifolium stoloniferum*, a member of the pea family (Fabaceae), is one of four species of clover native to the eastern United States. This short-lived perennial forms long runners from the base. The flowerheads are terminal and large, up to an inch in diameter. Flowers are white tinged with purple. Flowering normally occurs from mid-April to June and fruits (seed heads) are present into July.

Trifolium stoloniferum was originally named by Henry Muhlenberg in 1813; however, the name was invalid, since it was published without a description. The name was validiated by Amos Eaton in his *Manual of Botany for the Northern and Middle States*, published in 1818. *T. stoloniferum* is morphologically similar to the native buffalo clover, *T. reflexum*, but, as the name implies, the former species is stoloniferous (i.e. produces prostrate stems from the base of the plant) while the latter is not. *T. stoloniferum* has also been considered very similar to the introduced stoloniferous species, *Trifolium repens*; however, the former has a chromosome number of n=16, while the number for *T. repens* is n=32 (Norman Taylor, University of Kentucky Herbarium, pers. comm.).

A detailed character analysis by Brooks (1983) reveals further differences among these three species in growth habitat and flower and seed morphology.

Documented specimens of *Trifolium stoloniferum* are available from the states of Arkansas, Illinois, Indiana, Kansas, Kentucky, Missouri, Ohio, and West Virginia, indicating the original range of this plant (Brooks 1983). A recent review of historical accounts indicates that before the arrival of European settlers, this species was abundant in several areas of the Ohio Valley and adjacent regions, and may have been a local dominant within the "bluegrass region" of Kentucky. Running buffalo clover was apparently adapted to rich soils in "relatively stable ecotones, with continual, moderately intense disturbance," between open forest and pastures or prairies (Campbell 1985). Campbell speculates that the vegetation of these areas was likely maintained by "buffalo" (*Bison bison bison*). After the extirpation of bison from the East, the abundance of *T. stoloniferum* apparently decreased. Brooks (1983) indicates that by the late 19th century, populations of running buffalo clover were "limited and widely scattered . . . shortly thereafter . . . the number of collections dwindled rapidly, with a mere five sites documented after 1900." Brooks field checked all the documented locations as well as other likely habitat for *T. stoloniferum* in Missouri and Kansas, without finding any extant populations (R. Brooks, pers. comm.). Extensive field work in Kentucky has also revealed no extant populations of *T. stoloniferum* (J. Campbell, pers. comm.). The plant is also believed to be extirpated in Arkansas, Illinois, Indiana, Missouri and Ohio (pers. comms. with Heritage Programs of the affected States). Based on this information and his conversations with field botanists, Brooks (1983) concluded that *T. stoloniferum* was possibly extinct.

In 1983 and 1984, two small populations of running buffalo clover were discovered in West Virginia (Bartgis 1985). One of these, a relocation of the most recent historical record (Webster County, 1940), occurs at the margin of a mowed field and in 1984 contained only four plants. During a recent field inspection (summer, 1985), these plants could not be relocated. Therefore the status of this population is questionable; the plants may or may not reappear next spring. The other population, located along an off-road vehicle trail adjacent to the New River in Fayette County, presently contains 18 plants. The Fayette County site, which may be the only remaining population of this species, occurs within the area of an existing hydropower project licensed by the Federal Energy Regulatory Commission. At present, *T. Stoloniferum* is not impacted by any aspect of the hydropower facility. A live shoot from the Fayette County population was sent to the University of Kentucky, where it has been vegetatively propagated; the greenhouse population presently contains some 40 plants. To summarize, based on current information, *T. stoloniferum* is indeed "one of the rarest members of the North American flora" (Bartgis 1985).

Trifolium stoloniferum was first recognized by the Service in the *Federal Register* notice of review published on November 28, 1983 (48 FR 53641). That notice, which covered plants being considered for classification as endangered or threatened, included *Trifolium stoloniferum* in category 2*. Category 2 comprises those taxa for which proposed listing is possibly appropriate but for which conclusive data on biological vulnerability are not currently available to support a proposed rule. The asterisk (*) indicates taxa that are possibly extinct. The Service was informed of the extant populations of this species in December of 1984.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and

their application to *Trifolium stoloniferum* Muhl. *ex.* Eaton are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* It is difficult to determine the original extent and abundance of running buffalo clover, since elimination of the natural ground cover within its range began during the 1790's, before *T. stoloniferum* was even described, and long before the area was adequately botanized. By 1850, native vegetation of the Kentucky Bluegrass region had been largely replaced by pasture plants, including bluegrass (*Poa pratensis*) and introduced white clover (*Trifolium repens*) (Campbell 1985). Therefore, we must rely on early, nontechnical accounts, such as those summarized by Campbell (1985) to infer the original extent of running buffalo clover. Quotations from early observers in the Kentucky Bluegrass region indicate at least localized abundance: "rich soil . . . adorned with great patches of fine white clover" (Ranck 1901, re 1775), "covered with clover in full bloom" (Walker 1924, re 1775), "a turf of white clover" (Henderson 1775) "an abundance of wild rye, clover and buffalo grass covering vast tracts of country" (Filson 1784) (all quoted in Campbell 1985). Campbell argues that these and other accounts could only have referred to *Trifolium stoloniferum*, the only clover known to have been native to the region. By the late 1800's, when the majority of collections were made, the species was known only from localized, widely scattered localities. Today, *T. stoloniferum* is believed to be extirpated throughout its range, with the exception of the two recently discovered West Virginia populations.

The precise reasons for this striking decline are unclear. It is likely that running buffalo clover was to some extent dependent on bison for soil enrichment, periodic intense disturbance, and seed dispersal (Campbell 1985, Larson 1940, Reynolds *el al.* 1982). In this regard it is interesting that one of the extant West Virginia populations is in the immediate vicinity of the last recorded site for bison in the State, and all other West Virginia records are in the immediate vicinity of known buffalo traces (Bartigis 1985). Other factors contributing to the species' demise could include clearing of its habitat for pasture and agriculture, competiton with introduced species, and other habitat changes subsequent to the industrial revolution (Brooks 1983).

B. *Overutilization for commercial, recreational, scientific,or educational purposes.* Running buffalo clover is not known to be used for any commercial or recreational purpose. Because of its rarity, it is subject to collection by botanists and/or curiosity seekers. Given the fact that fewer than thirty individuals of this species are known to exist in the wild, any collection could be considered overutilization. The species could also be largely eliminated in the wild by a single act of vandalism.

C. *Disease or predation.* While *T. stoloniferum* may once have been maintained by grazing, the extant populations are so small that they could easily be eliminated by deer, cattle, or any other herbivore. Similarly, any disease, even if localized in extent, could now virtually render the species extinct.

D. *The inadequacy of existing regulatory mechanisms.* The extant populations of *T. stoloniferum* presently receive no protection under any Federal, State, or local law or regulation.

E. *Other natural or manmade factors affecting its continued existence.* The Fayette County population of running buffalo clover, covering approximately one square yard, is located immediately adjacent to an off-road vehicle path that provides the only public access to a 10-mile stretch of the New River. Due to its location, the population is extremely vulnerable to being run over, trampled, covered by trash, or killed by petroleum pollutants.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the running buffalo clover as endangered. The Act defines an endangered species as ". . . any species which is in danger of extinction throughout all or a significant portion of its range. . ."

Due to the very small population numbers and vulnerability of *Trifolium stoloniferum*, endangered status is most appropriate. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Trifolium stoloniferum* because its very restricted distribution makes it vulnerable to extinction from taking. Public access to published habitat descriptions and precise maps could result in vandalism, which could easily cause the extinction of this species. Therefore, it would not be prudent to determine critical habitat for *Trifolium stoloniferum.*

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection requireed of Federal agencies and the prohibition against collection are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critial habitat, the responsible Federal agency must enter into consultation with the Service. The Federal Energy Regulatory Commission has permit jurisdiction over the project area on which the Fayette County population of *T. stoloniferum* offurs. The existing project does not directly impact *T. stoloniferum;* however, any future project developments possibly impacting this species would require section 7 consultation to ensure protection for this species and its habitat.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62,

and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Trifolium stoloniferum* all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endngered species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas uder Federal jurisdiction. This prohibition would apply to running buffalo clover. Regulations regarding permits for exceptions to this prohibition were published on September 30, 1985 (50 FR 39681). Because this species is not known to occur on Federal land, it is anticipated that few collecting permits for the species would ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurated and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning the following:

(1) Biological, commerical trade, or other relevant data concerning any threat (or the lack thereof) to *Trifolium stoloniferum*;

(2) The location of any additional populations of *Trifolium stoloniferum* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Trifolium stoloniferum*.

Final promulgation of a regulation on *Trifolium stoloniferum* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusette 02158.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Bartgis, R. 1985. Rediscovery of *Trifolium stoloniferum* Muhl. ex A. Eaton. Rhodora 87: 425–429.

Brooks, R.E. 1983. *Trifolium stoloniferum*, Running buffalo clover: Description, distribution and current status. Rhodora 85: 343–354.

Campbell, J.J.N. 1985. The land of cane and clover: Pre-settlement vegetation in the so-called Bluegrass Region of Kentucky, Unpubl. ms., Herbarium, University of Kentucky, Lexington, Kentucky, March, 1985.

Larson, F. 1940. The role of the bison in maintaining the shortgrass plains Ecology 21: 113–121.

Reynolds, H.W., R.D. Glaholt, and A.W.L. Hawley. 1982. Bison. pp. 972–1007 *IN* J.A. Chapman and G.A. Feldhamer [eds.], Wild Mammals of North America. Baltimore: The Johns Hopkins Univ. Press. 1147 pp.

Author

The primary author of this proposed rule is Judy Jacobs, Endangered Species Staff, U.S. Fish and Wildlife Service, 1825 Virginia Street, Annapolis, Maryland 21401 (301/269–6324 or FTS 922–4197).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*)

2. It is proposed to amend § 17.12(h) for plants by adding the following, in alphabetical order under the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
*	*	*	*	*	*	*
Trifolium stoloniferum	Running buffalo clover	U.S.A. (AR, IL, IN, KS, KY, MO, OH, WV)	E		NA	NA
*	*	*	*	*	*	*

Dated: February 9, 1986.

P. Daniel Smith,

Deputy Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-5170 Filed 3-7-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 60336-6036]

American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule..

SUMMARY: NOAA issues a proposed rule to implement conservation and management measures as prescribed in the proposed Amendment 1 (amendment) to the Fishery Management Plan for the American Lobster Fishery (FMP). This rule: (1) Institutes a uniform lobster fishing gear marking requirement for the offshore lobster fishery; (2) exempts all fish trap fishermen including Mid-Atlantic black sea bass fishing gear from the escape vent requirement in a specified fishing area; (3) provides the Regional Director the authority to grant research exemptions from any lobster FMP regulations and/or establish closed areas for research purposes; and (4) distinguishes red crab fishing gear from gear capable of taking lobster. The intended effect is to promote fishing efficiency by reducing the incidence of gear conflicts and ensuring that black sea bass and red crab gear are not unnecessarily included in measures intended for the lobster fishery.

DATE: Comments on the proposed rule must be received on or before April 18, 1986.

ADDRESSES: Comments on the proposed rule, the amendment, or supporting documents should be sent to Mr. Richard Schaefer, Acting Regional Director, National Marine Fisheries Service, Northeast Regional Office, 14 Elm Street, Gloucester, MA 01930-3799. Mark the outside of the envelope "Comments on Amendment 1 to the Lobster FMP".

Copies of the amendment, the environmental assessment, and the draft regulatory impact review are available from Mr. Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, Resource Management Specialist, 617-281-3600, ext. 324, or Carol J. Kilbride, Resource Policy Analyst, 617-281-3600, ext. 331.

SUPPLEMENTARY INFORMATION: Final regulations implementing the Fishery Management Plan for the American Lobster Fishery were implemented on September 7, 1983 (48 FR 36266, August 10, 1983). A notice of availability for the proposed amendment was published on February 6, 1986 (51 FR 4640).

Amendment 1 proposes to establish a consistent and identifiable gear marking system that will afford mobile gear operators a chance to avoid fixed lobster gear. The need for a gear marking system arises from the increase in utilization of fishery resources by different gear types which, in turn, increases competition and congestion on fishing grounds and results in a greater incidence of gear conflicts. The number of vessels participating in the offshore lobster fishery has increased by 47 percent from 1982 to 1984.

Gear conflicts are costly in terms of lost fishing gear and fishing time. The replacement cost of pot/trap gear reported lost or damaged as a result of gear conflicts, and for which claims were filed, averaged almost $265,000 from 1980 to 1982. Attempts to retrieve and disentangle gear can be dangerous to the vessel and crew.

The minimum marking standards consist of the following: (1) The westernmost end of a lobster trawl must be marked by at least an 8 inch standard tetrahedral corner radar reflector and a single flag or pennant; (2) the easternmost end of a trawl must be marked by at least an 8 inch standard tetrahedral corner radar reflector only. In addition, lobster trawls would be limited to a length of 1½ miles.

Also included in the amendment is an exemption designed to redress what the Council considers an unnecessary restriction that may have the effect of reducing revenues for the black sea bass fishery. In the present FMP, sea bass traps must be vented according to the same specifications for lobster traps. The exemption, limited to all fish trap fishermen including black sea bass trap fishermen operating south of Barnegat Light, NJ, and shoreward of the 30 fathom contour, would alleviate the unintended and potentially negative impact of the FMP on a fishery outside the management until. The Council has determined that this exemption would have no significant effect on the conservation of the lobster resource.

The Council's determination in favor of this exemption is based on landings data that show that the lobster bycatch from sea bass traps is 1.3 percent of the total lobster landings taken for the three States involved (New Jersey, Maryland and Virginia). The Council believes that because the amount of lobster bycatch is insignificant compared to directed lobster fishery landings, the impact on the lobster resource as a whole would also be insignificant were black sea bass fishermen allowed to retain their bycatch as before.

Calculations of potential revenue loss to the sea bass fishery are primarily derived from public testimony and State landings records from New York, New Jersey, and Maryland. The landing records reveal a small market category of black sea bass of 7 to 11½ inches that represents 24 percent of the landings and 8 percent of the revenue of this fishery. Public testimony from black sea bass fishermen suggests that this entire small market category would be lost if the venting requirement were to be imposed on the fishery.

The exemption as proposed would allow all fish trap fishermen and especially black sea bass trap fishermen, operating south of Barnegat Light and shoreward of the 30 fathom contour, to be exempt from the escape vent requirement provided that: (1) They possess a valid federal lobster permit; (2) their total lobster landings do not exceed 100 pounds per trip; and (3) their traps are fished in an unbaited condition and all traps are marked so as to identify the owner.

The amendment further provides authority to the Regional Director, upon the recommendation of the New England Fishery Management Council, to allow exemptions to any of the provisions of the FMP. In addition, the amendment provides authority to the Regional Director, upon the recommendation of the appropriate council, to close areas for the purpose of research that will be beneficial to the lobster resource. Such closures are to be implemented through a regulatory amendment.

The amendment also draws a distinction between red crab fishing gear which is operated deeper than 200 fathoms, and gear capable of taking lobsters. All available evidence indicates that the red crab fishery is devoid of any lobster bycatch and operates in an area where there is no mobile gear. Therefore, it should not be subject to the regulations of the FMP. Such restrictions would preclude the operation of an economically viable red crab fishery.

Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended, requires the Secretary of Commerce (Secretary) to publish regulations proposed by the Council within 30 days of receipt of an amendment and proposed regulations. At this time the Secretary has not determined that the amendment proposed to be implemented by these rules is consistent with the National Standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views and comments received during the comment period.

The Council prepared an environmental assessment for this amendment and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the environmental assessment may be obtained from the Council at the address given above.

The NOAA Administrator determined that the proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The proposed rule will result in a net benefit of $143,000 or more to the lobster industry each year. This figure was obtained by subtracting the worst case fishery-wide initial cost of $121,000 from the $264,000 average replacement cost of gear reported lost or damaged in gear conflicts. The venting exemption for sea bass fisherman will prevent an 8 percent decline to that fishery's revenue. The lobster fishery may experience an increase in landing due to increased efficiency; however, prices and employment should remain the same. Administrative enforcement, paperwork, and record-keeping requirements are also expected to remain unchanged, and therefore, there will be no increase in costs to Federal, State, or local government agencies. The Council prepared a regulatory impact review which concludes that the industry will not be adversely affected by the proposed rule. Instead, the Council believes that the rule will enhance competition, productivity, and thus potentially promote investment and innovation in the fishery. A copy of this review may be obtained from the Council at the address listed above.

The proposed rule is exempt from the review procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97–453, require the Secretary to publish this proposed rule within 30 days of its receipt. The proposed rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the review procedures of that order.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities because the requirement to mark the westernmost end of a lobster trawl with a radar reflector and a single flag or pennant would only involve a maximum, one-time cost of $1,173 per vessel (less than one percent of average gross revenues of $227,757) and would be more than offset by savings in the reduction of lost gear estimated to be about $2,563 per vessel.

The proposed rule to eliminate escape vents in all fish traps including black bass traps will impose no new costs on the fishery because it does not require adjustments in equipment or fishing practice but merely allows fisherman to eliminate escape vents at their discretion. At the same time the action allows retention of smaller size, marketable sea bass that would otherwise escape through the vents. As a result, a regulatory flexibility analysis was not prepared.

This proposed rule does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Delaware, Maryland, North Carolina, and Virginia. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 649

Fisheries, Reporting and recordkeeping requirement.

Dated: March 5, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 649 is proposed to be amended as follows:

PART 649—[AMENDED]

1. The authority citation for 50 CFR Part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. The Table of Contents is amended by revising the title of § 649.21 to read "Gear identification, marking, and escape vent requirement.", and adding a new section title that reads "§ 649.22 Exemption and area closure.".

3. Section 649.1 is amended by adding a new sentence at the end of the paragraph to read as follows:

§ 649.1 Purpose and scope.

"* * * Red crab fishing gear which is fished deeper than 200 fathoms is not gear capable of taking lobsters, and not subject to the provisions of these regulations."

4. Section 649.21 is revised to read as follows:

§ 649.21 Gear identification, marking, and escape vent requirements.

(a) *Identification.* All lobster gear deployed in the FCZ or possessed by a person whose vessel is permitted for fishing in the FCZ, and not permanently attached to the vessel, must be legibly and indelibly marked with one of the following codes of identification:

(1) The vessel's Federal fishery permit number; and/or

(2) Whatever positive identification marking is required by the vessel's homeport State.

(b) *Marking.* In the area of the FCZ described in paragraph (b)(4) below, lobster pot trawls are to be marked as follows:

(1) Lobster pot trawls of three or less pots must be marked with a single buoy.

(2) Lobster pot trawls consisting of more than three pots must have a radar reflector and a single flag or pennant on the westermost end (marking the half compass circle from magnetic south through west to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east to and including south) of a lobster trawl must be marked with a radar reflector only. Standard tetrahedral corner radar reflectors (see figure 1) of at least 8 inches must be employed.

(3) No lobster pot trawl shall exceed 1.5 miles in length as measured from buoy to buoy.

(4) Gear marking requirements apply in the following areas:

(i) *Gulf of Maine.* All waters of the FCZ north of 42°20' N. latitude seaward of a line drawn 12 miles from the baseline of the territorial sea;

(ii) *Georges Bank.* All waters of the FCZ south of 42°20'N. latitude and east of 70°00' W. longitude and seaward of the 25 fathom depth contour;

(iii) *Southern New England.* All waters of the FCZ west of 70°00' W.

longitude, east of 71°30' W. longitude and seaward of the 25 fathom depth contour; and

(iv) *Mid-Atlantic.* All waters of the FCZ west of 70°30' W. longitude and seaward of the 40 fathom depth contour.

(c) *Escape vents.* All lobster traps or traps capable of taking lobster that are deployed in the FCZ or possessed by a person whose vessel is fishing in the FCZ, unless exempted as described in paragraph (c)(2) below, must be constructed to include one of the following escape vents in the parlor section of the trap. The vent must be located in such a manner that it would not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use.

(1)(i) A rectangular portal with an unobstructed opening not less than 1¾ inches (44.5 mm) by 6 inches (152.5 mm);

(ii) Two circular portals with unobstructed openings not less than 2¼ inches (57.2 mm) in diameter; or

(iii) Any other vent certifed by the Regional Director to release a substantial number of lobsters under 3-3/16 inches carapace length from the trap.

(2) Traps capable of taking lobster, either being fished or in possession, are exempt from the venting requirement under the following conditions—

(i) The traps are fished in an unbaited condition; and

(ii) The traps are deployed in the area south of Barnegat Light, NJ (south of LORAN C 9960–Y–43300), seaward of the outer boundary of the territorial sea, and within the 30 fathom depth contour; and

(iii) The bycatch of lobster may not exceed 100 pounds per trip.

(d) *Enforcement action.* Unmarked, unvented, or improperly vented traps, unless exempted under the terms of paragraph (c)(2) of this section, will be seized and disposed of in accordance with the provisions of 50 CFR Part 219.

5. A new § 649.22 is added to read as follows:

§ 649.22 Exemption and area closure.

(a) *Exemption.* (1) Upon the recommendation of the New England Fishery Management Council, the Regional Director may exempt any person or vessel from the requirements of this part for the conduct of research or education beneficial to the lobster resource or lobster fishery.

(2) The Regional Director may not grant such exemption unless he determines that the purpose, design, and administration of the exemption is consistent with the objectives of the American Lobster Fishery Management Plan, the provisions of the Magnuson Act and other applicable law, and that granting the exemption will not—

(i) Have a detrimental affect on the lobster resource and fishery; or

(ii) Create significant enforcement problems.

(3) Each vessel participating in any exempt activity is subject to all provisions of this part except those necessarily relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Director to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption.

(b) *Area closure.* Upon the recommendation of a Council, the Regional Director may close, through a regulatory amendment, an area of the FCZ within that Council's area of authority to fishing for the conduct of scientific research provided that such closure will not—

(1) Increase gear conflicts; or

(2) Interfere significantly with common fishing practices.

[FR Doc. 86–5025 Filed 3–5–86; 3:44 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 46
Monday, March 10, 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

Cooperative Agreement With International Rice Research Institute

AGENCY: Office of International Cooperation and Development, USDA.

ACTION: Notice of intent to award a cooperative agreement.

Activity

The Office of International Cooperation and Development intends to enter into a cooperative agreement with the International Rice Research Institute to provide assistance in the development of socio-economic training modules and a training manual for use in Farming Systems Research (FSR) programs in developing countries.

Authority: Sec. 1458 of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended (7 U.S.C. 3291), and the Food Security Act of 1985 (Pub. L. 99–198).

The Office of International Cooperation and Development announces the availability of funds for fiscal year 1986 to enter into a cooperative agreement with the International Rice Research Institute (IRRI) in the amount of $30,000. Using its own resources, IRRI has conducted extensive preliminary research in development of a training manual and audio-visual module for using in strengthening the economic and other social science elements of Farming Systems Research (FSR) programs in developing countries. Funding to be provided by OICD will facilitate the printing, production and distribution of the training manual and audio-visual module.

Assistance will be provided only to IRRI which has the requisite resources, as well as a long experience in FSR endeavors, and has close working relationships with FSR programs in the South East Asia region through its development and coordination of the Asian Farming Systems Research Network.

Based on the above, this is not a formal request for applications. It is estimated that approximately $30,000 will be available in fiscal year 1986 to support this work. It is anticipated that the cooperative agreement will be funded over a budget period of 12 months.

Information may be obtained from: Ms. Kay Hatch, Technical Assistance Division, Office of International Cooperation and Development, U.S. Department of Agriculture (58–319R–6–024).

Dated: March 5, 1986.

Allen Wilder,

Chief, Management Services Branch.

[FR Doc. 86–5093 Filed 3–7–86; 8:45 am]

BILLING CODE 3410–DP–M

Forest Service

Environmental Impact Statement; Chevron USA Oil and Gas Well Application for Permit to Drill; Lewis and Clark National Forest, Great Falls, MT

The U.S. Department of Agriculture, Forest Service as lead agency and the U.S. Department of the Interior, Bureau of Land Management as cooperating agency, will prepare an environmental impact statement for a proposal to drill an exploratory oil and gas well on the Rocky Mountain Ranger District.

Chevron USA, Inc., Casper, Wyoming, has filed an application for a permit to drill an exploratory well on lease No. M–25173. The proposed well site is located in the SW¼,NE¼ of Section 35, T. 29 N., R. 12 W., Pondera County, Montana.

A range of alternatives for this proposal will be considered. One of these will be the no action alternative. Other alternatives will analyze approval of the permit considering different access means and/or route locations and examining scenarios using different timing and location guidelines.

Federal, State and local agencies and other individuals or organizations who may be interested in or affected by the decision will be invited to participate in the scoping process. This process will include:

1. Identification of potential issues.

2. Identification of issues to be analyzed in depth.

3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of the Interior, will be informally consulted throughout the analysis. To meet the requirements of the Endangered Species Act, the Fish and Wildlife Service will review the EIS and biological evaluation and if necessary, render a formal Biological Opinion on the effects of Threatened and Endangered Species, including on the grizzly bear and gray wolf.

The responsible officials are: John D. Gorman, Lewis and Clark Forest Supervisor and Nancy Cotner, Great Falls Resource Area Manager for the Bureau of Land Management.

The Forest Supervisor will hold three open house meetings:

April 3—Rocky Mountain Ranger District Office, Choteau, Montana. 10 AM–4 PM and 7 PM–9 PM

April 9, Lewis and Clark Forest Supervisor's Office, Great Falls, Montana. 10 AM–4 PM and 7 PM–9 PM

April 10—CCD Center, Little Flower Parish, Browning, Montana. 3 PM–5 PM and 7 PM–9 PM

The public is invited to comment. Written comments should be mailed by April 16, 1986, to John D. Gorman, Forest Supervisor, Lewis and Clark National Forest, Running Owl APD, P.O. Box 871, Great Falls, MT 59403.

The analysis is expected to take about 12 months. The draft environmental impact statement should be available for public review by March 1987. The final environmental impact statement is scheduled to be completed by July 1987.

Questions about the proposed action and environmental impact statement should be directed to Norman Yogerst, Team Leader, Lewis and Clark National Forest, P.O. Box 871, Great Falls, MT 59403. Phone (406) 727–0901.

Dated: March 4, 1986.

John D. Gorman,

Forest Supervisor.

[FR Doc. 86–5132 Filed 3–7–86; 8:45 am]

BILLING CODE 3410–11–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 AM to 1:30 PM, on Wednesday, March 12, 1986, to take place in Department of Transportation Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

Item on the agenda: Publication of proposed advisory standards on aircraft boarding chairs for a 60 day public comment in the **Federal Register;** approval of draft ATBCB 504 rule; approval of the preamble to the revised ATBCB Authorities and Delegations, for publication in the **Federal Register;** approval of the proposed amendment to 36 CFR 1150.41(f), Practices And Procedures For Compliance Hearings; revisions to Rehabilitation Act of 1973; FY 1986 research contracts; discussion of proposal that the positions of Executive Director and General Counsel be combined into a single position; approval of candidate for ATBCB General Counsel position.

The portion of the meeting relating to FY 1986 research contracts will be closed to all non-government employees and the portion dealing with personnel matters will be closed to non-Board members.

DATE: Wednesday, March 12, 1986, 10:00 AM–1:30 PM.

ADDRESS: Department of Transportation, Conference Room 2230, 400 Seventh Street SW., Washington, DC.

All other committees of the ATBCB will meet on Monday and Tuesday, March 10 and 11, 1986, at the Department of Transportation, Conference Room 2230, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 86–5078 Filed 3–7–86; 8:45 am]

BILLING CODE 6820-BP-M

COMMISSION ON CIVIL RIGHTS

Maryland Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Education Subcommittee of the Maryland Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m. on March 20, 1986, at the Baltimore-Washington International Airport Terminal, Conference Room, Baltimore, Maryland 21240. The purpose of the subcommittee meeting is to review a transcript of the community forum on equity issues in special education programs in preparation to draft a briefing memorandum on the subject.

Person desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Lorretta Johnson or John Binkley, Director of the Mid-Atlantic Regional Office at (202) 254–6717 (TDD 202/254–5461). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, March 5, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86–5158 Filed 3–7–86; 8:45 am]

BILLING CODE 6335-01-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket Nos: CRT 80–4, 81–1, 82–1, and 83–1]

Order Granting Final Distribution of 1979–1982 Cable Royalty Fees

On February 24, 1986, the Supreme Court denied the petition for writ of certiorari filed by Christian Broadcasting Network, Inc. There is no longer any controversy with respect to the distribution of the 1979, 1980, 1981 and 1982 cable copyright royalty funds.

Accordingly, distribution of the remainder of the 1979–1982 cable royalty funds is hereby ordered for March 20, 1986 in the same percentage amounts identified at 50 FR 9112 (March 6, 1985).

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., Washington, DC 20036, (202) 653–5175.

Dated: March 5, 1986.

Edward W. Ray,

Chairman.

[FR Doc. 86–5109 Filed 3–7–86; 8:45 am]

BILLING CODE 1410-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

March 5, 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 5, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated May 24, 1985 (See 50 FR 21923) established restraint limits for specified categories of cotton, wool and man-made fiber textile products, including men's and boy's outer coats of man-made fibers in Category 634, and women's girls' and infants' man-made fiber sweaters in Category 646, produced or manufactured in Sri Lanka and exported during the twelve-month period which began on June 1, 1985 and extends through May 31, 1986. In the CITA directive published below the limit for Category 646 is being increased to 78,877 dozen to account for carryforward and swing according to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka. The limit for Category 634 is being reduced to 107,263 dozen to account for the swing applied to Category 646.

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 Agreement.

March 5, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of May 24, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Sri Lanka.

Effective on March 5, 1986, you are directed to adjust the restraint limits established for the following categories in the directive of May 24, 1985 to the limits indicated, according to the terms of the Bilateral Cotton, Wool and Men-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka:[1]

Category	Adjusted 12-mo. limit [1] (dozen)
634	107,263
646	78,877

[1] The limits have not been adjusted to account for any imports exported after May 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-5217 Filed 3-7-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The agreement provides, in part, that: (1) Specific limits may be exceeded by designated percentages, provided on equal amount in equivalent square yards is deducted from another specific limit; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amended System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amended system of records.

SUMMARY: The Department of the Navy proposes to amend one system of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATE: The proposed action will be effective without further notice April 9, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to the system manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op-09B30), Department of the Navy, The Pentagon, Washington, DC 20350. Telephone: (202) 697-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the Federal Register as follows:

FR Doc 85-10237 (50 FR 22735) May 29, 1985
FR Doc 85-16564 (50 FR 28442) July 12, 1985
FR Doc 85-20719 (50 FR 35290) August 30, 1985
FR Doc 85-21577 (50 FR 36914) September 10, 1985
FR Doc 85-30596 (50 FR 52997) December 27, 1985
FR Doc 86-4185 (51 FR 6777) February 26, 1986

The proposed amendment is not within the purview of the provision of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

March 4, 1986.

NO5300-2

System name:

Administrative Personnel Management System (50 FR 22791) May 29, 1985.

Changes:

Categories of records in the system:

In line 9, after the phrase: "* * * experience characteristics * * *, add the phrase: "* * * and training histories * * *".

Purpose(s):

In line 5, after the word: "* * * training; * * *", add the phrase: "* * * identifying routine and special work assignments; * * *"

NO5300-2

SYSTEM NAME:

Administrative Personnel Management System.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence/records concerning identification, location (assigned organization code and/or work center code); MOS; labor code; payments for training, travel advances and claims, hours assigned and worked, routine and emergency assignments, functional responsibilities, clearance, educational and experience characteristics and training histories, travel, retention group, hire/termination dates; type of appointment; leave; trade vehicle parking, disaster control, community relations, (blood donor, etc.), employee recreation programs, grade and series or rank/rate, retirement category, awards, property custody, personnel actions/dates, violations of rules, physical handicaps and health data, veterans preference, mutual aid association memberships, union memberships, qualifications, and other data needed for personnel, financial, line and security management, as appropriate.

* * * * *

PURPOSE:

To manage, supervise and administer programs for all Navy civilian and military personnel such as preparing rosters/locators; contacting appropriate personnel in emergencies; training; identifying routine and special work assignments; determining clearance for access control; controlling the budget; travel claims; manpower and grades; maintaining statistics for minorities; employment; labor costing; watch bill preparation; projection of retirement losses; verifying employment to requesting banking; rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; and similar administrative uses requiring personnel data. Arbitrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals.

* * * * *

[FR Doc. 86-5108 Filed 3-7-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Information Collection Requests; Request for Comments

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.

DATE: Interested persons are invited to submit comments on or before April 9, 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 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 collection; (5) The affected public; (6) Reporting burden; 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: March 5, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Revision
Title: Preapplication and Application for Federal Assistance (Construction)
Agency Form Number: ED 355 and 355–1
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 38
Burden Hours: 380
Recordkeeping Burden:
Recordkeepers: 25
Burden Hours: 625

Abstract: Local education agencies in federally impacted areas use the preapplication/application to provide data needed for Departmental evaluation and determinations of eligibility, extent of need, and amount of entitlement.

Type of Review Requested: Extension
Title: State Performance Report, Chapter 1 of the Education Consolidation and Improvement Act of 1981
Agency Form Number: ED 686–2
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 54
Burden Hours: 21,870
Recordkeeping Burden:
Recordkeepers: 54
Burden Hours: 540

Abstract: This report is used to obtain necessary participation and performance data on the Education Consolidation and Improvement Act (ECIA) Chapter 1 program throughout the Nation, to manage the program effectively, and to provide the Department with the information needed to comply with sections 417(a), 418(a) and 422 of the General Education Provisions Act and Chapter 1, ECIA.

Office of Postsecondary Education

Type of Review: Extension
Title: Performance Report for the Special Services for Disadvantaged Students Program, 34 CFR Part 646
Agency Form Number: ED 1231
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 663
Burden Hours: 1989
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: Special Services grantees are required to submit annual performance reports. The reports are used to evaluate project accomplishments, compliance, prior experience, and college impact data for budget submissions and congressional hearings.

Type of Review Requested: Extension
Title: Student Confirmation Report for the Federal Insured Student Loan Program
Agency Form Number: ED 1072
Frequency: Semi-annually
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions
Reporting Burden
Responses: 22,500
Burden Hours: 22,500
Recordkeeping Burden
Recordkeepers: 11,250
Burden Hours: 8,438

Abstract: The Student Confirmation Report for the Federal Insured Student Loan (FISL) Program is completed twice a year by postsecondary institutions and records information on the status of students who have Federal insured student loans outstanding.

Type of Review: Revision
Title: Lender's Request for Interest and Special Allowance
Agency Form Number: 799
Frequency: Quarterly
Affected Public: Businesses or other for-profit
Reporting Burden:
Responses: 48,000
Burden Hours: 67,200
Recordkeeping Burden:
Recordkeepers: 12,000
Burden Hours: 18,000

Abstract: The ED Form 799 is used by approximately 12,000 participants in the Guaranteed Student Loan Program to apply for interest and special allowance. Pub. L. 99–177 requires a new category of loans be added effective 3/1/86. An addendum to the form will be used to request interest and special allowance for loans made as of March 1, 1986.

Type of Review: Revision
Title: Lender's Request for Interest and Special Allowance for Loans Made From Tax-Exempt Funds
Agency Form Number: 799A
Frequency: Quarterly
Affected Public: Business or other for-profit
Reporting Burden:
Responses: 300
Burden Hours: 277
Recordkeeping Burden:
Recordkeepers: 75
Burden Hours: 112.50

Abstract: The ED Form 799A is used by 75 entities to apply for interest and special allowance on tax-exempt loans. Pub. L. 99–177 requires a new category of loans be added, effective 3/1/86. An addendum to the form will be used to request interest and special allowance for loans made as of March 1, 1986.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement

Title: FY 1987–89 State Plan Under Part B of the Education of the Handicapped Act, as amended
Agency Form Number: ED 9055
Frequency: Triennial
Affected Public: State and local governments
Reporting Burden:
Responses: 19
Burden Hours: 475
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: States are required to submit a State plan in order to receive funds under the Education of the Handicapped Act, as amended. The information will be used as a basis for determining (1) grant eligibility, (2) compliance review and enforcement, and (3) the kinds of technical assistance the State may require.

[FR Doc. 86–5119 Filed 3–7–86; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Petroleum Council Refinery Survey Task Group; Rescheduled meeting

The date and location of the March 12, 1986, eighth meeting of the Refinery Survey Task Group has been changed. The meeting will now be held on Thursday, March 13, 1986, starting at 9:00 a.m., in the Reading Room of the National Petroleum Council, 1625 K Street, NW., Suite 600, Washington, DC. Notice of this meeting first appeared in 51 FR 6164, Thursday, February 20, 1986 (FR Doc. 86–3706).

Issued at Washington, DC, February 28, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–5149 Filed 3–7–86; 8:45 am]
BILLING CODE 6450–01–M

Office of Conservation and Renewable Energy

[Case No. WH–005]

Energy Conservation Program for Consumer Products; Petition for Waiver of Water Heater Test Procedure From Lochinvar Water Heater Corp.

AGENCY: Conservation and Renewable Energy Office, Energy.

SUMMARY: Today's notice publishes a "Petition for Waiver" from Lochinvar Water Heater Corporation (Lochinvar) of Nashvile, Tennessee, requesting a waiver from the Department of Energy (DOE) test procedure for water heaters. Lochinvar manufactures a Model BRE030 oil-fired water heater which has a high mass heat exchanger. The petition requests DOE to grant Lochinvar relief from the DOE test procedure for water heaters for its Model BRE030 oil-fired water heater on the basis that the existing test procedure yields materially inaccurate estimates of the energy consumption of this unit. DOE is soliciting comments, data, and information regarding the petition.

DATE: DOE will accept comments, data, and information not later than April 9, 1986.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Test Procedures for Consumer Products, Case No. WH–005, Mail Station CE–132, Forrestal Building, 1000 Indepedence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Mail Station CE–132, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–12, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9513.

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163, 89 Stat. 917), which was subsequently amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95–619, 92 Stat. 3266). This program requires DOE to prescribe standardized test procedures to measure the energy consumption of certain cosumer products, including water heaters. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

DOE has also prescribed procedures by which manufacturers may petition for waiver of test procedure requirements for a particular basic model of a product covered by a test procedure and the Department may temporarily waive such test procedure requirements for such basic model. Waivers may be granted when one of more design characteristics of a basic model either prevent testing of the basic model according to the prescribed test procedure or lead to results so unrepresentative of the model's true energy consumption as to provide materially inaccurate comparative data. These waiver procedures appear at 10 CFR 430.27. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Water heaters are some of the products covered by the Federal Trade Commission's (FTC) Applicance Labeling Program. The energy consumption of water heaters, as determined using DOE's test procedure, forms the basis of the estimated annual operating cost figures which the FTC requires manufacturers of water heaters to disclose on an Energy Guide label on each unit to assist consumers in making a purchasing decision.

By letter dated January 2, 1986, Lochinvar filed a petition for waiver from the DOE test procedure for water heaters on the grounds that the procedure yields materially inaccurate estimates of the energy consumed by its Model BRE020 oil-fired water heater. Lochinvar states that the high mass of the water heater results in a penalty when testing the water heater in accordance with the DOE test procedures.

Lochinvar requests a "hot start" test method instead of "cold start" test method prescribed by the DOE test procedure. The DOE test procedure requires that the mass of a water heater plus the water in its tank be in thermal equilibrium at a temperature of 70 °F at the beginning of the test. The water heaters then heat the tank of water through a 90 °F temperature rise (i.e. to 160 °F). The amount of energy consumed by the water heater is measured directly. Lochinvar states that this period of time during which the tank is heated from "cold" to "hot" only occurs during the start-up period after installation and, therefore, does not result in a true measure of the water heater's efficiency.

Lochinvar mistakenly requests to be allowed to use a "hot start" test method granted to Bock Water Heaters Inc. (Bock) (Case No. WH–002). The test procedure waiver granted Bock on November 15, 1985, for its Model 32E oil-fired water heater specified a "simulated use", not a "hot start" test method. 50 FR 47106. The simulated use test method involves withdrawing water from the hot water outlet in three separate consecutive water draws. The recovery efficiency is then calculated based upon the total energy consumed over the three consecutive water draws.

In addition to comments for or against DOE granting Lochinvar's request for a waiver, DOE invites comments on the efficacy of the simulated use test method, the "hot start" test method or any other test methodology which a commenter may wish to advance.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data and information respecting the petition.

Issed in Washington, DC, February 28, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

January 2, 1986.

Assistant Secretary of Conservation and Renewable Energy,

Department of Energy, Washington, D.C. 20586.

Re A Petition for Waiver, Reference Case Nos. HEL-0158, WH-002.

Dear Sir: Please accept this letter as our Petition for Waiver, to the current D.O.E. method of testing oil-fired water heater for efficiency.

We are aware that other manufacturers have applied, and have been given a waiver from, what is referred to as the "cold start" method of testing.

We at Lochinvar feel that the "cold start" method currently used in D.O.E. efficiency testing penalizes the "high mass" type water heater when determining its reality. The period of time during which the energy from the burner is used to heat the tank from "cold" to "hot" only occurs during the start-up period after installation. Therefore this is not a true efficiency the customer would receive on an ongoing basis.

The design of our heater, Lochinvar BRE030, is that of a tank type water heater which contains several pounds of steel in the tank refractory which must be heated to equilibrium before the water efficiency can be obtained correctly.

The method of test that we desire is the "hot start" method which as I mentioned earlier has been granted to other manufacturers of a like product.

Thank you for your consideration in this matter.

Lochinvar Water Heater Corporation.

Al Gatlin,

Vice President, Manufacturing and Engineering.

AK:kr

cc: Lawrence Welize—ETL

[FR Doc. 86-5147 Filed 3-7-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-85-019; OFP Case No. 63028-9281-21-22]

Powerplant and Industrial Fuel Use Exemption Requests; Golden Valley Electric Association

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Extension of Decision Period on Petition for Exemption by Golden Valley Electric Association near The Seward Meridian, Alaska.

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends by ninety (90) days to May 26, 1986, the Decision Period within which to either grant or deny the request for a permanent reliability of service exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA) filed by Golden Valley Electric Association for a proposed 80 MW gas turbine powerplant to be located west of The Seward Meridian, Alaska.

Section 501.68(a)(2) of 10 CFR Part 501.—Administrative Procedures and Sanctions, Subpart F—allows for the extension of the decision period on an exemption petition to a date certain by publishing such notice in the **Federal Register** and stating the reasons for such extension.

This extension by ERA of the decision period to grant or deny the petition is necessary due to required additional analysis of environmenal data submitted by the petitioner.

Issued in Washington, DC on March 3, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-5148 Filed 3-7-86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee

Date and Time: Thursday, April 10, 1986, 1:30 p.m.-5:30 p.m.; Friday, april 11, 1986, 9:00 a.m.-3:30 p.m.

Place: Dupont Plaza Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact: Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI-74, Washington, DC 20585, Telephone : (202) 252-2088.

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda

Thursday, April 10, 1986

A. Opening Remarks.

B. Major Topics:

1. The View from OMB.

2. Alternative Long-Range Forecasts of Nuclear Output.

3. Validation of Uranium Financial Statistics.

4. Public Comments.

Friday, April 11, 1986

5. User Needs for State Energy Data System (SEDS)/State Energy Price and Expenditure Data System (SEPEDS).

6. State-of-the Data: Reconciling SEDS and Consumption Estimates.

7. Use of Models in Evaluating Natural Gas Data.

8. Adjustments to Crude Oil Price Data.

9. The Office of Statistical Standards.

10. Public Comments.

C. Topics for Future Meetings.

Public Participation: The meeting is open to the public. The chairperson of the panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above. Requests must be received at least five days prior to the meeting. Reasonable provisions will be made to include such presentations on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, (Room 1E-190), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6025, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday.

Issued at Washington, D.C., on March 5, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-5150 Filed 3-7-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP86-50-000]

Arkla Energy Resources, a Division of Arkla, Inc., Tariff Filing

March 4, 1986.

Take notice that on February 24, 1986, Arkla Energy Resources, a division of Arkla, Inc., hereinafter referred to as "AER" tendered for filing six (6) copies of the following tariff sheets to its FERC Gas Tariff, Revised Volume No. 2, to be effective on March 1, 1986.

Original Sheet Nos. 227, 228, 229, 230, 231, 232, and 233.

AER states that these sheets provide for interim rates for firm and certain interruptible self-implementing transportation services to be offered pursuant to Order No. 436 that are not covered by AER's existing transportation tariffs. AER further states that the proposed rates are based on its jurisdictional costs of service approved in Docket No. RP84-107 and that it, therefore, is not proposing any increase in its presently allowed revenues by the instant filing. AER requests such approvals and waivers as may be necessary to permit these tariff sheets to become effective March 1, 1986.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before march 11, 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 AER's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5133 Filed 3-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-22-002]

Consolidated Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 4, 1986.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on February 14, 1986, tendered for filing revised tariff sheets to remove the effect of concurrent exchange imbalances from the calculation of the Account No. 191 balance in compliance with the Commission's order issued August 30, 1985, in Docket No. TA85-3-22. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until February 21, 1986.

Consolidated states that Substitute Eighth Revised Sheet No. 31 to Original Volume No. 1 of its tariff revises Consolidated's semiannual PGA to be effective March 1, 1986. Consolidated further states that revisions to Sheet Nos. 128 and 129 of the General Terms and Conditions of its tariff change the PGA clause to reflect the change in treatment of exchange imbalances.

Consolidated indicates that copies of this filing were served upon its jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before March 12, 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. 86-5134 Filed 3-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA 86-4-34-000, 001]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

March 4, 1986.

Take notice that on February 28, 1986, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77001 tendered for filing the following tariff sheets to its FERC Gas Tariff.

First Revised Volume No. 1

7th Revised Sheet No. 8
8th Revised Sheet No. 8
4th Revised Sheet No. 9

Original Volume No. 2

30th Revised Sheet No. 128
31st Revised Sheet No. 128

Reason for Filing

7th Revised Sheet No. 8 and 30th Revised Sheet No. 128 contain revisions to FGT's Rate Schedules G and I and Rate Schedule T-3 respectively to adjust the Primary Adjustment to reflect reductions in FGT's average cost of gas purchased for sale and company use, net of amounts to be recovered through Incremental Pricing Surcharges. FGT requests the Commission to waive such parts of its Regulations and FGT's FERC Gas Tariff as it deems necessary to allow FGT to make such tariff sheets effective March 1, 1986 in order to allow these reductions in gas costs to be passed through to FGT's jurisdictional customers on March 1, 1986 in lieu of the scheduled effective date of April 1, 1986.

8th Revised Sheet No. 8 and 31st Revised Sheet No. 128 contain revisions to FGT's Rate Schedules G and I and Rate Schedule T-3, respectively to adjust: (i) The Primary Adjustment consistent with the adjustments reflected in 7th Revised Sheet No. 8 and 30th Revised Sheet No. 128; and, (ii) the Balancing Adjustment to amortize over the six-month adjustment period (April 1, 1986 through September 30, 1986), the balance in the current period Unrecovered Purchase Gas Cost Account as of December 31, 1985.

4th Revised Sheet No. 9 contains the estimated Incremental Pricing Surcharges for the adjustment period.

8th Revised Sheet No. 8, 4th Revised Sheet No. 9 and 31st Revised Sheet No. 128 are to be effective on April 1, 1986.

The above-mentioned changes to the Primary and Balancing Adjustments are being made pursuant to Section 15 (Purchase Gas Adjustment and Incremental Pricing Provision) of the

General Terms and Conditions of FGT's FERC Gas Tariff, First Revised Volume No. 1 and §154.38 *et seq.* of the Commission's Regulations (18 CFR 154.38, *et seq.*).

The net effect of the adjustments being filed for Rate Schedules G and I, and for Rate Schedule T–3 are summarized below.

	Rate schedules		
	G (cents per therm)	I (cents per therm)	T–3 (cents per 1,000 ft ³)
Currently effective rates [1]	29.197	27.424	47.37
Primary adjustment (to be effective March 1, 1986)	(5.476)	(5.476)	(1.65)
March 1, 1986 rates	23.721	21.948	45.72
Balancing adjustment (to be effective April 1, 1986)	1.840	1.840	.52
April 1, 1986 rates	25.561	23.788	46.24

[1] Reflects rates filed by FGT to be effective February 1, 1986 pursuant to Docket No. TA86–3–34–000.

FGT states that a copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 and interested state commissions and is being posted.

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, 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 12, 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. 86–5135 Filed 3–7–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–37–005]

High Island Offshore System; Tariff Filing

March 4, 1986.

Take notice that on February 20, 1986, High Island Offshore System ("HIOS") tendered for filing Thirteenth, Fourteenth and Fifteenth Revised Sheet Nos. 4 to be included in the High Island Offshore System FERC Gas Tariff, Original Volume No. 1 to be effective on October 1, 1985, December 1, 1985 and January 1, 1986, respectively.

HIOS states that the tariff sheets are being filed in compliance with Article IV of the Stipulation and Agreement submitted by HIOS on May 15, 1985 at Docket No. RP85–37, which was approved by the Federal Energy Regulatory Commission ("Commission") on July 22, 1985. Article IV provides for the adjustment of the demand portion of HIOS rates relating to reductions in charges HIOS is paying for measurement, dehydration and separation at the Grand Chenier and Cameron Meadows facilities, subject to refund under ANR Pipeline Company's Rate Schedule X–64 and under U-T Offshore System's Rate Schedule X–1, respectively.

Also included are various revised tariff sheets to update the Table of Contents in both Original Volume Nos. 1 and 2 of HIOS's FERC Gas Tariff and a corresponding update to the Schedule of Shippers and List of Contract Demands in Original Volume No. 1 of HIOS's FERC Gas Tariff. The aforementioned updates reflect the Commission's approval on October 25, 1985, in Docket No. CP75–104–047, of Rate Schedule T–17 to Original Volume No. 2 of HIOS's FERC Gas Tariff. HIOS has requested that these sheets be made effective January 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington DC 20426, in accordance with Rule 211 or Rule 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 12, 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 to the proceeding 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. 86–5136 Filed 3–7–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID–1871–002]

Edwin A. Lupberger; Application

March 3, 1986.

Take notice on February 5, 1986, Edwin A. Lupberger filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Arkansas Power & Light Company
Director, Louisiana Power & Light Company
Chairman, President, and Director, Middle South Energy, Inc.
Director, Mississippi Power & Light Company
Director, New Orleans Public Service Inc.

Any person desiring to be heard or to protest said application 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 Sections 211 and 214 of the Commission's rules and practice and procedures (18 CFR §§ 385.211 and 385.214). All such motions or protests should be filed on or before March 14, 1986. Protests wil 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–5137 Filed 3–7–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP84–87–003]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

March 4, 1986

Take notice that United Gas Pipe Line Company (United), on February 20, 1986, tendered for filing Sixteenth Revised Sheet No. 99–A to its FERC Gas Tariff, First Revised Volume No. 1.

United states that this tariff sheet reflects a reduction in the maximum daily quantity and minimum billing demand volumes for Mississippi River Transmission Corporation as approved by the Commission's Order of December 11, 1985, in *Mississippi River Transmission Corporation* v. *United Gas Pipe Line Company*, Docket No. RP84–87. The tariff sheet is proposed to become effective on February 1, 1986 and will confirm United's presently effective tariff with the Commission's Order.

Copies of the filing will be served upon United's jurisdictional customers and the public service commissions of the States of Alabama, Florida, Louisiana and Mississippi, and the Texas Railroad Commission.

Any person desiring to be heard or to protect 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 §§ 385.214 and 385.211 of this chapter. all such motions or protests should be filed on or before March 12, 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 intevene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5138 Filed 3-7-86; 8:45 am]

BILLING CODE 6717-01

[Docket Nos. EL86-25-000 et al.]

Electric Rate and Corporate Regulation Filings; Arkansas Power & Light Co. et al.

March 3, 1986.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Co.

[Docket No. EL86-25-000]

Take notice that on February 24, 1986, Arkansas Power & Light Company (AP&L) tendered for filing a petition for Declaratory Order, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure. AP&L seeks a declaratory order stating that AP&L is not required to provide transmission service, pursuant to section 211 and 212 of the Federal Power Act (FPA or Act), for the City Water and Light Plant of Jonesboro, Arkansas (Jonesboro) or Farmers Electric Cooperative Corporation (Farmers) in connection with the September 24, 1985, Wholesale Power Contract between Jonesboro and Farmers pursuant to which Jonesboro intends to supply all of Farmer's power and energy requirements. Such requirements are now being met by AP&L, which has supplied power and energy to Farmers for over 20 years. If AP&L is required to provide the requested transmission service, AP&L says it will result in the total loss of sales to one of its existing customers.

Comment date: March 17, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Illinois Light Company

[Docket No. ER86-275-000]

Take notice that on February 25, 1986, Central Illinois Light Company (CILCO) tendered for filing proposed amendments to its filing of January 31, 1986 of an executed transmission agreement with the Illinois Municipal Electric Agency (IMEA) providing for specified transmission service to a designated interconnection point between CILCO and the Village of Chatham, Illinois. CILCO, with the support of IMEA and Chatham, requests waiver of the Commission's notice requirements to permit an effective date fo February 1, 1986.

Comment date: March 14, 1986, in accordance with Standard Paragraph E at the end of this document.

3. Delmarva Power & Light Company

[Docket No. ER86-322-000]

Take notice that Delmarva Power & Light Company (Delmarva) on February 25, 1986, tendered for filing proposed Supplement Nos. 10 and 11 to its FERC Rate Schedule No. 66. Under the Supplements, Delmarva would provide partial requirements service at 138 kV instead of 12 kV when The Board of Water and Light Commissioners of New Castle, Delaware, (New Castle) completes its 138 kV/4 kV substation and would also provide transformer firming service to New Castle for a 5-year period. Completion of the 138 kV/4 kV substation is scheduled to take place on or about March 3, 1986. Copies of the filing were served upon New Castle and the Delaware Public Service Commission.

Comment date: March 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Northern States Power Company

[Docket No. ER86-101-002]

Take notice that on January 29, 1986, Northern States Power Company (NSP) tendered for filing revised Step II requirements rates pursuant to the Commission's Order of December 30, 1985. As set forth in that Order, the proposed coordination sales adjustment clause has been deleted and the revised rates reflect all off-system revenues as a revenue credit.

Comment date: March 13, 1986, in accordance with Standard Paragraph H at the end of this notice.

5. Wisconsin Power & Light Company

[Docket No. ER86-321-000]

Take notice that on Feb. 25, 1986, Wisconsin Power & Light Company (WPL) tendered for filing an electric temporary, normally open, distribution voltage, interconnection and power supply agreement dated December 9, 1985, between the Commonwealth Edison Company (Edison), South Beloit Water, Gas & Electric Company (a WPL subsidiary), and WPL. WPL states that this temporary agreement shall be effective for three years from the date service is first available which is expected to be on or about April 1, 1986.

The purpose of this temporary interconnection is to provide an alternate power source to certain retail Edison customers when those customers are separated from their normal Edison source is times of emergency. WPL states that emergency power will be provided to Edison on essentially the same rate as provided currently under their transmission interconnection agreement, except that the rate will be slightly higher to adjust for 2% additonal losses for delivery at the distribution voltage level.

WPL requests that an effective date concurrent with the contract effective date, be assigned this filing based upon the parties' mutual consent to the agreement. WPL states that copies of the agreement and the filing have been provided to Edison, the Illinois Commerce Commission, and the Wisconsin Public Service Commission.

Comment date: March 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Gulf States Utilities Company

[Docket No. ER84-568-000]

Take notice that Gulf States Utilities Company (Gulf States), on February 21, 1986, pursuant to the order issued January 22, 1986 in Docket No. ER84-568-000 and the settlement agreement approved therein, tendered for filing Amendments, executed as of February 20, 1986, to its Agreements for Wholesale Electric Service with the Cities of Erath, Gueydan and Kaplan (the Cities) dated March 15, 1983, for the Cities of Erath and Gueydan and dated February 14, 1983, for the City of Kaplan. The Amendment does not provide for a rate increase.

The Amendment provides that a portion of the Cities' loads that would otherwise be supplied by purchases of wholesale electric service from Gulf States shall instead be served by power purchased from others and delivered to the Cities by transmission service provided by Gulf States. The power the Cities will purchase from others will be power Gulf States has contracted for or will contract for with other utilities and will share, by assignment, with the Cities.

The Amendments would remain in effect for four (4) years from May 1, 1985, unless terminated earlier pursuant to rights reserved in the Amendments.

Gulf States requests that any necessary waivers be granted so that the Amendments, Rate Schedule WST

and Rider A thereto can become effective on May 1, 1985, and so that the purchased power provisions can become effective on the date they are accepted or approved by the Commission without conditions which are unacceptable to Gulf States or the Cities.

Copies of the filing have been served upon the Cities, and upon the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: March 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5141 Filed 3-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-312-000 et al.]

Consolidated Gas Transmission Corp. et al. Natural Gas Certificate Filings;

Take notice that the following filings have been made with the Commission:

1. Consolidated Gas Transmission Corporation

[Docket Nos. CP86-312-000]

February 28, 1986.

Take notice that on February 10, 1986, Consolidated Gas Trasmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket Nos. CP86-312-000, pursuant to sections 7(b) and 7(c) of the Natural Gas Act, for (1) an order authorizing the temporary abandonment of certain natural gas produced by Consolidated, and (2) a blanket certificate of public convenience and necessity authorizing the sale for resale of such gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated seeks Commission authorization on a blanket basis for (1) the abandonment, on a temporary basis, of the company-produced gas that is subject to the Commission's Natural Gas Act jurisdiction, to the extent such gas is sold by Consolidated, and (2) for sales of gas for resale in interstate commerce, without supply or market limitations, of such company-produced gas.

Consolidated states that its company-owned production is surplus to the needs of its customers and proposes to sell such gas in the spot market. It is also stated that the proposed spot sales of company production would be for short terms and would not involve the dedication of specific gas reserves. Consolidated also states that title to the gas would pass at or near the wellhead and that other particulars would vary.

Consolidated states the application is made pursuant to a stipulation and agreement filed contemporaneously by Consolidated in Docket Nos. RP85-169-000, RP82-115-000 and RP81-80-000. Consolidated indicates that it is also applying contemporaneously for a certificate of public convenience and necessity authorizing transportation services for others on a blanket basis and that any transportation of gas by Consolidated necessary to effect deliveries of the proposed sales would be peformed pursuant to such blanket authorization.

Consolidated states that if it needs to replace its company-owned production, such additional quantities would be acquired at a price equivalent to or lower than the price which would otherwise be required under the above-described stipulation and agreement.

Consolidated requests that the authorizations commence March 1, 1986, and continue until February 28, 1989, and indicates that it does not anticipate the construction of any new or additional facilities.

Comment date: March 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. El Paso Natural Gas Company

[Docket No. CP86-309-000]

February 27, 1986.

Take notice that on February 7, 1986, El Paso Natual Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-309-000 a request pursuant to § 157.205 of the Regulations under the Natual Gas Act (18 CFR 157.205) for authorization to construct and operate facilities to upgrade an existing sales tap for the delivery of gas to Southwest Gas Corporation (Southweste) for resale under the certificate issued in Docket No. CP82-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

El Paso proposes to construct a dual 4½-inch sales meter station on its exisiting 12¾-inch Rivers transfer line in Pinal County, Arizona. It is stated that the upgraded sales station would permit El Paso to sell 618,697 Mcf of gas per year to Southwest for resale to residential, commercial, and industrial customers in Pinal County Arizona. El Paso estimates the cost of the facilities to be $72,000 which cost would be financed from internally generated funds.

Comment date: April 14, 1986, in accordance with Standard Paragraph G at the end of this notice.

3. Southern Natural Gas Company

[Docket No. CP86-306-000]

February 28, 1986.

Take notice that on February 4, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-306-000 an application pursuant to section 7 of the Natural Gas Act for a limited term certificate of public convenience and necessity authorizing best-efforts transportation service for Atlanta Gas Light Company (Atlanta) and for permission and approval to abandon such transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that Atlanta has requested transportation service in accordance with the terms and conditions of a transportation agreement between Atlanta and Southern, dated January 29, 1986 (agreement). Southern has agreed to transport on an interruptible basis up to 310 billion Btu of natural gas per day that Atlanta has arranged to purchase from SNG Trading Inc. (SNG Trading). Southern states that such transportation service would continue for a term of two years

commencing from the date of Commission authorization.

The agreement provides that Atlanta would cause gas to be delivered to Southern for transportation at 70 existing points of delivery on Southern's contiguous system. Southern states that it would redeliver to Atlanta at the existing Atlanta area delivery points as set forth in the service agreement between Atlanta and Southern dated September 23, 1969, an equivalent quantity of gas less 3.25 percent of such amount which would be deemed to have been used as compressor fuel and company-use gas (including system unaccounted-for gas losses); less any and all skrinkage, fuel or loss resulting from or consumed in the processing of gas; and less Atlanta's account which is lost or vented for any reason.

Southern states that Atlanta has agreed to pay the following transportation charge:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, where added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Atlanta do not exceed the daily contract demand of Atlanta, the transportation rate would be 48.2 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to Atlanta under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to Atlanta, the transportation rate for the excess volumes would be 77.6 certs per million Btu.

Southern would collect from Atlanta the GRI surcharge of 1.35 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed.

Southern also requests flexible authority to provide transportation from additional delivery points in the event Atlanta obtains alternative sources of supply of natural gas.

Comment date: March 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Northwest Pipeline Corporation

[Docket No. CP86-289-000]

March 3, 1986.

Take notice that on January 24, 1986, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84110, filed in Docket No. CP86-289-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval for the abandonment of certain leasehold properties, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest requests permission to abandon by transfer to T. H. McElvain, *et al.* (McElvain), effective January 1, 1985, 100 percent of its working interest in the gas and gas rights under leases which originally were acquired by Pacific Northwest Pipeline Corporation (Pacific Northwest), a predecessor of Northwest, from McElvain. It is explained that the proposed transfer of working interest would be effectuated in accordance with a settlement agreement between Northwest and McElvain dated December 17, 1985. Northwest states that under the settlement agreement Northwest agreed, upon receiving Commission approval, to assign to McElvain effective as of January 1, 1985, 100 percent of its working interest conveyed by McElvain to Pacific Northwest under the PLA-4 agreements to the extent such working interest is now owned by Northwest.

Northwest further states that the PLA-4 Agreements cover approximately 31,000 gross acres in Rio Arriba and San Juan Counties, New Mexico. It is stated that there are approximately 360 gas wells associated with the PLA-4 leases in which Northwest has an ownership interest and that for the 12-month period ending November 30, 1985, Northwest's PLA-4 production from these wells was approximately 0.46 Bcf of gas.

Northwest avers that the subject leasehold production properties are not included in Northwest's rate base and the production therefrom has been deemed to be sold to the transmission division of the Company at the wellhead. It is asserted that each of the PLA-4 wells in which Northwest has an interest either has received or is pending final Commission approval for a maximum lawful price under section 103 or section 108 of the Natural Gas Policy Act of 1978 (NGPA) or presently is subject to a ceiling price under section 104 of the NGPA.

It is stated that Northwest and McElvain have entered into a gas purchase contract, dated December 17, 1985, to provide for the continued purchase by Northwest of volumes of gas to be produced from the PLA-4 interests proposed to be transferred to McElvain. Northwest states that the price to be paid by it for gas purchased under the gas purchase contract would be the lower of the applicable NGPA maximum lawful price of the current alternate fuel price. The alternate fuel price is defined in the gas purchase contract to be 85 percent of the price of No. 6 fuel oil at Seattle, Washington, less Northwest's average gathering, processing and transportation costs, it is said.

Northwest asserts that the assignment described above is consistent with the public convenience and necessity and that the settlement agreement represents a fair and reasonable compromise by the parties of disputed issues which would conclude long and costly litigation. Northwest states that the PLA-4 leasehold production which is currently committed to Northwest and its customers, including potential future development of the subject leases, would remain committed to Northwest and its customers under the gas purchase contract between McElvain and Northwest. Further, Northwest states that the price to be paid for the gas purchased under the gas purchase contract does not exceed the value which Northwest otherwise would have placed on the gas as pipeline production in its purchased gas adjustment filings and that the transfer of the assigned interest to McElvain would not increase the cost of gas produced from the assigned interest in the PLA-4 properties to Northwest's customers.

Comment date: March 24, 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 accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within

the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5139 Filed 3-7-86; 8:45 am]

BILLING CODE 6717-01-M

Determinations Under the Natural Gas Policy Act for OCS Leases

Issued: March 3, 1986.

On September 27, 1983, the Federal Energy Regulatory Commission (Commission) issued Order No. 336 under Docket Nos. RM83-3 and RM81-12 (48 FR 44508, September 28, 1983). In that order, the Commission amended its regulations relating to filing requirements for well category applications under the Natural Gas Policy Act of 1978 (NGPA). The determination process for natural gas produced from a new lease, i.e., a lease entered into on or after April 20, 1977, on the Outer Continental Shelf (OCS), and qualifying as new natural gas under section 102 of the NGPA, was amended in two respects. First, the Commission eliminated the requirement that a determination be made for each well producing gas from a new OCS lease. Second, in lieu of filing an application for each well, the Commission now permits the grant of a new OCS lease to constitute the requisite jurisdictional agency determination that the gas is produced from a new OCS lease.

Under the new procedures, the U.S. Department of Interior, Minerals Management Service (MMS), must file within 60 days of the grant of the lease a notice of determination which includes the lease number, the area and block number, and the date on which the OCS lease was issued by the Secretary of the Interior. This determination is subject to Commission review in the same manner as other jurisdictional agency determinations.

On February 13, 1986, the Commission received notice from MMS, Gulf of Mexico OCS Region, that 195 leases were issued as a result of OCS Sale 102 for the Western Gulf of Mexico on August 14, 1985. Included in this offering were lease numbers OCS-G 8065 through OCS-G 8274. Bids were rejected for lease numbers OCS-G 8088, 8102, 8106, 8107, 8112, 8118, 8119, 8122, 8152, 8158, 8173, 8178, 8182, 8191, and OCS-G 8196. Gas produced from the following leases has been determined to be gas produced from a new OCS lease under NGPA secion 102:

Outer Continential Shelf, Western Gulf of Mexico Oil and Gas Lease Sale 102 (August 14, 1985).

A. Effective Dates and Expiration Dates: 10/1/85-9/30/90.

8065	8096	8165
8066	8097	8168
8067	8098	8169
8068	8099	8170
8069	8100	8171
8071	8101	8175
8072	8104	8176
8073	8108	8177
8074	8111	8183
8075	8113	8184
8076	8114	8185
8077	8120	8186
8078	8127	8187
8079	8128	8193
8080	8131	8194
8081	8136	8197
8084	8140	8198
8087	8145	8199
8089	8146	8200
8090	8147	8201
8091	8148	8202*
8092	8149	8203*
8093	8150	8205*
8094	8154	8206*
8095	8155	8215
8217	8231*	8244*
8219	8232*	8245*
8220	8233*	8246*
8221	8234	8249*
8222	8235	8250*
8223*	8236	8251*
8224	8237*	8255*
8225	8238*	8256*
8226*	8239*	8257*
8227	8240	8258*
8228*	8241*	8259*
8229*	8242*	8262*
8230*	8243*	8270*

*Stipulation No. 5: 8 year lease terms.

B. Effective Dates and Expiration Dates: 10/1/85-9/30/95.

8204	8247	8265
8207	8248	8266
8208	8252	8267
8209	8253	8268
8210	8254	8269
8211	8260	8271
8212	8261	8272
8213	8263	8273
8214	8264	8274

C. Effective Dates and Expiration Dates: 11/1/85-10/31/90.

8070	8130	8161
8082	8132	8162
8083	8133	8163
8085	8134	8164
8086	8135	8166
8103	8137	8167
8105	8138	8172
8109	8139	8174
8110	8141	8179
8115	8142	8180
8116	8143	8181
8117	8144	8188
8121	8151	8189
8123	8153	8190
8124	8156	8192
8125	8157	8195
8126	8159	8216
8129	8160	8218

For each oil and gas lease in the 400-meter to 900-meter water-depth range, the lessee must commence the drilling of an exploratory well within 5 years of the date the lease becomes effective. The exploratory well shall meet the depth and other criteria established in an approved exploration plan.

The complete list of OCS leases submitted by the MMS for this sale, with area and block descriptions, is available for inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, DC. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within twenty days after this notice is issued by the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5140 Filed 3-7-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals Applications for Exception; Cases Filed; Week of January 31 Through February 7, 1986

During the Week of January 31 through February 7, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs fist. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585

George B. Breznay,

Director, Office of Hearings and Appeals.

February 27, 1986.

List of Cases Received by the Office of Hearings and Appeals

[Week of Jan. 31 through Feb. 7, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 3, 1986	Roger Dingman, Los Angeles, CA	KFA-0016	Appeal of an Information Request Denial. If granted: The November 15, 1985 Freedom of Information Request Denial issued by the Office of Classification would be rescinded, and Roger Dingman would receive access to deleted portions of General George C. Stratemeyer's papers (168-7018-16, Vol. 1, Annex, June 1950 through May 1951).
Feb. 4, 1986	Palo Pinto/Nevada, Carson City, NV	RM5-15	Request for Modification/Rescission in the Palo Pinto Second Stage Refund Proceeding. If granted: The August 18, 1983 Decision and Order (Case No. RQ5-8) issued to Nevada would be modified regarding the state's application for refund submitted in the Palo Pinto Second Stage Refund Proceedings.
Do	Palo Pinto-Georgia, Atlanta, GA	RM5-16	Request for Modification/Rescission in the Palo Pinto Second Stage Refund Proceeding. If grnated: The January 10, 1985, Decision and Order (Case No. RM5-2) issued to Georgia would be modified regarding the state's application for refund submitted in Palo Pinto Refund Proceedings.
Feb. 5, 1986	Dearybury Oil Company, Cowpens, SC	KEE-0020	Exception to the Reporting Requirements. If granted: Dearybury Oil Company would no longer be required to file form EIA-782B "Reseller/Retailers' Monthly Petroleum Product Sales Report".
Feb. 6, 1986	Rek-Chem Manufacturing Corporation, Albuquerque, NM	KFA-0017	Appeal of an Information Request Denial. If granted: The January 28, 1986 Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded, and Rek-Chem Manufacturing Corporation would receive access to information on RFQ No. 60-8002.
Feb. 7, 1986	Economic Regulatory Administration, Washington, DC	KRZ-0019	Interlocutory. If granted: The Exhibit D of the Economic Regulatory Administration November 28, 1983 Response to the Statement of Objections filed by the National Hydrocarbons Group, Inc. (Case No. HRO-0164) would be placed under seal.
Do	Economic Regulatory Administration and Atlantic Richfield Company, Washington, DC.	KRS-0170	Request for Stay. If granted: The Economic Regulatory Administration and Atlantic Richfield Company would receive a stay of the Proposed Remedial Order issued to Atlantic Richfield Company by the Economic Regulatory Administration pending a final determination on the Proposed Consent Order.
Do	W.D. Brooks, Inc., Whiteville, NC	KEE-0021	Exception to the Reporting Requirements. If granted: W.D. Brooks, Inc. would no longer be required to file form EIA-782B "Reseller/Retailers. Monthly Petroleum Product Sales Report."

Refund Applications Received

[Week of Jan. 31 to Feb. 7, 1986]

Date received	Name of refund proceeding/name of refund applicant	ase No
Feb. 3, 1986	Mobil/Steve Raneri	RF225-36
Do	Mobil/Parham Mobil	RF225-37
Do	Mobil/Mike Zoolis	RF225-38
Do	Mobil/Pelham Heights Service Station	RF225-39
Do	Mobil/County of Burlington	RF225-40
Do	Mobil/Kissena Expressway Service Station	RF225-41
Do	Quaker State/Community Distributors, Inc	RF213-62
Do	Quaker State/M.A.K. Corp	RF213-63
Do	Quaker State/Logan Clay Products Co	RF213-64
Do	Quaker State/Ralph L. Toy Co	RF213-65
Do	Leese/School District No. 25	RF211-9
Do	Quaker State/Repine's Quaker State Station	RF213-66
Do	Quaker State/Garry's Quaker State	RF213-67
Do	Mobil/Charles Bowen Swann	RF225-42
Do	Amoco/Runyon Oil Company, Inc	RF21-12569
Do	Eastern N.J./Bogen Division	RF232-1
Do	Eastern N.J./Acme Metal Goods Mfg. Co	RF232-2
Do	Eastern N.J./Magruder Color Company, Inc	RF232-3
Do	Eastern N.J./Hastings Gardens	RF232-4
Do	Eastern N.J./Briar Hill Apts	RF232-5
Do	Eastern N.J./Chateau Apts	RF232-6
Do	Eastern N.J./River West Apts	RF232-7
Do	Eastern N.J./Short Hills Village	RF232-8
Do	Eastern N.J./Gretchen Grant Kitchens	RF232-9
Do	Eastern N.J./S.A. Wald & Co	RF232-10
Do	Eastern N.J./Abeles-Lewit	RF232-11
Do	Eastern N./A.J. & J.O. Pilar	RF232-12
Do	Amoco/Briner Oil Company, Inc	RF21-12568
Do	Quaker State/Masters Garage	RF213-68
Do	Eastern N.J./Mulberry Metal Products, Inc	RF232-13
Do	Eastern N.J./Bigel, Shoeholz and Lieberman	RF232-14
Do	Eastern N.J./Bergen Point Brass Foundry, Inc	RF232-15
Do	Eastern N.J./Trio Dyeing & Finishing Co., Inc	RF232-16
Do	Eastern N.J./Repak Corp	RF232-17
Do	Mobil/Bobba's Service Center	RF225-43
Do	Mobil/Wm. R. Peterson Oil	RF225-44
Do	Mobil/Southern Counties Oil Co	RF225-45
Do	Mobil/Gerald W. Newman	RF225-46

REFUND APPLICATIONS RECEIVED—Continued

[Week of Jan. 31 to Feb. 7, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Do	Mobil/Dale City Mobil	RF225-47
Do	Mobil/Nasa Mobil	RF225-48
Do	Mobil/Webster Mobil	RF225-49
Do	Saber/Trans American Natural Gas Corp	RF182-16
Do	Appalachian/W.P.W. Co	RF234-2
Do	Charter/Florida	RQ23-270
Do	Coline/Florida	RQ2-271
Feb. 4, 1986	Crystal/Hi-Test Gas Co	RF233-1
Do	Pride/L&L, Inc	RF235-1
Do	Quaker State/Nassau Garage	RF213-70
Do	Quaker State/J.D. Hinkle & Sons, Inc	RF213-71
Do	City Service/Main Street Husky Appalachian/Pendley Constructions, Inc	RF234-1
Do	Mobil/Vinnin Sq. Mobil	RF225-50
Do	Eastern N.J./Atlantic Industries, Inc	RF232-18
Do	Eastern N.J./Tamburelli Properties, Inc	RF232-19
Do	Quaker State/Rinker Oil Corp	RF213-69
Do	Good Hope/Trans American Natural Gas Corp	RF189-21
Do	Mobil/Interchange Service Station	RF225-51
Do	Mobil/Roger Role Mobil	RF225-52
Do	Mobil/Alan Watson	RF225-53
Do	Eastern N.J./Liberty Optical	RF232-20
Do	Eastern N.J./Equitable Bag Company, Inc	RF232-21
Do	Eastern N.J./Estate of Ercole, Tamburelli	RF232-22
Do	Eastern N.J./Perma-Foam, Inc	RF232-23
Do	Eastern N.J./A & J Realty	RF232-24
Do	Eastern N.J./J.K. Smit & Sons, Inc	RF232-25
Feb. 5, 1986	Mobil/Oldbury's Mobil Service	RF225-54
Do	Mobil/Koch Service	RF225-55
Do	Mobil/Glenn Nilsson Mobil	RF225-56
Do	Eastern N.J./U.K. Dye Works	RF232-26
Do	Eastern N.J./Bushwick Realty Corp	RF232-27
Do	Eastern N.J./Passaic Rubber Co	RF232-28
Do	Eastern N.J./Scandia Packaging Machinery Co	RF232-29
Do	Eastern N.J./Royal Gardens #2	RF232-30
Do	Eastern N.J./Omni Properties, Inc	RF232-31
Do	Eastern N.J./Wigton-Abbott Corp	RF232-32
Do	Eastern N.J./A. Foschini	RF232-33
Do	Eastern N.J./Royal Gardens #1	RF232-34
Do	Conlo/Jimmy's	RF236-1
Feb. 6, 1986	Eastern N.J./Metal Wash Machinery Corp	RF232-37
Do	Eastern N.J./Dairy Pak	RF232-36
Do	Eastern N.J./Towne Cleaners, Inc	RF232-35
Do	Mobil/Fultroop Service Station	RF225-58
Do	Mobil/Philip M. Palma	RF225-57
Do	Quaker State/Frich Construction	RF213-72
Do	Eastern N.J./Tzeses Bros., Inc	RF232-42
Do	Eastern N.J./Redmond Realty Mgt. Co	RF232-41
Do	Eastern N.J./Constantine Village	RF232-40
Do	Eastern N.J./Tzeses Bros., Inc	RF232-39
Do	Eastern N.J./Leo Tzeses	RF232-38
Do	Eastern N.J./New Providence Gardens	RF232-43
Do	Eastern N.J./Elm Gardens Co	RF232-44
Do	Eastern N.J./Halsey Gardens Co	RF232-45
Do	Eastern N.J./Murray Hill Apts	RF232-46
Do	Eastern N.J./Hutton LaFayette Apt. Co	RF232-47
Do	Eastern N.J./Scotland Gardens	RF232-48
Do	Eastern N.J./Rabbinicial College of America	RF232-49
Do	Eastern N.J./Matheson Gas Products	RF232-50
Do	Eastern N.J./Fisher-Stevens, Inc	RF232-51
Do	Eastern N.J./Liberty Provisions	RF232-52
Do	Eastern N.J./Tudor Hall, Inc	RF232-53
Do	Mobil/D&R Mobil	RF225-63
Do	Mobil/LeRoy J. Burns	RF225-62
Do	Mobil/Eldon L. Hasstedt	RF225-61
Do	Mobil/Dolduc's Mobil Self Serve	RF225-60
Do	Mobil/Don Harris Mobil	RF225-59
Do	Quaker State/Upchurch Oil & Supply Co	RF213-73
Do	Quaker State/Joe's Quaker State	RF213-74
Do	Eastern N.J./North Village	RF232-54
Do	Eastern N.J./Kruvant Brothers	RF232-55
Do	Eastern N.J./Kruvant Brothers	RF232-56
Do	Eastern N.J./Polyplastex United Inc	RF232-57
Do	Eastern N.J./Warner Theatre	RF232-58
Do	Eastern N.J./Wincenter Associates	RF232-59
Do	Eastern N.J./West Park Apts	RF232-60
Do	Eastern N.J./Grand Lee Apts	RF232-61
Do	Eastern N.J./Knollcroft Gardens	RF232-63/64
Do	Eastern N.J./Hudson Terrace Association	RF232-62
Do	Mobil/Sports Oil Corp	RF225-64
Do	Aminoil/Moorman Manufacturing Co	RF139-147
Do	Vickers/Minnesota	RQ1-267
Do	Pennzoil/Minnesota	RQ1-268
Do	Belridge/Minnesota	RQ8-269
Feb. 7, 1986	Mobil/J & LF Mobil Service	RF232-70
Do	Eastern N.J./Lafayette Gardens	RF232-65
Do	Eastern N.J./Springview Gardens	RF232-66
Do	Eastern N.J./General Greene Village	RF232-67
Do	Eastern N.J./O.K. Towel & Uniform	RF232-68
Do	Eastern N.J./Atlantic Tubing Co	RF232-69
Do	Mobil/Brunner Brothers	RF225-67

REFUND APPLICATIONS RECEIVED—Continued

[Week of Jan. 31 to Feb. 7, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Do	Mobil/Gene's Service Station	RF225-66
Do	Mobil/Epler's Mobil Service	RF225-65
Do	Conoco/Zephyr, Inc	RF220-8

[FR Doc. 86-5144 Filed 3-7-86; 8:45 am]

BILLING CODE 6450-01-M

Applications, for Exception; Cases Filed; Week of February 7 Through February 14, 1986

During the Week of February 7 through February 14, 1986, the applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be apprieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 3, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 7 through Feb. 14, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 20, 1985	Economic Regulatory Administration, Washington, DC	KRZ-0020 through KRZ-0024	Interlocutory. If granted: The three Proposed Remedial Orders issued to Barkett Oil Co. and the Proposed Remedial Orders issued to Lawrence Oil Co. and Anchor Distributors (Case Nos. BRO-1352, BRO-1357, HRO-0033, HRO-0034 and HRO-0036) would be revised to reflect recalclations performed by the Economic Regulatory Administration in accordance with the September 17, 1985 Decision and Order.
Feb. 10, 1986	Burlile Oil Company, Gallipolis, OH	KEE-0022	Exception to the Reporting Requirements. If granted: Burlile Oil Company would not be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Feb. 12, 1986	Bublitz Oil Company, Tawas City, MI	KEE-0023	Exception to the Reporting Requirements. If granted: Bublitz Oil Company would no longer be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Do	Martin-Eagle Oil Company, Denton, TX	KEE-0024	Exception to the Reporting Requirements. If granted: Martin-Eagle Oil Company would no longer be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."
Feb. 13, 1986	M&M Minerals Corporation, et al., Jackson, MS	KRX-0010	Supplemental Order. If granted: The Proposed Remedial Order issued to M&M Minerals Corporation, *et al.*, (Case No. HRO-0018) would be remanded to the Economic Regulatory Administration to enable the Economic Regulatory Administration to recalculate any overcharges consistent with the finding that the firm produced from four properties during the audit period.
Feb. 14, 1986	Economic Regulatory Administration, Washington, DC	KRZ-0025	Interlocutory. If granted: The Proposed Remedial Order issued to North American Petroleum Company and Mellon Energy Products Company (Case No. HRO-0297) would be amended to delete all allegations against Mellon Energy Products Company.
Do	Schaal Oil Company, Jefferson, IA	KEE-0025	Exception to the Reporting Requirements. If granted: Schaal Oil Company would not be required to file Form EIA-782B "Resellers/Retailers' Monthly Petroleum Product Sales Report."

REFUND APPLICATIONS RECEIVED

[Week of Feb. 7 through Feb. 14, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Feb. 7, 1986	Gulf/Lyles L-P Gas Co., Inc	RF40-3105
Do	Mobil/Joseph F. Skalski, Jr	RF225-68
Do	Eastern NJ/Kruvant Brothers	RF232-71
Do	Eastern NJ/Georgian Gardens	RF232-72
Do	Eastern NJ/Joseph J. Branetti Construction	RF232-73
Do	Eastern NJ/Beechwood Gardens	RF232-74
Do	Eastern NJ/Maybrook Plaza Apts	RF232-75
Do	Eastern NJ/Sycamore Terrace Apts	RF232-76
Do	Amoco/Indiana	RQ21-272
Do	Nation Helium/Indiana	RQ3-273
Do	Mobil/J & F Mobil Service	RF225-77
Feb. 10, 1986	Leese/Mitchell Construction Company	RF211-10
Do	Eastern NJ/Triangle Apts	RF232-77
Do	Eastern NJ/Johnson House 2	RF232-78
Do	Eastern NJ/The Johnson House	RF232-79
Do	Eastern NJ/Teaneck Gardens	RF232-80
Do	Eastern NJ/Raven 4	RF232-81
Do	Eastern NJ/Bergen Investment Company	RF232-82

REFUND APPLICATIONS RECEIVED—Continued

[Week of Feb. 7 through Feb. 14, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Do	Eastern NJ/Cedar Lane Apts	RF232-83
Do	Eastern NJ/Grand Lawn Associates	RF232-84
Do	Eastern NJ/Fort Lee Corporation	RF232-85
Do	Eastern NJ/Allyn & Bacon, Inc	RF232-86
Do	Eastern NJ/Geerlings Greenhouses, Inc	RF232-87
Do	Eastern NJ/Gustave Goldschmidt	RF232-88
Do	Eastern NJ/Our Lady of Mount Virgin Church	RF232-89
Do	Eastern NJ/Cohn Construction Co	RF232-90
Do	Eastern NJ/Wesley, Winter & Moore	RF232-91
Do	Eastern NJ/Thermal American Fused Quarts	RF232-92
Do	Eastern NJ/Hewitt-Robins	RF232-93
Do	Eastern NJ/James E. Hanson Management	RF232-94
Do	Eastern NJ/Manning & Lewis Engineering	RF232-95
Do	Eastern NJ/Perlay Corp	RF232-96
Do	Eastern NJ/Bamberger's	RF232-97
Do	Eastern NJ/David E. Zeliff	RF232-98
Do	Eastern NJ/S. D. Serr Company	RF232-99
Do	Eastern NJ/Cloverland Gardens, et al	RF232-100 through RF232-104
Do	Quaker State/Coastal Tank Lines, Inc	RF213-75
Do	Quaker State/Pleasants County Board of Education	RF213-76
Do	Quaker State/Tri-County Rural Electric Coop. Inc	RF213-77
Do	Quaker State/Monroe-Woodbury Central School District	RF213-78
Do	Quaker State/Neely Farms	RF213-79
Do	Quaker State/Paul's Motor Sales	RF213-80
Do	Quaker State/W & F Mfg. Co	RF213-81
Do	Quaker State/Ohio Oil Gatherings	RF213-82
Do	Quaker State/Burke-Parons-Bowley	RF213-83
Do	Quaker State/Smith's Farm Supply	RF213-84
Do	Mobil/Stewart-Webster Gas	RF225-69
Do	Mobil/Anthony Colangelo	RF225-70
Do	Mobil/Eiben Mobil	RF225-71
Do	Mobil/Grade A Fuel Service	RF225-72
Do	Petrolane/Dashner Gas Service	RF208-3
Do	Conoco/Franklin Oil Company	RF220-9
Do	Belcher/Jenry J. Klug Oil Co	RF227-5
Do	Amoco/Gaddis Oil Company, et al	RF21-12570 through RF21-12577
Feb. 11, 1986	Amoco/Northville Industries Corp	RF21-12578
Do	Amoco/Northville Industries Corp	RF21-12579
Do	Eastern NJ/Wella Corporation	RF232-105
Do	Eastern NJ/Readington Associates	RF232-106
Do	Eastern NJ/Atlantic Highland Real Estate Company	RF232-107
Do	Eastern NJ/Claraco	RF232-108
Do	Eastern NJ/Norman Kruvant	RF232-109
Do	Eastern NJ/Norman Kruvant	RF232-110
Do	Eastern NJ/Norman Kruvant	RF232-111
Do	Mobil/Sal Timpani Mobil Service Station	RF225-73
Do	Mobil/Harbor Heights Fuel Company	RF225-74
Do	Mobil/White's Mobil Service	RF225-75
Do	Mobil/Tucker's Servicenter	RF225-76
Do	Quaker State/Smith's Autocenter, Inc	RF213-85
Do	Quaker State/Whiteacre's Store	RF213-86
Do	Gulf/Callaway Butane Company	RF40-3106
Do	Gulf/Butane Gas Company of Greenwood	RF40-3107
Do	Hicks/Patterson Bros. Oil & Gas, Inc	RF237-1
Feb. 12, 1986	St. James/Sherman Bros. Heating Co	RF180-34
Do	Quaker State/Kendi's Quaker State	RF213-87
Do	Quaker State/Service Petroleum Co	RF213-88
Do	Quaker State/Choura Brothers	RF213-89
Do	Mobil/Maggiotto's Mobil Service	RF225-78
Do	Mobil/Maggiotto's Mobil Service	RF225-79
Do	Mobil/Art Ford's Service Station	RF225-80
Do	Mobil/Meridian Mobil	RF225-81
Do	Mobil/Fulton's Service Center	RF225-82
Do	Eastern NJ/Howard J. Zindel	RF232-112
Do	Eastern NJ/Pfizer, Inc	RF232-113
Do	Eastern NJ/Garden State Plaza	RF232-114
Do	Eastern NJ/Willow Holding Co	RF232-115
Do	Eastern NJ/Genal Co	RF232-116
Do	Eastern NJ/Weinstein Steiner Co	RF232-117
Do	Eastern NJ/A. Weinstein	RF232-118
Do	Eastern NJ/5 Holding Co	RF232-119
Do	Eastern NJ/Pantasote, Inc	RF232-120
Do	Eastern NJ/Town & Country Homes	RF232-121
Do	Eastern NJ/Lehigh Construction	RF232-122
Do	Belcher/Canary Oil Co	RF227-6
Do	Eastern NJ/Beecham Products	RF232-123
Do	Eastern NJ/Louis T. Osterstock	RF232-124
Do	Mobil/Mockingbird Mobil	RF225-83
Do	Mobil/Nassau Mutual Fuel Co., Inc	RF225-84
Do	Mobil/Fort Hill Fuel Oil Co., Inc	RF225-85
Do	Boswell/ARMCO, Inc	RF179-15
Do	Aminoil/Russell P. Case	RF139-48
Do	Aminoil/Dana Corporation	RF139-49
Feb. 13, 1986	Aminoil/Dietrich Industries, Inc	RF139-50
Do	Husky/Rapp's Inc	RF161-90
Do	LARCO/Rapp's Inc	RF112-188

REFUND APPLICATIONS RECEIVED—Continued

[Week of Feb. 7 through Feb. 14, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Do	Mobil/Richard J. Toeppler	RF225-86
Do	Mobil/Huntington Oil Company	RF225-87
Do	Mobil/Snowdon Place Oil Company	RF225-88
Do	Mobil/Snowdon Place Oil Company	RF225-89
Do	Gulf/Hays, Bleakley & Tobin, Inc	RF40-3108
Do	Eastern NJ/J. C. Penney Company	RF232-125
Do	Eastern NJ/General Rubber Corp	RF232-126
Do	Eastern NJ/Sika Corporation	RF232-127
Do	Eastern NJ/The Falcon	RF232-128
Do	Eastern NJ/Howell Electric Motors	RF232-129
Do	Quaker State/Don Hinson	RF213-90
Do	Quaker State/Sperry Automotive Warehouse	RF213-91
Do	Quaker State/John Gratton	RF213-92
Do	Quaker State/Harry Drake	RF213-93
Do	Mobil/Cronin Asphalt Corporation	RF225-90
Do	Mobil/Briar Service	RF225-91
Do	Mobil/Campwoods Service Station	RF225-92
Do	Mobil/Eagle Cornice Co., Inc	RF225-93
Do	Mobil/Duane H. Neu	RF225-94
Do	Mobil/Girard & Peterson Service	RF225-95
Do	Pacer/Highway Oil, Inc	RF218-2
Do	Applachian/H. Ron Smith	RF234-3
Do	Pride/Sunflower Electric Cooperative, Inc	RF235-3
Do	Conoco/Sunflower Electric Cooperative, Inc	RF220-10
Do	Amoco/Sunflower Electric Cooperative, Inc	RF21-12580
Feb. 14, 1986	Mobil/Baird's Mobil Service Station	RF225-96
Do	Mobil/Worley Ingram Mobil	RF225-97
Do	Mobil/Arena Auto S/S	RF225-98
Do	Mobil/David E. Gerenyi	RF225-99
Do	Eastern NJ/National-Standard Co	RF232-130
Do	Eastern NJ/Dura Electric Lamp	RF232-131
Do	Eastern NJ/Leonard J. Schlesinger	RF232-132
Do	Eastern NJ/Overlook Terrace	RF232-133
Do	Eastern NJ/Chilton Towers	RF232-134
Do	Eastern NJ/Sak Co	RF232-135
Do	Eastern NJ/Executive House	RF232-136
Do	Eastern NJ/Linden Arms	RF232-137
Do	Eastern NJ/Belar Realty Co	RF232-138
Do	Eastern NJ/Our Lady Queen of Peace	RF232-139
Do	Eastern NJ/Anbur Realty Co	RF232-140
Do	Quaker State/Storck Baking Co	RF213-94
Do	Quaker State/Sweeney's Service Station	RF213-95
Do	Quaker State/Carrell Dunn	RF213-96
Do	Hicks/Cender Oil Co	RF237-2
Do	General Equities/Alan R. Burrell	RF224-3
Do	A. Tamcone/Hays, Bleakley & Tobin	RF155-3

[FR Doc. 86-5145 Filed 3-7-86; 8:45 am]

BILLING CODE 6450-01-M

Applications for Exception; Cases Filed; Week of February 14 Through February 21, 1986

During the Week of February 14 through February 21, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

March 3, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 14 through Feb. 21, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 18, 1986	Mid-Missouri Oil Company, Kaiser, MO	KEE-0026	Exception to the Reporting Requirements. If granted: Mid-Missouri Oil Company would not be required to file Form EIA-782B, "Reseller-Retailers' Monthly Petroleum Products Sales Report."
Do	Sierra Club Radioactive Waste Campaign, New York, NY	KFA-0018	Appeal of an Information Request Denial. If granted: Sierra Club Radioactive Waste Campaign would receive a copy of the draft environmental review of options for disposal of project-generated waste at West Valley, New York.
Feb. 19, 1986	Perry Bros. Oil Company, Americus, GA	KEE-0027	Exception to the Reporting Requirements. If granted: Perry Bros. Oil Company would not be required to file Form EIA-821.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Feb. 14 through Feb. 21, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Feb. 21, 1986	Economic Regulatory Administration, Washington, DC	KRR-0007	Request for Modification/Rescission. If granted: The February 11, 1986 Decision and Order (Case No. KRZ-0019) issued to National Hydrocarbons Group, Inc. would be modified regarding the Economic Regulatory Administration's motion to place documents under seal.

REFUND APPLICATIONS RECEIVED

[Week of Feb. 14 to Feb. 21, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
Feb. 19, 1986	OKC/Hamilton Oil Company	RF13-41
Do	Coline/Idaho	RQ2-274
Do	National Helium/Idaho	RQ3-275
Do	Conoco/Blu-Gas Service, Inc	RF220-11
Do	Pasco/Quick Petroleum Company	RF222-3
Do	Gulf/Freimann & Endens Gulf	RF40-3110
Do	LARCO/Stobbs Oil Company	RF112-189
Feb. 13, 1986	Amoco/Marathon Oil Company	RF21-12581
Feb. 18, 1986	Sid Richardson/Lamoine, LP Gas	RF26-27
Do	Sid Richardson/Central Butane Co	RF26-26
Do	Appalachian/Valleydale Packers, Inc	RF234-4
Do	Aminoil/Park Propane	RF139-151
Do	City Service/Bigfork Husky	RF219-6
Feb. 20, 1986	Hicks/Allerton Supply Co	RF237-3
Do	Conoco/System Fuels, Inc	RF220-12
Feb. 19, 1986	Tiger/Reesman's Dairies	RF196-2
Feb. 18, 1986 to Feb. 21, 1986.	Eastern of New Jersey Refund Applications	RF232-141 to RF232-185
Feb. 18, 1986, to Feb. 24, 1986.	Mobil Oil Corporation Refund Applications	RF225-100 to RF225-154
Do	Quaker State Oil Refining Corporation Refund Applications	RF213-97 to RF213-117

[FR Doc. 86-5146 Filed 3-7-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-2979-9]

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 Air and Radiation

Title: New Source Performance Standards (NSPS) for Graphic Arts Industry Survey (EPA ICR #0657). (This is a reinstatement of a previously approved ICR; no changes are proposed.)

Abstract: Sources must notify EPA of construction, modification, startup, shutdowns, malfunctions, and dates and results of performance tests. The initial performance averaging period must be thirty consecutive days, including startups and shutdowns. The amounts of solvent and water used, solvent recovered, and the estimated emission percentage must be recorded monthly. the administrator may request additional performance tests. No periodic reporting is required.

Respondents: Owners or operators of graphic arts and publication rotogravure printing facilities.

Title: New Source Performance Standards (NSPS) for Asphalt Processing and Asphalt Roofing Manufacturing (EPA ICR #0661). (This is a reinstatement of a previously approved ICR; no changes are proposed).

Abstract: Owners/operators must notify EPA of construciton, modifications, startups, shutdowns, malfunctions, and dates and results of performance tests. Owners/operators must continually monitor and record temperature in specified pollution control devices. EPA will determine parameters to be recorded in other control devices upon description of that device by the source. No excess emission reports are required. Information is used to implement and enforce the standard.

Respondents: Owners or operators of asphalt processing and asphalt roofing manufacturing plants.

Title: New Source Performance Standards (NSPS) for Bulk Gasoline Terminals—Information Requirements (EPA ICR #0664). (This is a reinstatement of a previously approved ICR: no changes are proposed.)

Abstract: Owners/operators must notify EPA of construction modifications, startups, shutdowns, malfunctions, and dates and results of peformance tests. Owners/operators must record the tank identification number of each gasoline truck that is loaded, notify the owner/operator of each non-vapor-tight gasoline truck, and record each leak detected during a calendar month. They must inspect control equipment during loading operations. No Excess Emission Reports

are required. Information is used to implement and enforce the standard.

Respondents: Owners or operators of bulk gasoline terminals.

Title: New Source Performance Standards (NSPS) for Emission Monitoring for Nitric Acid Plants (EPA ICR #1056). (This is a reinstatement of a previously approved ICR: no changes are proposed).

Abatract: Owners/operators must nottify EPA of construction, modification startups, shutdowns, malfunctions, and dates and results of performance tests. Owners/operators must record the daily production rate and hours of operation, and must continuously monitor NO_x emissions and submit semi-annual excess emissions reports. The information is used to implement and enforce the standard.

Respondents: Owners or operators of nitric acid plants.

Title: New Source Performance Standards (NSPS) for Primary Aluminum Reduction Plants (EPA ICR #1067). (This is a reinstatement of a previously approved ICR; no changes are proposed.)

Abatract: Owners or operators must monitor and maintain records of daily production rates for aluminum and anode, raw material feed rates, and potline voltages for two years. Monthly performance tests and reports are also required, along with reports of operation and maintenance conditions when tests reveal high emission levels. This information is used to ensure continuing compliance with the standard.

Respondents: Owners or operators of primary aluminum reduction plants.

Title: New Source Performance Standards (NSPS) for Stationary Gas Turbines (EPA ICR #1071). (This is a reinstatement of a previously approved ICR; no changes are proposed.)

Abstract: Owners/operators must notify EPA of construction, modifications, startups, shutdown, malfunctions, and dates and results of performance tests. Periods of excess SO_2 and NO_x emissions will be reported semi-annually. The sulfur and nitrogen content of the fuel must be recorded. Owners/operators using water injection to control NO_x must install a continuous monitoring system to record fuel consumption and the fuel-to-water ratio. Information is used to implement and enforce the standard.

Respondents: Owners or operators of stationary gas turbines.

Office of Pesticides and Toxic Substances

Title: Notice of Arrival of Pesticides or Devices (EPA ICR #0152). (This is a renewal of an expired ICR; no change is proposed.)

Abstract: An importer desiring to import pesticides or pest-mitigating devices into the United States is required by FIFRA Section 17 to notify EPA prior to the arrival of the shipment in the United States.

Respondents: Importers of pesticides or pest-mitigating devices.

Title: Supplemental Registration of a Distributor (EPA ICR #0278). (This is an extension of an approved ICR; no changes are proposed.)

Abstract: The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides that any person may obtain a supplemental registration allowing distribution of a Federally registered pesticide product under a private label, provided that the registrant's permission is obtained and EPA is notified of the arrangement.

Respondents: Distributors requesting supplemental registration, and basic registrants.

Office of Research and Development

Title: Non-occupational Pesticide Exposure Study (EPA ICR #1259). (This is a request for a new collection.)

Abstract: The Environmental Protection Agency will use this study to estimate the exposure of consumers/households to selected pesticides and the relative importance of the routes of exposure. The Agency will use these data to evaluate product registrations for home applications of pesticides, and to formulate new requirements.

Respondents: Households.

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., Washington, DC 20460

and

Wayne Leiss (ICRs #0657, #0661, #0664, #1056, #1067, and #1071), Carlos Tellez (ICRs #0152 and #0278), or Rick Otis (ICR #1259), 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: March 3, 1986.

Daniel J. Fiorino,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-5012 Filed 3-7-86; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL-2981-9]

New Source Performance Standards for Residential Wood Combustion Units Negotiated Rulemaking Advisory Committee; Establishment and Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of the establishment of an Advisory Committee to negotiate New Source Performance Standards for Residential Wood Combustion Units. We have determined that this is in the public interest and will assist the Agency in performing its duties prescribed in section 111 of the Clean Air Act, as amended.

Copies of the Committee charter will be filed with appropriate committees of Congress and the Library of Congress.

The committee's initial meeting will be held on Thursday, March 20, and Friday morning, March 21, 1986. Due to the need for an expeditious regulation, as a result of a January 1987 court-ordered deadline to issue a proposed rule, notice of this two-day meeting is being given less than 15 days prior to the meeting itself. The Agency issued this Notice promptly once the meeting dates were confirmed. The Committee has notified interested parties on its mailing list of the meeting dates.

Both March 20th and 21st, the meeting will be held at the National Institute for Dispute Resolution, 1901 L Street NW., Suite 600, Washington, DC. On March 20th, the meeting will start at 9:00 a.m. and run until completion; on March 21st, the meeting will start at 9:00 a.m. and run until approximately 12:00 noon.

The purpose of the meeting is to complete any outstanding procedural matters, to determine how best to address the substantive issues, and to begin to address them.

If interested in attending, or in receiving more information, please contact Chris Kirtz at (202) 382-7565.

Dated: March 6, 1986.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86-5294 Filed 3-7-86; 10:19 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. app. § 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 113-010892.

Title: South Seas/Polynesia Line Cross Space Charter and Sailing Agreement.

Parties:

South Seas Steamship Co.
Polynesia Line Limited.

Synopsis: The proposed agreement would enable each party to provide approximate fortnightly service to its customers in the trade through more efficient utilization of vessels already serving the trade by having each party charter capacity on the vessel of the other party.

Filing Party: Lawrence N. Minch, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No.: 102-010893.

Title: Pacific Coast/American Samoa Rate Agreement.

Parties:

South Seas Steamship Company
Blue Star Line Ltd.
Polynesia Line, Ltd.

Synopsis: The proposed agreement would establish a conference agreement between the parties in the trade between ports on the Pacific Coast of the United States and ports in American Samoa.

Filing Party: Lawrence N. Minch, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Dated March 5, 1986.

By order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-5085 Filed 3-7-86; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 024-000015-006.

Title: Board of Commissioners of the Port of New Orleans & Continental Grain Company Terminal Agreement.

Parties:

Board of Commissioners of the Port of New Orleans (Board)
Continental Grain Company (Continental).

Synopsis: The proposed amendment would (1) recognize ownership of and payment by the Board for a wharf extension constructed by Continental adjacent to the already existing wharf; (2) make extension subject to the "First Call on Berth Privilege"; (3) confirm and grant this Board's consent to an assignment to Continental by American Commercial Barge Lines (ACBL) of a First Call on Berth Privilege that had been granted by this Board covering a barge mooring area that will service the wharf facility; and (4) confirm this Board's consent to Continental to the erection of certain grain loading or unloading facilities owned by Continental located in the bed or on the bank of the Mississippi River.

Agreement No.: 021-000861-003.

Title: Port Authority of New York and New Jersey, Flota Mercante Grancolombiana, S.A. and Universal Maritime Service Corp. Lease Assignment Agreement.

Parties:

Port Authority of New York and New Jersey (Port)
Flota Mercante Grancolombiana, S.A. (Grancolombiana)
Universal Maritime Service Corporation (Universal).

Synopsis: The proposed agreement would assign the agreement of lease between the Port and Grancolombiana to Universal in preparation for the leased premises being included in the Red Hook Container Terminal which is under lease to Universal. The parties have requested a shortened review period.

Agreement No.: 221-002582-003.

Title: City of Kodiak Terminal Agreement.

Parties:

City of Kodiak
Sea-Land Service, Inc.

Synopsis: The proposed amendment would modify agreement provisions related to overhead, maintenance and repair charges and provide for a periodic review of such charges.

Agreement No.: 212-009848-015.

Title: U.S. Gulf Ports/Brazil Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro
Companhia Maritime Nacional
United States Lines (S.A.), Inc.

Synopsis: The proposed amendment would modify pool accounting procedures to ensure proper accounting for intermodal cargo movements and would increase the carrying rate for bulk cargoes from 50% to 70%.

Agreement No.: 203-009857-003.

Title: Agreement—Florida-Caribbean Cruise Association.

Parties:

Carnival Cruise Line
Chandris Fantasy Cruises
Commodore Cruise Line
Costa Line
Eastern Cruise Lines
Home Lines
Norwegian Caribbean Lines
Pacquet French Cruises
Premiere Cruise Line
Royal Caribbean Cruise Line, Inc.
Ulysses Lines.

Associate Member: Cunard/NAC.

Synopsis: The proposed amendment would restate the agreement to conform to the Commission's regulations concerning form and format.

Agreement No.: 203-010984.

Title: Australia-United States Discussion Agreement.

Parties:

Columbus Line
Associated Container Transportation (Australia) Ltd. (Pace Line)
Pacific Australia Direct Line
Shipping Corporation of New Zealand Limited.

Synoposis: The proposed agreement would permit the parties to exchange data relating to the terms and conditions of designations of carriers by the Australian Meat and Livestock Corporation. The parties have requested a shortened review period.

Agreement No.: 021-010897

Title: City of Kodiak Ground Lease Agreement.

Parties:

City of Kodiak (City)
Sea-Land Service, Inc. (Sea-Land).

Synopsis: The proposed agreement would permit the City to lease to Sea-Land a combined total of 42,300 square feet of its port property for the storage of chassis, containers and tractors. The agreement will remain in effect for a period of five years.

Dated: March 5, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-5142 Filed 3-7-86; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

Privacy Act of 1974; Notification of New Routine Use

AGENCY: Social Security Administration (SSA), HHS.

ACTION: New routine use disclosure.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information in many of the systems of records which SSA maintains. The proposed routine use will permit SSA to provide the General Services Administration (GSA) and the National Archives and Records Administration (NARA) access to the systems of records for the purpose of conducting records management inspections in accordance with 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984 (hereinafter referred to as the NARA Act of 1984). We invite public comments on this publication.

DATE: The proposed routine use will become effective as proposed without further notice on April 9, 1986, unless we receive comments on or before that date which would result in a contrary determination.

ADDRESS: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at 3-F-1 Operations Building at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Fran Sikora, Records Administration Branch, Office of Management, Budget and Personnel, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-5770.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The Administration, GSA and the Archivist, NARA are charged by 44 U.S.C. 2904, as amended by the NARA Act of 1984, with promulgating standards, procedures and guidelines with respect to records management and the conduct of records management studies. Section 2906 of this law, also amended by the NARA Act of 1984, provides that GSA and NARA shall have access to Federal agencies' records and that agencies shall cooperate with GSA and NARA. In carrying out these responsibilities, GSA and NARA are planning to conduct a review of SSA's enumeration and Retirement and Survivors Insurance (RSI) claims processes. The review will encompass all records created and processed in a particular case, beginning with the initial application and ending with the final action taken. GSA's portion of the review will focus on records imput, processing and output and will survey such items as mail, forms, reprographics and directives; NARA's portion of the review will focus on records documentation and records retention and disposition.

In conducting the inspection, GSA and NARA wish to review "live" cases (i.e., a sample of RSI claim folders and enumeration records). This will require that they be given access to various SSA systems of records which are utilized in the RSI claims and enumeration processes. The Privacy Act (5 U.S.C. 552a(b)(6)) permits a Federal agency to disclose (without the consent of the subject individual) to the National Archives a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by GSA to determine whether the record has such value. This provision, however, does not apply in this instance since GSA and NARA would be accessing our systems of records for a purpose unrelated to this provision. Therefore, to meet the requirements of the Privacy Act before providing GSA and NARA access to the systems of records, we are proposing to establish the routine use below.

Nontax return information which is not restricted from disclosure by Federal law may be disclosed to the General Services Administration and the National Archives and Records Administration for the purpose of conducting records management studies with respect to their duties and responsibilities under 44 U.S.C. 2904 and 2906, as amended by the National Archives and Records Administration Act of 1984.

The proposed routine use will apply only to Social Security information. It will not apply to any earnings, self-employment or other information which constitutes tax return information as define in section 6103 of the Internal Revenue Code.

The routine use would facilitate disclosure for the review described above as well as for subsequent in which GSA and NARA wish to conduct records management inspections of other SSA processes. We are proposing to include the routine use in the systems of records listed below. Because of the number of systems of records involved and the costs incurred in republishing them, we are publishing only the identification number and name each system and the volume, page number and date of the **Federal Register** issue in which notices of the systems last appeared in the **Federal Register**. The system of records are as follows:

09-60-0001—Commissioner's Correspondence File, HHS/SSA/OC (47 FR 45590 October 13, 1982).
09-60-0002—Automated Document Control and Retrieval System, HHS/SSA/OGA (47 FR 45591 October 13, 1982).
09-60-0003—Attorney Fee File, HHS/SSA/OHA (47 FR 45592 October 13, 1982).
09-60-0004—Working File of the Appeals Council, HHS/SSA/OHA (Formerly named Appeals File, HHS/SSA/OHA) (47 FR 45593 October 13, 1982).
09-60-0005—Hearing Office File, HHS/SSA/OHA (47 FR 45594 October 13, 1982).
09-60-0006—Storage of Hearing Records: Tape Cassettes and Audiograph Discs, HHS/SSA/OHA (47 FR 45595 October 13, 1982).

09-60-0008—Administrative Law Judge's Docket, HHS/SSA/OHA (47 FR 45596 October 13, 1982).
09-60-0009—Hearings and Appeals Case Control Sysem, HHS/SSA/OHA (47 FR 45597 October 13, 1982).
09-60-0012—Listing and Alphabetical Name File (Folder) of Vocational Experts, Medical Advisors and Medical Consultants, HHS/SSA/OHA (47 FR 45597 October 13, 1982).
09-60-0013—Records of Usage of Medical Advisors, Medical Consultants and Vocational Experts, HHS/SSA/OHA (47 FR 45598 October 13, 1982).
09-60-0014—Curriculum Vitae and Professional Qualifications of Medical Officers, Medical Advisors, Medical Consultants and Resume of Vocational Experts, HHS/SSA/OHA (47 FR 45599 October 13, 1982).
09-60-0015—List of Physicians Utilized as Readers of Black Lung X-Ray Films, HHS/SSA/OHA (47 FR 45600 October 13, 1982).
09-60-0017—Personnel Research and Merit Promotion Test Records, HHS/SSA/OMBP (47 FR 45601 October 13, 1982).
09-60-0031—Employee Production and Accuracy Records, HHS/SSA/OMBP (47 FR 45602 October 13, 1982).
09-60-0032—Employee Indebtedness Counseling System, HHS/SSA/OMBP (47 FR 45603 October 13, 1982).
09-60-0033—Report on Paid Consultants, HHS/SSA/OMBP (47 FR 45604 October 13, 1982).
09-60-0037—General Criminal Investigations Files, HHS/SSA/OMBP (47 FR 45605 October 13, 1982).
09-60-0038—Employee Building Pass Files, HHS/SSA/OMBP (47 FR 45605 October 13, 1982).
09-60-0040—Quality Review System, HHS/SSA/OA (47 FR 45606 October 13, 1982).
09-60-0042—Quality Review Case Files, HHS/SSA/OA (47 FR 45607 October 13, 1982).
09-60-0044—Disability Determination Service Processing File, HHS/SSA/OD (47 FR 45609 October 13, 1982).
09-60-0045—Black Lung Payment System, HHS/SSA/OSR (47 FR 45610 October 13, 1982).
09-60-0046—Consultative Physician File, HHS/SSA/OD (47 FR 45611 October 13, 1982).
09-60-0050—Completed Determination Record—Continuing Disability Determinations, HHS/SSA/OP (47 FR 45612 October 13, 1982).
09-60-0057—Quality Evaluation Data Records, HHS/SSA/OA (47 FR 45615 October 13, 1982).
09-60-0058—Master Files of Social Security Number Holders, HHS/SSA/OSR (49 FR 27630 July 5, 1984).
09-60-0059—Earnings Recording and Self-Employment Income System, HHS/SSA/OSR (49 FR 23697 June 7,1984).
09-60-0063—Resource Accounting and Project Management System, HHS/SSA/OSM (47 FR 45620 October 13, 1982).
09-60-0066—Claims Development Record, HHS/SSA/RO (47 FR 45621 October 13, 1982).
09-60-0075—Congressional Bills Tracking System, HHS/SSA/OLRP (Formerly named Congressional Bills File, HHS/SSA/OP) (47 FR 45621 October 13, 1982).
09-60-0077—Congressional Inquiry File, HHS/SSA/RO (47 FR 45622 October 13, 1982).
09-60-0078—Public Inquiry Correspondence File, HHS/SSA/RO (47 FR 45623 October 13, 1982).
09-60-0089—Claims Folders System, HHS/SSA/OP (48 FR 6786 February 15, 1983).
09-60-0090—Master Beneficiary Record, HHS/SSA/OSR (49 FR 34091 August 28, 1984).
09-60-0094—Recovery Accounting for Overpayments, HHS/SSA/OSR (47 FR 45630 October 13, 1982).
09-60-0095—Health Insurance Overpayment Ledger Cards, HHS/SSA/OSR (47 FR 45631 October 13, 1982).
09-60-0103—Supplemental Security Income Record, HHS/SSA/OSR (47 FR 45635 October 13, 1982).
09-60-0110—Supplemental Security Income File of Refunds, HHS/SSA/OSR (47 FR 45636 October 13, 1982).
09-60-0111—Depit Voucher File Supplemental Security Income (SSI), HHS/SSA/OSR (47 FR 45637 October 13, 1982).
09-60-0118—Non-Contributory Military Service Reimbursement System, HHS/SSA/OACT (47 FR 45638 October 13, 1982).
09-60-0119—Special Age 72 Benefit Trust Fund Transfer Project, HHS/SSA/OACT (47 FR 45639 October 13, 1982).
09-60-0184—Hearing Office Master Calendar, HHS/SSA/OHA (47 FR 45644 October 13, 1982).
09-60-0186—SSA Litigation Tracking System, HHS/SSA/OR (47 FR October 13, 1982, page 45645).
09-60-0206—Repatriate Records System, HHS/SSA/OFA (47 FR 45652 October 13, 1982).
09-60-0210—Record of Individuals Authorized Entry to Secured Automated Data Processing Area, HHS/SSA/OS (47 FR 51795 November 17, 1982).
09-60-0212—Supplemental Security Income Quality Initial Claims Review Process System, HHS/SSA/OA (Formerly named Supplemental Security Income Operational Quality Maintenance System, HHS/SSA/OA) (47 FR 45654 October 13, 1982).
09-60-0213—Quality Review of Hearing/Appellate Process, HHS/SSA/OHA (Formerly named Quality Review of Hearing Process, HHS/SSA/OHA) (47 FR 45655 October 13, 1982).
09-60-0216—Indochina Refugee Data System, HHS/SSA/ORR (Formerly named Indochina Refugee, Refugee Financial Assistance System, HHS/SSA/ORR) (47 FR 45657 October 13, 1982).
09-60-0217—Cuban Refugee Data System, HHS/SSA/ORR (Formerly named Cuban Refugee Registration Records, HHS/SSA/ORR) (47 FR 45658 October 13, 1982).
09-60-0219—Representative Disqualification/Suspension Information System, HHS/SSA/ORSI (50 FR 5821 February 12, 1982).

II. Compatibility of the Proposed Routine Use

The Privacy Act (5 U.S.C. 552a(b)(3)) and our diclosure regulation (20 CFR 401.310) both permit us to disclose information for a routine use if the information will be used for a purpose which is compatible with the purpose for which we collected it. Section 401.310 of the regulation permits us to disclose information as a routine use for administering our programs or administering similar income-maintenance or health-maintenance programs of other agencies. In the subject instance, disclosure will assist SSA in its records management. In addition, § 401.205 of the regulation requires us to disclose information when a law specifically requires it. In the subject instance, 44 U.S.C. 2906, as amended by the NARA Act of 1984, requires disclosure to GSA and NARA. Thus, we believe the routine use is compatible and meets the criteria in the regulation.

III. Effect on the Rights of Individuals

The purpose of the GSA/NARA inspection is to review SSA's records management practices and access will be given them only for this purpose. We, therefore, do not anticipate that the routine use would have an unwarranted adverse effect on the privacy or other rights of individuals.

Dated: February 27, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

[FR Doc. 86-5126 Filed 3-7-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Sunday, March 23, 1986, starting at 9:00 a.m., in the Capitol Room 1, on the lobby level of the MGM Grand Hotel, 2500 East Second Street, Reno, Nevada 89595.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the

President's Commission on Americans Outdoors, P.O. Box 18547, 1111—20th Street NW., Washington, DC 20036–8547, (202) 634–7310.

Dated: March 4, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86–5094 Filed 3–7–86; 8:45 am]

BILLING CODE 4310–70–N

Privacy Act of 1974; Deletion of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is deleting a notice describing a system of records maintained by the Minerals Management Service. The notice being deleted is titled "Outer Continental Shelf (OCS) Lease Sale Qualification Files—Interior, EMM–6" and was previously published in the **Federal Register** on June 2, 1983 (48 FR 24794). A recent review of the recordkeeping practices for the OCS lease sale qualification files indicates that they are not subject to the provisions of the Privacy Act of 1974.

This notice shall be effective March 10, 1986. Additional information regarding this change may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240.

Dated: February 28, 1986.

Oscar W. Mueller, Jr.

Director, Office of Information, Resources Management.

[FR Doc. 86–5104 Filed 3–7–86; 8:45 am]

BILLING CODE 4310–MR–M

Bureau of Land Management

[AA–16620, AA–6699–B]

Alaska Native Claims Selection; Shumagin Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Shumagin Corporation for approximately 175 acres. The lands involved are in the vicinity of Sand Point, Alaska, within T. 55 S., R. 75 W., Seward Meridian.

A notice of the decision will be published once in the *Aleutian Eagle*, and once a week for four (4) consecutive weeks in the *Anchorage Times*. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until April 9, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–5125 Filed 3–7–86; 8:45 am]

BILLING CODE 4310–JA–M

California Desert District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 and 94–579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally on Thursday, April 10, 9 a.m. to 5 p.m.; Friday, April 11, 8:30 a.m. to 5 p.m.; and Saturday, April 12, 8 a.m. to 5 p.m. at the Holiday Inn, 1200 University Avenue, Riverside, CA 92507

Agenda items for the April 10 session will include comments from the Council on the Draft Environmental Impact Statement covering the 1985 Amendments to the California Desert Plan. The Council will also be presented with a preliminary review of proposed 1986 Amendments to the California Desert Plan which have been received in response to the annual call for proposed amendments.

A two-day Recreation Seminar will be the focus at the April 11 and 12 sessions. Recreation groups throughout Southern California have been invited to attend and to make presentations to the Council on various aspects of such recreation activities as rockhounding, hiking, trailriding, horseback riding, land-sailing, hunting, shooting, all-terrain vehicle use, mountain climbing, four-wheel-drive vehicle use, and ultra-light aircraft flying.

All formal Council meetings are open to the public, with time allocated for public comment. The Recreation Seminar is also open to the public and time has been allotted for public comment during this time. The Council Chairman may allow comment during the presentation of various agenda items.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council, c/o Bureau of Land Management Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507. Written comments are also accepted at the time of the meeting and, if provided to the recorder, will be incorporated in the minutes of the meeting.

For Further Information and Meeting Confirmation: Contact the Bureau of Land Management, California Desert District Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507, (714) 351–6383.

Dated: February 28, 1986.

Richard M. Barbar,

Acting District Manager.

[FR Doc. 86–5103 Filed 3–7–86; 8:45 am]

BILLING CODE 4310–40–M

National Park Service

Guidelines for Historic and Archeological Resource Management; Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with subsection 101(f) of the National Historic Preservation Act ("the Act"), 16 U.S.C. 470 *et seq.*, the Secretary of the Interior, in consultation with the Advisory Council on Historic Preservation, has developed the following guidelines for carrying out Federal agency responsibilities under section 110 of the Act. These guidelines are being published for a 60-day comment period. The Secretary will also conduct an orientation program for Federal agencies that will address the requirements of section 110 and the advice in these Guidelines. Written comments should be submitted to the Chief, Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127.

DATES: Comments should be submitted by April 9, 1986.

FOR FURTHER INFORMATION CONTACT: Stephen M. Sheffield, Preservation Planner, Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127.

Dated: February 20, 1986.

P. Daniel Smith,

Acting Assistant Secretary, Fish and Wildlife and Parks.

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Authority: The National Historic Preservation Act, 16 U.S.C. 470 *et seq.*

I. Purposes

(a) *Section 110 Guidelines.* Section 110 of the Act prescribes general and specific responsibilities of Federal agencies in the identification, evaluation, registration, and protection of properties possessing historic, archeological, architectural, engineering, or cultural significance. These *Guidelines for Historic and Archeological Resource Management: Federal Agency Responsibilities Under section 110 of the National Historic Preservation Act (section 110 Guidelines)* present a model process for use by Federal agencies as a reference standard when establishing, revising, and operating their programs for historic and archeological resource management. These Guidelines assist agencies in carrying out their missions, programs, and projects in a manner consistent with the requirements and purposes of section 110 of the Act, existing regulations, and the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (Secretary's Standards).* Their purpose is to identify the requirements of the Act, to cite, and othewise to guide Federal agencies in implementing successful protection of historic and archeological properties as they perform their respective missions. It is not expected that Federal agencies will employ this model process literally but rather that agencies will ensure that their existing or proposed historic and archeological resource management processes are consistent with this model.

(b) *Relationship of 110 Guidelines to Secretary's Standards.* The project and program standards and guidelines for implementing section 110 are the *Secretary's Standards,* prepared pursuant to 101(h) of the Act. They are the Secretary's performance standards for carrying out historic preservation activities, such as planning, identification, evaluation, documentation, and preservation, and are applicable to all users, public and private. Rather than repeat the informaton in the *Secretary's Standards* in the *Section 110 Guidelines,* the *Secretary's Standards* are frequently referenced. It is, therefore, important for Federal agencies to consult both documents in meeting the responsibilities stated in section 110 of the Act. The *Secretary's Standards* were published in the **Federal Register,** Vol. 48, No. 190, Part IV, pp. 44716-44740, September 29, 1983, and are also available on request from the National Park Service. The Service plans to publish, in revised form if necessary, the *Secretary's Standards* when the *Section 110 Guidelines* are published in final.

(c) *Carrying out programs and projects in accordance with the purposes of the Act.* Section 110(d) requires that all agencies carry out their programs and projects in accordance with the purposes of the Act, and consider programs and projects that will further the Act's purposes. This section includes the definition of agency program and projects "those under which any Federal assistance is provided or any Federal license, permit, or other approval is required." Agency responsibility to act in accordance with the Act's purposes is conditioned upon such actions being "consistent with the agency's mission and mandates."

(1) *Purposes of the Act.* The purposes as stated in Section 2 of the Act are as follows:

Section (2)(1). "Use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;"

Section (2)(2). "Provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations;"

Section (2)(3). "Administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;"

Section (2)(4). "Contribute to the preservation of non-federally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;"

Section (2)(5). "Encourage the public and private preservation and utilization of all usable elements of the Nation's historic built envrionment; and,"

Section (2)(6). "Assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities."

(2) *Balancing mission and purposes of the Act.* In carrying out agency programs and projects in accordance with the purposes stated in section 2 of the Act, agencies should:

(i) Seek ways to harmonize their actions with the preservation of historic properties, and put such properties to productive uses in the public interest;

(ii) Encourage others, including non-Federal agencies and foreign governments with which the agency interacts, to give due consideration to historic properties;

(iii) Identify historic properties owned by the agency, and take steps to protect, preserve, rehabilitate, and properly use them;

(iv) Ensure that their actions, and the actions of those to whom they provide assistance, permits, licenses, or approvals, are preceded by effective planning to identify and mitigate effects on historic properties;

(v) Design their programs and projects to foster the rehabiliation and appropriate use, including re-use, of historic buildings and structures;

(vi) Design their programs and projects to foster the cost effective management of archeological properties eligible for the National Register; and,

(vii) Solicit the opinions of State Historic Preservation Officers and the National Trust for Historic Preservation.

(3) *Programs and projects which further the purposes of the Act.* In addition to the above actions carried out in the course of their missions, agencies are encouraged to consider participating in programs specifically designed to advance the purposes stated in section 2 of the Act, such as:

(i) Provision of financial and technical assistance to historic preservation activities and to the adaptive use of historic properties;

(ii) Demonstration historic preservation projects and cooperative historic preservation programs with non-Federal entities and foreign governments;

(iii) Special projects to study, document, and make productive use of

historic properties under the agency's ownership;

(iv) Cooperation with non-Federal entities in the identification, protection, study, documentation, and appropriate use of historic properties;

(v) Use of their programs and financial and technical assistance in the rehabilitation and adaptive use of historic buildings and structures;

(vi) Use of their programs and financial and technical assistance in the effective utilization of archeological information; and,

(vii) Cooperative programs with the State Historic Preservation Officers (SHPOs), the National Trust for Historic Preservation, and Certified Local Governments, if appropriate, in the identification, recordation, study, documentation, and appropriate use of historic properties, specifically including cooperation with the SHPOs in their development and maintenance of statewide inventories of historic properties and comprehensive State historic preservation plans.

II. Authorities

(a) *Legal Requirements of Section 110.* The Legal requirements of section 110 of the Act are as follows:

110(a)(1). "The heads of all Federal agencies shall assume responsibility for the presevation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section." These guidelines outline a model historic preservation process that will assist agencies in meeting this requirement.

110(a)(2). "With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly." These guidelines outline a model historic preservation process that will assist agencies in meeting this requirement.

110(b). "Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, a historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference." The *Secretary's Standards* provide documentation guidance that will assist agencies in meeting this requirement.

110(c). "The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g)." Section V(a) of these guidelines addresses this requirement.

110(d). "Consistent with the agency's mission and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license, permit, or other approval is required) in accordance with the purposes of this Act and, give consideration to programs and projects which will further the purposes of this Act." These guidelines outline a model historic preservation process that will assist agencies in meeting this requirment.

110(e). "The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced." Regulations governing the transfer of federally owned surplus historic property are found in 41 CFR Part 101–47.308–3.

110(f). "Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking." Section IV(a)(8) discusses this requirement further.

110(g). "Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit." These guidelines discuss reasonable project costs in section IV(a)(8)(iii).

110(h). "The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts not to exceed $1,000 and provide citations for special achievements to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary." Contributions to the preservation of historic resources are recognized through the Department of the Interior's Conservation Service Award and Public Service Award.

110(i). "Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act."

110(j). "The Secretary shall promulgate regulations under which the requirments of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security." Federal regulations entitled, "Waiver of Federal Agency Responsibilities under section 110 of the National Historic Preservation Act," can be found in the Code of Federal Regulations under 36 CFR Part 78, entitled "Waiver of Federal Agency Responsibilities under section 110 of the National Historic Preservation Act."

(b) *Related Requirements.*

The following requirements are referenced elsewhere in these Guidelines:

(1) *Section 101(a)(7) of the National Historic Preservation Act.* Regulations required by section 101(a)(7) concerning the curation of federally owned archeological collections are being prepared by the Secretary and will be included under 36 CFR Part 79, entitled "Curatorial Responsibilities of Federal Agencies."

(2) *Section 106 of the National Historic Preservation Act.* Federal agencies having direct or indirect jurisdiction over a proposed Federal, federally licensed, or federally assisted undertaking shall take into account the effect of the undertaking on any property that is included in or eligible for inclusion in the National Register. As part of this consideration, Federal agencies must provide the Advisory Council with a reasonable opportunity to comment with regard to such undertaking. The procedures for section 106 are found in 36 CFR Part 800. At the earliest stage of planning or consideration of a proposed undertaking, and in all cases prior to agency final decision concerning an undertaking, the agency shall determine the need to comply with section 106 of the Act based on the provisions of Section 110 and consistent with the *Section 110 Guidelines.* The *Section 110 Guidelines* recommend that agencies consult with the Advisory Council early in the review of agency program planning documents so as to facilitate the required commenting process under section 106.

(3) *Section 304 of the National Historic Preservation Act.* These are provisions relative to the disclosure of sensitive locational information on historic or archeological properties. An agency shall not disclose information to the public relating to the location or character of historic or archeological properties if the agency determines that the disclsoure of such information may create a substantial risk of harm, theft, or destruction to such properties or to the area or place where such properties are located. Regulation implementing this requirement are found in 36 CFR Part 60, entitled "National Register of Historic Places."

(4) *The Archeology and Historic Preservation Act (Pub. L. 93–291).* This legislation authorizes Federal agencies to expend regular project funds to recover important scientific, archeological, historic, and prehistoric data that otherwise would be lost as a result of Federal construction projects or federally licensed projects, programs, or activities. Agencies shall notify the Secretary when such activities may result in the loss or destruction of data. The Secretary shall determine whether important data will be lost and shall conduct or cause to be conducted appropriate investigations. Regulations implementing these and other requirements are being prepared by the Secretary and will be included in 36 CFR Part 66, entitled "Guidelines for Recovery of Scientific, Prehistoric, Historic, and Archeological Data: Procedures for Notification, Reporting and Data Recovery."

III. Definitions

(a) "The Act" means the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*

(b) "Advisory Council" means the agency, fully titled the Advisory Council on Historic Preservation, established pursuant to Title II of the National Historic Preservation Act, that is afforded a reasonable opportunity to comment with regard to proposed Federal, federally licensed, or federally assisted undertakings which may affect properties which are included in or eligible for inclusion in the National Register of Historic Places.

(c) "Agency Official" means the head of the Federal agency, or designee, having responsibility for the agency's historic preservation activities.

(d) "Federal Preservation Officer (FPO)" means the official, or designee, specifically responsible for coordinating an agency's activities under the National Historic Preservation Act of 1966, as amended.

(e) "Historic Preservation Process (HPP)" means the preservation process adopted by Federal agencies outlining strategies for carrying out historic preservation responsibilities. The process organizes information in a way that allows the manager to target surveys and identify, evaluate, register, and protect historic properties.

(f) "Historic property" or "historic resource" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register. The term "eligible for inclusion in the National Register" includes both properties formally determined as such and all other propeties which meet National Register listing criteria.

(g) "Historic resource" (see definition for "historic property").

(h) "Historic resource values" means those qualities of a historic property which determine its relative importance in agency decisionmaking. Section IV(a)(5) lists the considerations which should be made in assessing the historic resource values of a property.

(i) "Intensive survey" means a systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against National Register criteria.

(j) "Inventory" means a list of properties identified during a survey.

(k) "Mitigation" means an action to minimize ameliorate, or compensate for the degradation and/or loss of those characteristics of a property that make it eligible for the National Register.

(l) "National Historic Landmark (NHL)" means a district, site, building, structure or object that the Secretary of the Interior has determined to be of national significance and has so designated.

(m) "National Register" means the inventory of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering, and culture, maintained by the Secretary of the Interior and fully titled the "National Register of Historic Places."

(n) "Professionals" means historians, architectural historians, and historical architects meeting the training and experience criteria set forth in the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation,* and archeologists meeting the training and experience criteria set forth in 36 CFR Part 66. Although professional standards for landscape architects, preservationists, or planners are not established in these guidelines, such professionals should have training and experience of a comparable level to that for historians, architectural historians, and historical architects in the *Secretary's Standards.*

(o) "Reconnaissance survey" means an examination of all or part of an area accomplished in sufficient detail to make generalizations about the types and distributions of historic properties that may be present. It should include the identification and location of specific properties to the extent necessary to determine whether more intensive evaluation is appropriate.

(p) "Sectretary" means the Secretary of the Interior.

(q) "Secretary's Standards" means the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation,* the project and program standards and guidelines for implementing section 110. They are technical advice concerning archeological and historic preservation activities and methods. The complete *Secretary's Standards* currently address each of the following activities: Preservation Planning, Identification,

Evaluation, Registration, Historical Documentation, Architectural and Engineering Documentation, Archeological Documentation, and Preservation Projects (including Rehabilitation).

(r) "State Historic Preservation Officer (SHPO)" means the official designated by the Governor or by State law to administer the State's historic preservation program.

IV. The Secretary of the Interior's Model Historic Preservation Process (HPP).

The Secretary sets forth this model process and the *Secretary's Standards* for use by Federal agencies to ensure adequate consideration of historic properties in carrying out programs. The Secretary recommends that HPPs adopted by Federal agencies contain provisions for the historic preservation activities of planning, identification, evaluation, registration and protection.

(a) *Planning.*

(1) *Level of operation of the HPP.* Federal agencies with land management responsibilities should adopt HPPs or have planning procedures that serve the purposes of the suggested process in these guidlines. Agencies should adopt HPPs as part of ongoing land management responsibilities. Such HPPs must be useable at the different administrative levels within an agency. In some cases, especially for large agencies, HPPs may need to be developed for use at various administrative or regional levels. Where the HPP will be operating at multiple levels, the agency should develop internal guidelines to ensure consistency.

(2) *Relationship to the Secretary's Standards for Preservation Planning.* The HPP should meet the *Secretary's Standards* in that the HPP:

(i) Is based on historic contexts;

(ii) Describes historic contexts;

(iii) Identifies survey needs;

(iv) Identifies known properties and assesses significance;

(v) Identifies property types likely to be present;

(vi) Identifies treatments appropriate to those properties;

(vii) Integrates archeological, as well as historic, values as a routine consideration in agency planning, development and management practices; and,

(viii) Establishes priorities for management and protection of historic resources based on historic resources values.

(3) *Assuming responsibility.* Section 110(a)(1) requires Federal agencies to "assume reponsibility for the preservation of historic properties which are owned or controlled by such agency." In assuming such responsibility, agencies are encouraged to:

(i) Undertake a program to identify historic properties under its jurisdiction or control;

(ii) Maintain a systemmatic body of inventory documentation on properties as well as the overall identification effort;

(iii) Identify opportunities for the effective use and preservation of historic properties;

(iv) Identify potential conflicts between preservation of historic properties and implementation of agency mission requirements;

(v) Identify areas where information is insufficient to make decisions about historic properties.

(vi) Consider the effects of proposed activities on historic properties early in planning activities;

(vii) Give thorough consideration to historic resource values in the use and reuse of historic properties for agency program purposes as alternatives to the construction of new facilities and to the demolition of historic properties; and,

(viii) Seek opportunities for cooperative efforts with other Federal agencies, State and local agencies, and the private sector in the preservation and use of historic properties;

(4) *Integration of preservation with agency mission.* Agencies are encouraged to integrate the HPP with agency systems for property management, land use planning, and project planning so as to:

(i) Conduct activities to avoid damage to any historic properties known in advance, identified through survey, or discovered in the course of exploration, consistent with the historic resources values of those properties;

(ii) Include consideration of the views of the SHPO in the evaluation and protection of historic properties;

(iii) Take into account the views of local governments, appropriate Federal agencies, other interested parties, and the public in the evaluation and protection of historic properties;

(iv) Conduct all preservation activities in a manner consistent with the *Secretary's Standards;*

(v) Incorporate, consistent with the agency's missions and mandates, measures that enhance the preservation of historic properties; and,

(vi) Fully document the rationale for making decisions concerning historic properties;

(5) *Historic resource values.* In managing historic properties, agencies should consider resource values in addition to the significant aspects of the property that make it eligible for the National Register. Agencies should determine the historic resource values of specific properties eligible for the National Register in order to establish management priorities for those properties. These values are not constant; rather they vary depending on many considerations, including the general and specific cultural interests of the public.

(i) *Determination of historic resource values.* A number of considerations should be included in the determination of historic resource values. Several of these considerations, such as level of significance and integrity, are discussed in greater detail in National Park Service guidance, "How to Apply the National Register Criteria."

(A) *Level of significance.* National Register levels of significance are national, State, or local. National Historic Landmarks and units of the National Park System are of the highest significance.

(B) *Integrity.* Integrity is the completeness of the original material elements that are essential to the class of properties to which a particular property belongs. If, for example, a building is primarily significant for its architectural design, and it is stripped off most of its exterior elements as part of structural improvements, it will have lost some of its integrity. It might be in better structural condition, but its value as a historic resource has been lessened.

(C) *Rarity.* The rarity of a property type and/or features (e.g., interior woodwork, method of construction) may be of importance in determining a property's historic resource values.

(D) *Research/information value.* Potential of a property to reveal important information and fill research needs enhances its historic resource values.

(E) *Interpretive value.* Properties are particularly valuable if they aid historical interpretation.

(F) *Condition.* A property's value may be enhanced because it is in relatively good condition.

(G) *Cost to maintain/operate the property.* Properties which require smaller investments to maintain or operate may be more valuable because their preservation is cost effective.

(H) *Existing use or potential re-use.* Properties which serve, or have the potential to serve, other management needs have functional value that enhances their historic resource values. For example, when historic properties are used for administrative offices or housing in a manner that does not

destroy their integrity, such use serves practical, as well as preservation, needs.

(ii) The determination of the historic resource values of a property will vary depending on the mission of the agency, its needs, and the money available for preservation. Because all agencies operate within limited budgetary constraints, it is necessary to balance the considerations which determine relative historic resource value. An agency may choose to make a substantial investment in order to preserve a nationally significant property that is in poor condition, while another agency may make the same investment to preserve a dozen properties of local significance which are in good condition justification for either choice is possible. Some agencies may have a greater need than others to adaptively re-use historic properties. In such cases, the consideraton of the condition, potential for re-use, and maintenance costs of historic properties will be weighed heavily in determining the historic resource values of those properties. Where agencies have very little need to re-use historic properties, such considerations will not be as important.

(iii) Agencies should use a system which considers the above factors relative to the normal considerations in cost/benefit analyses. Attempts should be made to evaluate historic resource values within given project or management areas. The system should be straightforward and easy to replicate. Once the historic resource values of properties have been determined and considered in light of the agencies other mission concerns, sound decisions about preservation activities can be made.

(6) *Coordination with States.* Federal agencies should ensure that HPPs are coordinated with the preservation planning system instituted by the States in which they are operating, so long as State processes comply with law, regulations, and the *Secretary's Standards.* The National Park Service reviews State planning processes for conformance to the *Secretary's Standards* during required State historic preservation program reviews. Information concerning the capability of State planning processes to assist Federal agencies in the development of HPPs is available from the National Park Service.

(7) *Data bases.* Pursuant to sections 101(b)(3) and 110(d) of the Act, Federal agencies should assist the Secretary, in his cooperative effort with the Advisory Council and appropriate SHPOs, in undertaking and encouraging the development of statewide and regional data bases, archeological and historic research designs, and management plans that can be used in developing HPPs. This will ensure that there exist progressively more complete inventory records of potentially significant properties. The automation of such inventories should be done using state of the art data base systems to facilitate incorporation of additional information into, and communication between, data base systems.

(8) *National Historic Landmarks.* In order to meet the requirement in section 110(f) of the Act, Federal agencies should take the approach that the importance of National Historic Landmarks, and hence their preservation, may in some instances transcend agency operational and/or project objectives.

(9) *Other planning considerations.*

(i) *Lease terms, etc.* Lease terms and stipulations, and conditions of Federal land transfers, permits, and other entitlements should be consistent with the intent of the Act.

(ii) *Environmental Assessments.* Nothing in these guidelines shall be construed as requiring preparation of an Environmental Assessment (EA) or Environmental Impact Statement (EIS) where one would not otherwise be required. When an EA or EIS is prepared, the lead agency should ensure to the extent feasible that its preparation is coordinated with implementation of these guidelines.

(iii) *Reasonable Project Costs.* Section 110(g) directs Federal agencies to include the costs of preservation activities as eligible project costs in all agency undertakings. This provision is intended to ensure that historic preservation activities may be eligible for agency support. It is not to be construed as otherwise conflicting with the cost-benefit ratio determined by the agency for a specific project. Where preservation activity is a condition of obtaining a Federal license or permit, the licensee/permittee may be charged for reasonable preservation costs. The term reasonable should be interpreted to mean at a rate commensurate with the extent of the licensee's or permittee's interest in or benefit from the undertaking that impacts the historic properties. It should also take into consideration the historic resource values of properties, i.e. there is a strong argument for a larger public investment in properties with greater historic resource values. Because it is difficult to establish fair standards that would be applicable in all cases, "reasonable" project costs should not be determined using an inflexible criteria, such as a flat fee or a standard percentage of a budget, but rather should be determined on a case-by-case basis.

(b) *Identification.*

(1) *Priority areas.* General areas in which the Federal agency has proposed undertakings or where threats to the resources from other factors, such as significant environmental deterioration or vandalism, have been identified should receive priority in resource management planning. Agencies should ensure that identification and evaluation activities are completed prior to the approval of any action that may have an effect upon properties which may be eligible for the National Register. Generally, background research and field survey conducted in accordance with the *Secretary's Standards for Identification* are appropriate where areas subject to effect have not been surveyed in the past, unless reliable data indicate that it is very unlikely that historic properties will be found in such areas. Where poorly defined areas are involved, such as where project effects are indirect and difficult to predict, it may be feasible to conduct only background research and minor field survey, but sufficient study should be done to provide a basis for decisionmaking about the effects of the project and about possible mitigation measures.

(2) *Continuing responsibility.* Agencies should schedule similar location, identification, evaluation, and registration activities for any properties not included in the initial consideration of properties in priority areas. Agencies should set realistic goals for completion of surveys of particular types. For practical reasons, agencies should document in initial surveys those properties less than 50 years old that would otherwise be eligible for the National Register.

(3) *Newly acquired lands.* Agency HPPs should specifically provide for surveys and identification of historic properties on any newly acquired lands, especially if acquired for construction or alteration. In consultation with the appropriate SHPO, a reconnaissance or intensive survey should be conducted to identify historic properties in the event that adequate resource surveys have not previously been conducted.

(4) *Use of existing data.* Agencies should determine, in consultation with the SHPO, and, as appropriate, local governments and Native American tribal councils, if adequate surveys have been conducted and, if so, consult those survey reports. Such lists include the National Register, State inventories and other published sources. Certified Local

Governments may also be able to provide information on existing surveys.

(i) *National Register.* The National Register of Historic Places was published in its entirety in the Federal Register, February 6, 1979. Annual updates of properties added to the National Register were published on March 18, 1980; February 3, 1981; February 2, 1982; March 1, 1983; and February 7, 1984. Annual lists are scheduled for publication each February. The National Register listings are also accompanied by a list of properties which have been determined to be eligible for inclusion. Detailed information concerning the boundaries of historic properties listed in, or determined eligible for, the National Register can be obtained from the SHPO or the National Park Service. An automated National Register Information System is scheduled for on-line access in 1986.

(ii) *State registers and inventories.* Any State registers or inventories of properties that may include properties meeting the criteria for listing in the National Register may be obtained from the appropriate SHPO. The State preservation plan will assist in identifying those historic contexts that may be present in the planning area, the property types expected to represent those contexts, and the possible significance of the properties. Where adequate historic contexts have been fully developed by the State, the agency should adopt those contexts for use in its HPP. This will save considerable time and effort and will ensure that the agency and the State are operating under the same assumptions concerning the historic and archeological significance of resources. The SHPO may also identify specific properties that might qualify for inclusion in the National Register.

(iii) *Historic American Buildings Survey and the Historic American Engineering Record (HABS/HAER).* HABS/HAER catalogues maintained by the National Park Service, or any similar statewide surveys and published reports, should be used to identify properties that may qualify for the National Register.

(iv) *National Archeological Data Base (NADB).* The NADB, maintained by the Archeological Assistance Division, National Park Service, includes bibliographical reports prepared by Federal agencies, information on Federal agency projects that included archeological work, and names and locational information on other archeological data basis.

(v) *Other sources.* State, university, or society historians, architects, architectural historians, and archeologists may also have registers, inventories, catalogues, or other lists of sites or areas with values that may qualify them for the National register. In addition to checking registers and inventories, agencies should review available ethnographic and oral historical sources for information that may be helpful in projecting where historic properties might be located. The SHPO can direct agencies to relevant data sources.

(5) *Marine lands.* For submerged lands, documentary and field research may serve to indicate the need for, and recommended location of, physical and/or electronic surveys for submerged archeological sites or sunken vessels. A sound methodology for conducting surveys on the continental shelf is found in Enclosures 1 and 2 of the Minerals Management Service's Notice to Lessees and Operators 75–3, Revision 1 (see *Recommended Sources of Information).* Because of the specialized nature and problems attending underwater survey activities, agency officials may wish to review specific survey, inventory, and documentation procedures with the Departmental Consulting Archeologist, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127. Additional expertise is available from those SHPOs whose programs include underwater archeology.

(6) *Alternative identification strategies.* Federal agencies are urged to experiment with different identification strategies. Sampling techniques and predictive modelling may be tested to determine their effectiveness in supplementing traditional identification strategies. There are a variety of approaches currently in use, designed to serve different objectives. Agencies should evaluate these approaches to determine if they are compatible with their own cultural resource management objectives. Such testing is best done in consultation with the SHPO. The *Secretary's Standards for Identification* provide more information on alternative strategies which would be particularly useful to agencies, especially in light of the limited funding available for surveys.

(7) *Reporting identification results.*

(i) *Findings of surveys.* The agency, in consultation with the SHPO, should compile a report containing the findings and records of any surveys conducted for the identification of historic properties within the area of the survey. Upon completion of the report, a copy should be provided to the appropriate SHPO for inclusion in the statewide comprehensive site survey and the Comprehensive Statewide Historic Preservation Plan. Such information should be in a form compatible with the State's inventory system, provided that system is compatible with the *Secretary's Standards.* Agencies should also continue to maintain survey records indicating what lands and properties under Federal jurisdiction or control have been surveyed and by whom.

(ii) *Records of surveys.* Agencies should maintain documentation demonstrating that required surveys have been conducted. Such documentation should include the type of survey employed, scaled maps showing those areas actually inspected during the surveys mentioned above, a historic resource inventory file containing documentation on all identified properties, site photographs, data on areas where historic properties are not located, and a description of the methodology used for identification.

(c) *Evaluation.*

(1) *Inventory of evaluated resources.* The agency in consulation with the SHPO, should create an inventory by evaluating all properties identified in the survey in accordance with National Register criteria for evaluation found in 36 CFR Part 60. The resulting inventory file should contain survey records of all properties located during a survey. Inventory files should contain the information used to evaluate the property under the National Register criteria. The values and attributes of properties which make them eligible for the National Register should not be inadvertently damaged or destroyed during the evaluation.

(2) *Special considerations.* In the case of archeological properties, testing during evaluation should be kept to a minimum and not proceed beyond the point of providing sufficient information for evaluations of eligibility for the National Register and for management purposes. Evaluations of properties against the National Register Criteria should include consideration of historic landscapes.

(3) *Procedures used.* Evaluation records should include the procedures used to collect and evaluate information. Published information sources, qualified informants, the detail with which project areas were examined on the ground and by what techniques (surface inspection, subsurface testing, aerial photography and other remote sensing, etc.) should be described. Maps showing areas actually inspected and by what means should be included. Any documents prepared during the evaluation should be appended as supporting material. Evironmental

statements reflecting negative historic property findings should be accompanied by supporting information indicating the factual basis for this finding.

(d) *Registration.*

(1) *Nomination to the National Register.* In accordance with the procedures in 36 CFR Part 60, those properties determined to meet the criteria will be nominated to the National Register. The National Park Service provides a variety of technical information materials in addition to the *Secretary's Standards for Evaulation and Registration* helpful in interpreting the National Register criteria (see Recommended Sources following Guidelines).

(2) *Determinations of eligibility.* Where registration of properties must be accomplished as quickly as possible because of the impacts of proposed undertakings or other threats to properties, agencies shall request determinations of eligibility from the Keeper of the National Register in accordance with the procedures in 36 CFR Part 63, entitled "Determinations of Eligibility for Inclusion in the National Register of Historic Places," (to be incorporated in 36 CFR Part 60 during 1986). In the revised Part 60, and under certain circumstances, agencies may make decisions on eligibility without seeking a formal determination from the Keeper and thereby satisfy the requirements of section 106 of the Act.

(3) *Multiple property documentation.* All nominating authorities are encouraged to nominate properties to the National Register using the multiple property nomination format. Because many properties have similar historic contexts, this facilitates the registration of properties because the nominating authority does not have to prepare, nor does the reviewing authority have to review, a great deal of repetitive documentation. For example, Federal agencies can nominate properties to the National Register under the multiple property documentation approach using sampling surveys to characterize the resources of an area. Once eligible resources are identified as having similar attributes, and the geographic area of their location has been defined, the eligible properties within such a class of properties can be listed in the National Register. Although only those properties specifically identified in the sample survey will be included in the Register at first, this approach facilitates the inclusion of properties discovered in later surveys in the same geographic area with matching significant attributes. Registration documentation on classes of properties should include:

(i) A determination of the general classes of historic properties likely to occur, based on background research in the area(s) of history, ethnography, architecture, archeolgy, environment, and land-use;

(ii) A general projection of the likely distribution of each class of such properties; and,

(iii) A general projection of the kinds of historic significance that each class of such properties is likely to represent.

(e) *Protection.* The HPP should include information about protection strategies. Such information should be directly related to the historic resource values of properties.

(1) *Using properties.* Section 110(a)(1) requires agencies to "use, to the maximum extent feasible, historic properties available to the agency." Agencies should use historic properties in a manner that does not cause significant damage to or deterioration of the property. If the use of the property requires that the property be modified, such modifications should be consistent with the recommended protection strategies in the *Secretary's Standards for Preservation Projects.* To effectively use historic properties, agencies should:

(i) Identify those program activities that presently involve the use of historic properties and ensure, to the maximum extent possible, that such activities continue to maintain such properties in active use, provided the activities are not causing damage to or deterioration of such properties;

(ii) Identify those program activities that could use historic properties in ways that advance both agency purposes and preservation of the properties, and adjust such activities to the maximum extent possible to cause such use to occur; and,

(iii) Whenever a new activity or program is planned, consider ways that it could be designed in order to use historic properties to the maximum extent possible, and integrate such use into activity or program design.

(2) *Exercising caution.* Section 110 (a)(2) requires agencies to "exercise caution to assure that any such property . . . is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly."

(i) In planning projects and programs, agencies should take steps early in the planning process to identify historic properties and to comply with the regulations of the Advisory Council, 36 CFR Part 800, implementing section 106 of the Act.

(ii) In managing historic building and structures, agencies should establish maintenance plans that are responsive to the *Secretary's Standards for Rehabilitation,* train maintenance personnel in the use of such plans, and ensure that any alterations are consistent with the *Secretary's Standards,* and are reviewed in accordance with section 106.

(iii) In general land management activities, agencies should ensure that historic preservation concerns are taken into account in decisionmaking, in a manner consistent with section 106 and 36 CFR Part 800. Special consideration should be given to properties that, although not necessarily endangered by agency actions, are subject to damage or deterioration as the result of weather, erosion, vandalism, or natural attrition. In consultation with the SHPO and the Advisory Council, steps should be taken to identify such properties, as needed, document their existence and nature, and take such action as may be necessary consistent with the properties' historic resource values. Such actions may include making properties available to non-Federal parties for adaptive use, conducting detailed documentation or archeological salvage, physical stabilization, or altering the property's environment to protect it.

(3) *Determination of threats.* A determination should be made of known threats and the effects if all or part of the treatened resource was lost. This determination should include careful consideration of the following:

(i) Impacts that cause degradation and/or loss of those characteristics that make a property eligible for the National Register, including the introduction of physical, visual, audible, or atmospheric elements that are out of character with the property and its setting;

(ii) Duration of adverse effects;

(iii) Adverse effects resulting from natural forces or vandalism;

(iv) The impact of any proposed action upon the property taken in consideration with impacts from other sources;

(v) Secondary or indirect impacts resulting from associated activities induced or promoted by the proposed action on the property;

(vi) The relationship between local short-term uses of the property and the long-term preservation and enhancement of the property, indicating to what extent long-term consideration of preservation and enhancement are foreclosed by any proposed action; and,

(vii) The likelihood of unexpected discoveries of significant resources.

(4) *Mitigation.*

(i) Recommendations for mitigation of unavoidable losses should be made. Such recommendations should describe

efforts that will be made to prevent or minimize damage to, loss of, or intrusion upon, historic properties. Where destruction of such resources is unavoidable, or the preservation of archeological resources in place is not prudent or possible, the recommendations should include procedures to recover archeological, historic, architectural, or ethnological specimens and data. Federal agencies should adopt mitigation mesures for use when waiving section 110 responsibilities as provided in regulations 36 CFR Part 78.

(ii) Such mesures may include:

(A) Archeological excavation to recover data and materials (see *Secretary's Standards for Archeological Documentation* and 36 CFR Part 79);

(B) Removal of structures or salvage of architectural components (see 36 CFR Part 79 concerning the curation of federally owned archeological collections);

(C) Provision for publication of information thus gained and initial deposition of artifacts and materials in a repository where they may be of public and educational benefit; and,

(D) Other preservation steps as may be necessary consistent with the historic resource values of the threatened property.

(iii) *Recrodation.* A determination of the necessity to record properties should take into account their historic resource values.

(A) 110(b) requires that each agency initiate measures "to assure that where, as a result of Federal action or assistance carried out by such agency, an historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records then be deposited...in the Library of Congress or with such other appropriate agency as may be designated by the Secretary for future use and reference." Minimum standards for recordation are provided in the *Secretary's Standards for Historical Architectural, and Archeological Documentation.*

(B) Appropriate records may range from survey documentation to extensive archival, archeological data recovery, or architectural documentation. It includes the use of sampling procedures when these are sufficent to address the resource management issues represented by particular properties. In conducting data recovery on archeological sites to address specific research questions, it may be particularly useful to apply sampling techniques rather than examining all sites subject to damage.

(C) *Establishing the need for recordation.* Agencies should determine whether recordation is needed and establish standards for property specific recordation through consultation with the SHPO, Advisory Council, and other concerned parties under 36 CRF Part 800. Consultations with the Secretary under the Archeology and Historic Preservation Act (Pub. L. 93–291) may also be appropriate to determine the need for recordation (see section II(b)(4)).

(D) *Deposition of records.* Information on the deposition of records can be found in the *Secretary's Standards for Documentation.* Further, records and materials concerning National Register eligible properties should be deposited with the National Register Information System and the SHPO. In addition, archeological documentation should be deposited with any institution meeting the standards set forth in 36 CFR Part 79 when promulgated (see section II(b)(1)) and with the National Archeological Data Base. Until 36 CFR Part 79 is promulgated, agencies should consult with the Departmental Consulting Archeologist, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127 concerning appropriate depositories.

(5) *Unexpected discoveries.* Subject to such revisions as may be necessary because of unexpected discoveries during execution of a HPP or clarifications of a HPP necessary as a result of monitoring, an approved HPP should be considered to be a statement of an agency's historic preservation responsibilities and planned actions. 36 CFR Part 66 outlines procedures to be followed by Federal agencies when there is an unexpected discovery of data which may be important. For assistance in resolving issues under Part 66, agencies should contact the Interior Departmental Consulting Archeologist.

(6) *Preservation.* Section 110(a)(1) also requires agencies to "undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section." As part of the HPP, recommended treatments should be identified for expected property types. Recommendations should take into account historic resource values, prudent and feasible treatments, achievable preservation goals, and past treatments to similar properties. Treatments for historic or archeological properties include a broad range of activities. *The Secretary's Standards for Historic Preservation Projects* provides technical information on acquisition, protection, stabilization, preservation, rehabilitation, restoration, and reconstruction activities. These are elaborated upon by a variety of information sources cited in the *Secretary's Standards.*

V. Developing a Historic Preservation Process

(a) *Federal Preservation Officers (FPOs).* Section 110(c) requires each agency, unless exempted by the Advisory Council, to designate a qualified official as its "preservation officer." It establishes that the preservation officer "shall be responsible for coordinating that agency's activities under this Act." It provides for preservation officers to be considered qualified upon completion of a training program established by the Secretary.

(1) *Qualifications.* The FPO shall be considered qualified as a preservation officer upon meeting the professional qualification standards in the *Secretary's Standards* or upon completing a training program established by the Secretary. FPOs should maintain or have access to the services of staff or other professionals meeting the qualifications outlined in the *Secretary's Standards.* The Secretary will offer an orientation program for Federal agencies addressing the requirements of section 110 and the advice in these Guidelines.

(2) *Position within agency structure.* FPOs should have agency-wide authority in order to effectively carry out their section 110 responsibilities. The FPO should occupy a position in the agency's organizational structure from which he or she can effectively monitor agency compliance with the requirements of the Act. Generally this means that the preservation officer should occupy a position close to the agency head, with direct access to both the agency head and to the agency's day-to-day operations. Decentralized agencies will find it helpful to designate officials in their bureaus or field offices who meet the same standards as the FPO. Administrative systems should be established to ensure that the FPO can review all agency activities that might affect historic properties. FPOs should be authorized to participate in the establishment of identification and management procedures for historic properties, in nominating properties to the National Register, in making National Register eligibility determinations, in consultations with the Advisory Council and SHPOs, and in training agency staff with reference to

their historic preservation responsibilities.

(3) *Delegations of responsibilities.* Where an agency delegates any of its section 110 responsibilities to non-Federal authorities, the agency should establish, as part of the HPP, clear lines of authority and responsibility to ensure accountability for section 110 implementation. Any process developed by the delegated authority needs to be consistent with those developed at other levels within the agency.

(4) *Use of professionals.* All HPPs should be developed and implemented by or under the supervision of qualified professionals in appropriate historic preservation disciplines, although the use of paraprofessionals, students, and avocational organizations under professional supervision is encouraged in the actual implementation of the HPP. Persons selected to supervise development and implementation of the HPP should meet the professional qualifications standards described in Section III(m) to undertake this work.

(b) *Consultations.* Federal agencies should make every reasonable effort to involve appropriate SHPO(s) and the public in the development and review of the HPP.

(1) *Providing copy of the HPP to SHPOs and other interested parties.* Copies of the proposed HPP should be provided to the appropriate SHPO(s). In addition, other agencies, parties having land or rights to land in or contiguous to the areas covered by the HPP, and other interested parties should be afforded a reasonable opportunity to review and comment to the agency on the HPP as early as possible in the process.

(2) *Providing copy of the HPP to the Advisory Council.* The agency should provide a copy of the HPP to the Advisory Council when appropriate to assist in consultations under section 106 of the Act. If programmatic memoranda of agreement between the agency and the Advisory Council are appropriate, such agreements should be made as early in the development of the HPP as is possible. Involving the Advisory Council in the early stages of review of the HPP should facilitate all aspects of the Advisory Council comment process later on when consulting on specific projects under section 106. Procedures implementing section 106 are found in 36 CFR Part 800.

(3) *Response to comments.* If, during the agency review period or the public comment period, the lead agency receives a comment on the HPP or a suggestion for a change which it believes merits possible revision of the proposed HPP, it should revise the HPP in consultation with the appropriate SHPO(s) and such other persons as it may deem appropriate.

(4) *Public notice.* Upon receipt of review comments from the appropriate SHPO(s) and agencies, and following revisions to the HPP, if necessary, the Federal agency should publish notice in the **Federal Register** and provide a reasonable opportunity for public comment. Where the impact of the HPP is only local or regional, publication of notice in a journal of local or regional circulation is advised.

(5) *Conflict Resolution.* Where SHPOs, relevant agencies, local governments, or the public object to the HPP, a mechanism should be provided for considering the objection. Any mechanism included in the HPP should consider the State's role in historic preservation as established in the State plan. Where a State is commenting pursuant to Section 106 of the Act, the role of the State and a mechanism for resolving conflicts will be more formally established.

(6) *Review by the Secretary.* The Secretary will review and comment on the HPPs should the initiating Federal agency seek such a review. Where review of HPPs is sought, copies should be forwarded to the Associate Director for Cultural Resources, Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127.

(c) *Actions the agency should take following approval of the HPP.* After agency approval of the HPP, the agency should:

(1) Provide to the appropriate SHPO(s) copies of final HPPs and related studies and records developed pursuant to these guidelines for use in the comprehensive Statewide preservation inventory;

(2) Provide copies of the HPP and its supporting documentation to purchasers, lessors, and other users of Federal lands who may be affected;

(3) Notify the public through **Federal Register** or other appropriate means of the HPP;

(4) Provide for regularly scheduled updating of the HPP in consultation with the SHPO; and,

(5) Ensure that such HPPs and incorporated into or summarized or referenced in environmental impact statements, environmental assessments, and other assessments, if prepared.

RECOMMENDED SOURCES[1]

Prepared by the National Park Service to Accompany the Guidelines for Historic and Archeological Resource Management: Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act

Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. Published in the **Federal Register**, September 29, 1983; Vol. 48, No. 190, Part IV, pp. 44716-44740. Issued by the Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127.

Directory of Technical Information. Issued to accompany the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.* Available from the Interagency Resources Division, National Park Service, United States Department of the Interior, P.O. Box 37127, Washington, DC 20013-7127.

Notice to Lessees and Operators of Federal Oil and Gas Leases in the Outer Continental Shelf, Gulf of Mexico OCS Region, Number 75-3, Revision Number 1, Enclosures 1 and 2. Available from the Gulf of Mexico OCS Region, Minerals Management Service, United States Department of the Interior, P.O. Box 7944, Metairie, LA 70010.

Code of Federal Regulations:

36 CFR Part 60, "National Register of Historic Places" (scheduled to be revised in 1986).

36 CFR Part 63, "Determinations of Eligibility for Inclusion in the National Register of Historic Places" (scheduled to be incorporated into a revised 36 CFR Part 60 in 1986).

36 CFR Part 66, "Guidelines for Recovery, of Scientific, Prehistoric, Historic, and Archeological Data: Procedures for Notification, Reporting and Data Recovery" (scheduled to be proposed in 1986).

36 CFR Part 78, "Waiver of Federal Agency Responsibilities under Section

[1] *The Directory of Technical Information,* prepared by the National Park Service to accompany the *Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation,* contains an exhaustive list of sources dealing with the preservation activities of planning, identification, evaluation, registration, and protection. The list of Recommended Sources prepared to accompany the *Section 110 Guidelines* includes only those documents relevant to Federal agency preservation activities which are not already included in the Directory of Technical Information. Agencies are urged to consult the Directory when seeking detailed guidance for all phases of agency preservation activities.

110 of the National Historic Preservation Act"

36 CFR Part 79, "Curatorial Responsibilities of Federal Agencies" (scheduled to be proposed in 1986).

36 CFR Part 800, "Protection of Historic and Cultural Properties" (proposed revisions published in **Federal Register**, October 15, 1985; Vol. 50, No. 199, Part IV, pp. 41828–41833).

[FR Doc. 86–5175 Filed 3–7–86; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Coal Lease No. M–46292]

Availability of the Final Environmental Impact Statement on the Proposed CX Ranch Mine, Bighorn County, MT

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

ACTION: Notice of availability of a final environmental impact statement (OSM–EIS–20).

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Montana Department of State Lands (DSL) are making available a jointly prepared final environmental impact statement (ESI) on the proposed CX Ranch mine. These agencies have prepared this EIS to assist the Department of the Interior and Montana DSL in making a decision on whether to approve Consolidation Coal Company's (Consol's) application for a permit to surface mine coal approximately 2 miles northwest of Decker, Montana.

ADDRESSES: Copies of the EIS may be obtained from Allen D. Klein, Administrator, Attn: Acting Chief, Environmental Analysis Branch, OSMRE, Western Technical Center, Second Floor, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202 or from Kit Walther, Environmental Analysis Bureau, Montana DSL, Capitol Station, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Floyd McMullen, Environmental Analysis Branch (telephone: 303–844–2451 (commercial) or 564–2451 (FTS)) at the Denver, Colorado, location given under **ADDRESSES.".**

SUPPLEMENTARY INFORMATION: Consol's proposed CX Ranch mine would be a new surface coal mine located in Big Horn County, Montana, 2 miles west of Decker, Montana, and 22 miles north of Sheridan, Wyoming. The mine would lie along the lower reaches of Squirrel Creek, just north of the Tongue River.

Consol is currently seeking approval of a permit application it has submitted to OSMRE and Montana DSL to mine 46.9 million tons of coal, over a 12-year period and at an average rate of approximately 8 million tons per year, at this proposed mine. During this period, Consol would disturb 974 acres of its proposed 1,905-acre permit area, which includes all or part of secs. 14, 15, 23, 25, and 26, T. 9 S., R. 39 E., and secs. 29, 30, and 31, T. 9 S., R. 40 E., Montana principal meridian.

Should Consol acquire additional coal leaseholds adjacent to its current proposed permit area, the company proposes to extend the life of the CX ranch mine by 21 years, eventually increase production to approximately 16 million tons per year, disturb 2,200 acres more for mining, and expand the permit area by 3,720 acres. Consol would excavate a total of 233 million tons of coal from this 33-year, extend life-of-mine area; 3,174 acres of a total 5,694-acre permit area would be disturbed in the process.

The EIS identifies and analyzes the impacts to the human environment that would result should Consol implement both the 12-year operation it has currently proposed for the permit area and the 33-year operation it has proposed for the life-of-mine area. The EIS also analyzes a cumulative-impact scenario, whereby all mines formally proposed in Montana would be fully developed. Under this scenario, OSMRE and Montana DSL have identified and analyzed the probable impacts of maximum projected growth, assuming that three new coal mines would be developed in the Decker area of Montana: CX Ranch, Youngs Creek/Tanner Creek (about 5 miles east of the proposed CX Ranch mine), and Wolf Mountain (1 mile north of the proposed CX Ranch mine). In the EIS, five alternative decisions that are available to the Department of the Interior and Montana DSL regarding Consol's permit application have been evaluated: approve the application as proposed, reject the application, selectively reject the application, approve the application with mitigating measures, and take no action. OSMRE and Montana DSL have identified "approve the application with mitigating measures" as their preferred alternative.

Dated: March 4, 1986.

H. Leonard Richeson,

Acting Assistant Director, Program Operations.

[FR Doc. 86–5095 Filed 3–7–86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

Agency Information Collection Activities Under OMB Review

March 6, 1985.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. The list has all entries grouped into new forms, revisions, or extensions. Each entry contains the following information: the name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); the office of the agency issuing the form; the title of the form; the agency form number, if applicable; how often the form must be filled out; who will be required or asked to report; an estimate of the number of responses; an estimate of the total number of hours needed to fill out the form; an indication of whether section 3504(h) of Pub. L. 96–511 applies; and, the name and telephone number of the person or office responsible for the OMB review. Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *And* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer: Larry E. Miesse 202/633–4312.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633–4312
(2) Justice Management Division, Department of Justice
(3) Department of Justice Procurement Blanket Clearance
(4) n/a
(5) On occasion
(6) Businesses and other for-profit. 48 CFR requires contractors to submit data in response to solicitation requirements. These representations and certifications pertain to the

contractor's business status and eligibility for contract awards.
(7) 800 respondents
(8) 16,000 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Existing Collection in Use Without an OMB Control Number

(1) Larry E. Miesse, 202/633–4312
(2) Drug Enforcement Administration, Department of Justice
(3) Records and Reports of Registrants: Changes in Record Requirements for Individual Practitioners
(4) n/a
(5) On occasion
(6) Businesses or other for-profit, non-profit institutions, small businesses or organizations. To maintain a closed system of records by requiring individual practitioners to keep records of complimentary samples of controlled substances dispenses and narcotic and non-narcotic controlled substances both administered and dispensed.
(7) 500 respondents, 100,000 recordkeepers
(8) 50,250 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

New Collection

(1) Larry E. Miesse, 202/633–4312
(2)Bureau of Justice Statistics, Department of Justice
(3) Directory of Justice Agencies: National Survey of Courts in the United States and National Survey of Law Enforcement Agencies in the United States
(4) CJ–39 (Courts) , CJ–38 (Law enforcement agencies)
(5) One time
(6) State and local governments. Survey will collect data needed to update the courts and law enforcement sectors of the Directory of Justice Agencies.
(7) 21,600 respondents
(8) 2,700 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Reinstatement of a Previously approved collection for Which Approval Has Expired

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Report of Alien Person Institutionalized
(4) G–340
(5) On occasion
(6) State and local governments, Federal agencies or employees. Data needed to determine deportability of aliens under Section 241 of the I&N Act.
(7) 6,000 respondents
(8) 1,500 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

(1) Larry E. Miesse, 202/633–4312
(2) Immigration and Naturalization Service, Department of Justice
(3) Data Relating To Beneficiary of a Private Bill
(4) G–79–A
(5) On occasion
(6) Individuals or households. Information needed to make a report to the Congress on private bills re: 8 U.S.C. 1182.
(7) 100 respondents
(8) 100 burden hours
(9) Not applicable under 3504(h)
(10) Robert Veeder—395–4814

Larry E. Miesse,

Agency Clearance Officer, Department of Justice.

[FR Doc. 86–5174 Filed 3–7–86; 8:45 am]

BILLING CODE 4410–10–M

Pollution Control; Lodging of Consent Decree for Conducting Remedial Investigation and Feasibility Study Pursuant To Cercla and RCRA; Berlin and Farro Liquid Incineration, Inc., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 27, 1986, a proposed consent decree for conducting a remedial investigation and feasibility study ("RI/FS") was lodged in *United States* v. *Berlin and Farro Liquid Incineration, Inc., et al.*, Civil Action No. 84–CV–8473–FL, with the United States District Court for the Eastern District of Michigan. The Berlin and Farro Liquid Incineration, Inc., hazardous waste site is located near Swartz Creek, Michigan. The RI/FS is to determine the appropriate groundwater remedy, if any is required, as well as any remaining subsurface and surface cleanup work necessary for the protection of human health and the environment. The proposed consent decree requires the defendants to conduct the RI/FS.

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, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Berlin and Farro Liquid Incineration, Inc., et al.*, D.J. Ref. No. 90–11–2–77.

The proposed consent decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, 113 Federal Building, 600 Church Street, Flint, Michigan 48502, at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount $53.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–5099 Filed 3–7–86; 8:45 am]

BILLING CODE 4410–01–M

Bureau of Prisons

Modifications To List of Bureau of Prisons Institutions

AGENCY: Bureau of Prisons, Justice.

ACTION: Notice.

SUMMARY: Attorney General Order No. 646–76 (41 FR 14805), as amended, classifies and lists the various Bureau of Prisons institutions. Attorney General Order No. 960–81, Reorganization Regulations, published in the Federal Register October 27, 1981 (at 46 FR 52339 et seq.) delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(r), the authority to establish and designate Bureau of Prison institutions. In this present document, the Bureau is publishing a consolidated listing of its institutions, and is designating a new Federal Detention Center at Oakdale, Louisiana. To institution is scheduled for formal dedication during the month of March 1986.

FOR FURTHER INFORMATION CONTACT: Hank Jacob, Office of General Counsel, Bureau of Prisons, 320 First Street NW., Washington, DC 20534 (202–272–6874).

SUPPLEMENTARY INFORMATION: This notice is not a rule within the meaning of the Administrative Procedure Act, 5 U.S.C. 551(4), the Regulatory Flexibility Act, 5 U.S.C. 601(2), or Executive Order No. 12291, Sec. 1(a).

By virtue of the authority vested in the Attorney General in 18 U.S.C. 4001, 4003, 4042, 4081, and 4082 and delegated to the Director, Bureau of Prisons by 28 CFR 0.96(r), it is hereby ordered as follows:

The following institutions are established and designated as places of

confinement for the detention of persons held under authority of any Act of Congress, and for persons charged with or convicted of offenses against the United States or otherwise placed in the custody of the Attorney General of the United States.

A. The Bureau of Prisons institutions at the following locations are designated as U.S. Penitentiaries:

(1) Atlanta, Georgia;
(2) Leavenworth, Kansas;
(3) Lewisburg, Pennsylvania;
(4) Lompoc, California;
(5) Marion, Illinois; and
(6) Terre Haute, Indiana.

B. The Bureau of Prisons institutions at the following locations are designated as Federal Correctional Institutons:

(1) Alderson, West Virginia;
(2) Ashland, Kentucky;
(3) Bastrop, Texas;
(4) Butner, North Carolina;
(5) Danbury, Connecticut;
(6) El Reno, Oklahoma;
(7) Englewood, Colorado;
(8) Fort Worth, Texas;
(9) La Tuna, Texas;
(10) Lexington, Kentucky;
(11) Loretto, Pennsylvania;
(12) Memphis, Tennessee;
(13) Milan, Michigan;
(14) Morgantown, West Virginia;
(15) Otisville, New York;
(16) Oxford, Wisconsin;
(17) Petersburg, Virginia;
(18) Phoenix, Arizona;
(19) Pleasanton, California;
(20) Ray Brook, New York;
(21) Safford, Arizona;
(22) Sandstone, Minnesota;
(23) Seagoville, Texas;
(24) Talladega, Alabama;
(25) Tallahassee, Flordia;
(26) Terminal Island, California; and
(27) Texarkana, Texas.

C. Bureau of Prisons institutions at the following locations are designated as Federal Prison Camps:

(1) Allenwood, Pennsylvania;
(2) Big Spring, Texas;
(3) Boron, California;
(4) Duluth, Minnesota;
(5) Eglin Air Force Base, Florida; and
(6) Maxwell Air Force Base/Gunter Air Force Station, Montgomery, Alabama.

D. The Bureau of Prisons institutions at the following locations are designated as Metropolitan Correctional Centers:

(1) Chicago, Illinois;
(2) Miami, Flordia;
(3) New York, New York;
(4) San Diego, California; and
(5) Tucson, Arizona.

E. The Bureau of Prisons institution at Springfield, Missouri is designated as the U.S. Medical Center for Federal Prisoners.

F. The Bureau of Prisons institution at Rochester, Minnesota is designated as the Federal Medical Center.

G. The Bureau of Prisons institution at Oakdale, Louisiana, is designated as the Federal Detention Center.

Dated: February 28, 1986.

Norman A. Carlson,

Director, Bureau of Prisons.

[FR Doc. 86-5084 Filed 3-7-86; 8:45 am]

BILLLING CODE 4410-05-M

Drug Enforcement Administration

Manufacturer of Controlled Substances Application; Johnson Matthey, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 19, 1985, Johnson Matthey, Inc., 1401 King Road, West Chester, Pennsylvania 19380, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Sufentanil (9740)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than April 9, 1986.

Dated: March 3, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-5098 Filed 3-7-86; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Marion Laboratories Inc.

Pursuant to § 1301.43(a) of Title 21 of Code of Federal Regulations (CFR), this is notice that on January 13, 1986, Marion Laboratories Inc., Analytical Systems Inc. Division, 23162 La Cadena Drive, Laguna Hills, California 92653, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-piperidinocyclohexanecarbonitrile (PCC)	II
Benzoylecgonine (9187)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than April 9, 1986.

Dated: March 3, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-5097 Filed 3-7-86; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances Application; Sterling Drug, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 16, 1986, Sterling Drug, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Pethidine (meperidine) (9230).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator,

Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (April 9, 1986.).

Dated: March 3, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-5098 Filed 3-7-86; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities Advisory Committee; Meeting

February 27, 1986.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Jefferson Lecture Committee of the National Council on the Humanities will be held on Friday, April 4, 1986 at 10:30 a.m. in Room 506 in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC.

The purpose of the meeting is to consider specific individuals who have been nominated for the 1987 Jefferson Lectureship. The meeting will be closed to the public pursuant to subsections (c)(6) and 9(B) of section 552b of Title 5, United States Code because the Committee will consider information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call area code 202-786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 86-5113 Filed 3-7-86; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-397]

Washington Public Power Supply System; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix J, section III.D.2.(a) to the Washington Public Power Supply System (WPPSS or the licensee), holder of Facility Operating License No. NPF-21 which authorizes operation of the WPPSS Nuclear Project No. 2 (WNP-2 or the facility). The facility is a boiling water reactor and is located in Benton County, Washington.

Environmental Assessment

Identification of Proposed Action: The exemption from 10 CFR 50, Appendix J, section III.D.2.(a) would allow the licensee to delay the performance of a type B leak test on the drywell head "O" ring seals for not more than two months beyond the two year frequency established by Appendix J.

The Need for the Proposed Action: The exemption is needed to avoid the requirement of a special plant shutdown prior to March 19, 1986, for the sole purpose of performing this test. Such a shutdown would come at a time when there is a high demand for the electric output from the facility (prior to the spring runoff) and would result in plant personnel receiving greater radiation exposure than if the test were delayed till the next refueling outage (scheduled to commence not later than May 15, 1986).

Environmental Aspects of the Proposed Action: There are no environmental impacts of the proposed action. The proposed exemption involves a change in the installation or use of the facility's components located within the restricted areas as defined in 10 CFR Part 20. The staff has determined that the proposed exemption involves no significant increase in the amounts, and no significant change in the types of any effluents that may be released offsite and that there is no significant increase in individual or cumulative occupational radiation exposure. As indicated above, it is expected that granting the exemption will result in a reduction in cumulative occupational exposure.

With regard to potential non-radiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and, by allowing better management of hydroelectric resources may have a positive environmental impact. Therefore, the Commission concludes there are no significant adverse non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action: We have concluded there is no measurable adverse environmental impact associated with the proposed exemption. The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operation.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of WPPSS Nuclear Project No. 2." dated December 1981.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Findings of No Significant Impact

The Commission has determined not to prepared an environmental impact statement for the proposed exemption.

Based on the foregoing environmental assessment, we conclude the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated January 17, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Richland Public Library, Swift and Northgate, Richland, Washington 99352.

Dated at Bethesda, Maryland, this 4th day of March 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-5164 Filed 3-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-528]

Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing; Arizona Public Service Co., et al.

The Nuclear Regulatory Commission is considering an application dated February 5, 1986, filed by the Arizona Public Service Company (APS), as Project Manager and Operating Agent of Palo Verde Nuclear Generating Station (PVNGS) Units 1, 2 and 3, on behalf of Public Service Company of New Mexico (PNM), a licensee under Facility Operating License No. NPF-41 for PVNGS Unit 1. APS requests that the Commission amend the PVNGS Unit 1 license to allow (i) the transfer by PNM to equity investors of a portion of its fee interest in PVNGS Unit 1 and (ii) the simultaneous transfer by the equity investors back to PNM of a long term (approximately 28½ years) possessory leasehold interest of this share under the terms described in this application. Under the proposed transaction, it is represented that PNM will remain in possession of its present interests in PVNGS under a leasehold rather than by virtue of ownership.

Under Facility Operating License NPF-41, issued June 1, 1985, PNM, APS, and other named utilities are licensed to possess PVNGS Unit 1, and APS is licensed to use and operate the facility. PVNGS Unit 1 is part of a three unit PVNGS project jointly owned by those utilities. Under an Arizona Nuclear Power Project (ANPP) Participation Agreement, each owner of the PVNGS project is obligated to pay a share, equal to its ownership interest, of all costs of construction, maintenance, operation, capital improvements, and decommissioning of each of the PVNGS units, and entitled to share equal to its ownership interests in the electrical output of the units. APS is authorized to act as agent for the other licensees of PVNGS Unit 1, and has exclusive responsibility and control over the physical construction, maintenance and operation of the facility.

On October 18, 1985, APS filed an application regarding a sale and leaseback transaction by PNM of a portion of PNM's ownership interests in PVNGS Unit 1. 50 FR 45955 (1985). By Order of December 12, 1985, the Commission approved the proposed sale and leaseback transactions and authorized the amendment of the PVNGS Unit 1 license subject to certain conditions. On December 26, 1985, the PVNGS license was amended, conditioned pursuant to the Commission's order. See 51 FR 1883 (1986). This amendment added a new paragraph, 2.B(b) to the license, which stated:

> Pursuant to an Order of the The Nuclear Regulatory Commission dated December 12, 1985, the Public Service Company of New Mexico (PNM) to transfer and PNM has transferred a portion of its ownership share in Palo Verde Unit 1 to certain institutional investors on December 31, 1985, and at the same time has leased back from such purchasers the same interest in the Palo Verde Unit 1 facility. The term of the lease is to January 15, 2015, subject to a right of renewal, the sale and leaseback transaction is subject to the respresentations and conditions set forth in the above application and Commission's Order of December 12, 1985, consenting to such transaction. Specifically, the lessor and anyone else who may acquire on interest under this transaction are prohibited from exercising directly or indirectly any control over the licensees of the Palo Verde Nuclear Generating Station, Unit 1. For purposes of this conditon, the limitations in 10 CFR 50.81 "Creditor Regulations" as now in effect and as they may be subsequently amended are fully applicable to the lessor and any successor in interest to that lessor as long as the license for Palo Verde Unit 1 remains in effect; this financial transaction shall have no effect on the license for the Palo Verde Nuclear Faility throughout the term of the license.
>
> Further, the licensees are also required to notify the NRC in writing prior to any change in: (i) The terms or conditions of any lease agreements executed as part of this transaction; (ii) the ANPP Participation agreement, (iii) the existing insurance for the Palo Verde Nuclear Facility, Unit 1 and (iv) any action by the lessor or others that may have an adverse effect on the safe operation of the facility.

On December 31, 1985, as permitted by this License Amendment, PNM sold to and leased back from equity investors approximately 7.367% of its 10.2% interest in PVNGS Unit 1.

In the instant application, APS requests an amendment to the PVNGS Unit 1 license which allows PNM to sell and leaseback its remaining interest in PVNGS Unit 1 by adding a provision at the end of paragraph 2.B(b) which would allow PNM to enter into additional sale and leaseback transactions on or before August 31, 1986. APS presently contemplates that sale and leaseback of a $75 million portion of the remaining Unit 1 interest will be consummated with a third-party equity investor not affiliated with PNM and a $50 million portion with an affiliate of PNM. PNM represents that these transactions will have essentially the same terms and conditions as the sale and leaseback transactions entered into on December 31, 1985, under which the equity investors have no right of possession in, absent a further license amendment, or control over PVNGS Unit 1. Those rights remained solely in PNM, as a lessee rather than an owner, and the other present licensees of PVNGS Unit 1, and APS continued to be the sole licensee authorized to use and operate PVNGS Unit 1. Throughout the term of the leaseholds PNM has the full and exclusive authority and responsibility to exercise and perform all of the rights and duties of a Participant in PVNGS under the ANPP Participation Agreement. PNM also retains responsibility for the payment of its share of the operating and maintenance expenses and costs of capital improvements during the term of the leaseholds and thereafter, in the absence of other Commission action, for 10.2% of the costs of decommissioning associated with PVNGS Unit 1.

APS asserts that the grant of the relief requested, which essentially is a recognition of the conversion of PNM's right of possession of an interest in PVNGS Unit 1 from a fee interest to a leasehold, does not present an unreviewed environmental impact and that no environmental impact statement or appraisal need to be prepared in acting upon the application.

The Commission has made a proposed determination that this amendment would involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not: (1) Involve a signficant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The applicant's request is for approval of the sale and leaseback transaction with PNM remaining in possession of its present interests in PVNGS and continuing to be obligated to pay its share of all costs of construction, maintenance, operation, capital improvements and decommissioning. The equity investors would not have any right of possesion in, absent further license amendment, or control over PVNGS Unit 1. APS would be the sole licensee authorized to use and operate the facility. Based on the above, and under the criteria in 10 CFR 50.92(c), the Staff proposed to determine that amendment to the license would not involve significant hazards considerations.

The Commission is seeking public comments on the application and this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make final determination unless it receives a request for a hearing.

Comments should be addressed to Rules and Records Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Monday through Friday.

Further, although no determination has been made to hold hearings on the subject application, by April 9, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment of the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene in any hearings which may be held. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date and it is determined that a hearing be held, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any other which may be entered in the proceeding on the petitioner's interest. The petition should identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at lease one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration and whether hearings are necessary. The final determination will serve to decide when the hearing, if any, is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that a license amendment involving a significant hazards consideration is necessary, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Rules and Procedures Branch, Office of Administration, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message address to George W. Knighton: (petitioner's name and telephone number), date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Arthur C. Gehr, Snell & Wilmer, 3100 Valley Bank Center, Phoenix, AZ 85073.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(2)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application dated February 5, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the local public document room at the Phoenix Public Library, 12 E. McDowell Road, Phoenix, AZ 85004.

Dated at Bethesda, Maryland, this 4th day of March, 1986.

For the Nuclear Regulatory Commission.
George W. Knighton,
Director, PWR Project Director No. 7, Division of PWR Licensing–B.
[FR Doc. 86–5165 Filed 3–7–86; 8:45 am]
BILLING CODE 7590–01–M

[Docket No. 50–382]

Louisiana Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–38 issued to Louisiana Power Light Company (the licensee), for operation of the Waterford Steam Electric Station, Unit 3, located in St. Charles Parish, Louisiana.

The amendment would revise the Appendix A Technical Specifications in accordance with the licensee's application for amendment dated February 19, 1986, as supplemented by letters dated February 27, 1986 and March 4, 1986, (1) by modifying the surveillance requirements for the emergency diesel generators and (2) by extending the interval for Type B and C containment leakage rate testing to the first refueling outage.

(1) Emergency Diesel Generator Surveillance

Surveillance Requirement 4.8.1.1.2.d.1 specifies that "at least once per 18 months during shutdown" the emergency diesel generators will be subjected "to an inspection in accordance with procedures prepared in conjunction with its manufacturer's recommendations for this class of standby service." The proposed change will modify the surveillance interval by specifying that the inspection be performed during refueling outages.

The Standard Review Plan and the Technical Specification Base cite various Regulatory Guides as the basis for operability demonstration of the diesel generators. Functional testing is primarily addressed by Regulatory Guide 1.108, Periodic Testing of Diesel Generator Units as Onsite Electric Power Systems at Nuclear Power Plants. This Regulatory Guide discusses most of the testing requirements of Surveillance Requirements 4.8.1.1.2.d.2–13. However, the Regulatory Guide, the Standard Review Plan and the Waterford 3 Technical Specification Bases are silent on the subject of diesel generator inspection as described in Surveillance Requirement 4.8.1.1.2.d.1. In satisfying Surveillance Requirement 4.8.1.1.2.d.2–13, the operability of the diesel generators is demonstrated.

LP&L recently retained the services of the diesel manufacturer, Cooper-Bessemer, to perform on-line diagnostic analyses of the diesel generator operation. Cooper-Bessemer determined that no significant deficiencies were present and that those areas identified as recommendations would not adversely affect the operation of the diesel generators. Further, Cooper-Bessemer recommended that a refueling cycle interval is adequate for inspection purposes. Although Surveillance Requirement 4.8.1.1.2.d.1 appears to allow flexibility with respect to manufacturer's recommendations (i.e. perform inspections, "in accordance with . . . manufacturer's recommendations"), this change will make explicit the manufacturer's recommendation that inspections be performed at refueling outages.

LP&L will utilize the EN–SPEC 2000 Engine Analyzer to perform periodic diagnosis testing on the diesel generators. The 2000 Engine Analyzer is a multi-purpose test instrument designed to evaluate the performance of reciprocating engines and compressors. By comparing current operational characteristics with previously recorded baseline data, any appreciable performance degradation should be detected and remedied. Therefore, based on the Cooper-Bessemer results and planned preventive maintenance, a full plant outage to satisfy Surveillance Requirement 4.8.1.1.2.d.1 at a time other than refueling is not recommended by the manufacturer as being technically justified and would serve no useful purpose.

The NRC staff proposed to determine that the proposed change does not involve a significant hazards consideration because it meets the three criteria of 10 CFR 50.92(c). The basis for this proposed finding is given below.

(a) Operation of the facility in accordance with this proposed change does not involve a significant increase in the probability or consequences of an accident previously analysed. The bases for diesel generator operability requirements are contained in the Standard Review Plan, Regulatory Guide 1.108 (among others), and the Technical Specification Bases. Through Surveillance Requirements 4.8.1.1.2.a–c and 4.8.1.1.2.d.2–13, Waterford 3 continues to fully demonstrate operability of the diesel generators. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

(b) Operation of the facility in accordance with this proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change introduces no new systems, modes of operation, failure modes or other plant perturbations. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

(c) Operation of the facility in accordance with the proposed amendment does not involve a significant reduction in a margin of safety. Emergency diesel generator operability will continue to be functionally tested in accordance with Surveillance Requirements 4.8.1.1.2a–c and 4.8.1.1.2d.2–13. Functional testing provides an objective demonstration of operability as mandated by the Standard Review Plan.

On the basis that the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any previously evaluated, or (3) involve a significant reduction in a margin of safety, the staff has made an initial determination that the proposed amendment is not likely to involve a significant hazards consideration.

(2) Type B and C Containment Leakage Rate Testing

Surveillance Requirement 4.6.1.2.d states that Type B and C containment leakage rate tests shall be conducted at intervals no greater than 24 months. Surveillance Requirement 4.6.1.2.f requires, in part, that the bypass leakage rate be determined through Type B and C testing at least once per 24 months. The proposed change would allow for an extension of the above Type B and C testing interval to the refueling outage for the first cycle of operation only.

LP&L successfully completed the pre-operational Type A integrated leak rate testing (ILRT) on May 1, 1983, and Type B and C local leak rate testing (LLRT) on April 22, 1984. The results of the ILRT results were submitted to the NRC in a letter dated July 19, 1983. The LLRT results demonstrated a low level of leakage. Against the allowable Technical Specification leakage limit of 630,697 cc/day, testing revealed an actual leakage of 15,952 cc/day. The current leakage is 21,547 cc/day, a minor increase. Similar results were obtained for the bypass leakage—against an

allowable limit of 63,069 cc/day, bypass leakage was demonstrated to be 5,490 cc/day, with a current leakage of 6,150 cc/day. (Note: The Technical Specifications use the term L_a to define allowable leakage. L_a (in %/24 hours) is the maximum allowable leakage rate at peak containment DBA pressure. In the Technical Specifications, $0.60L_a$ corresponds to 630,697 cc/day and $0.06L_a$ corresponds to 63,069 cc/day.)

The performance of the pre-operational ILRT/LLRT testing was scheduled to be consistent with what appeared, at the time, to be a reasonable fuel load date. The intent of the scheduling was to allow adequate time for the first cycle of operation so as to satisfy the 24 month Type B and C testing requirements of Surveillance Requirements 4.6.1.2.d/f at the first refueling outage. Due to various factors, the full power licensing of Waterford 3 was delayed to March 16, 1985 and commercial operation of the facility was declared in September 1985. Therefore, absent the proposed change, LP&L would be faced with an extended mid-cycle outage in order to perform the Type B and C testing.

Containment leakage rate is primarily affected by equipment wear and maintenance. During periods of inactivity little, if any, increase in leakage rate would be expected. From the time of performance of the ILRT/LLRT testing to receipt of the low power operating license in December 1984 (a period of approximately 8 months), LP&L was primarily occupied with addressing licensing issues rather than exercising plant systems.

Thus, B Type and C equipment was subject to only minimal wear during that time.

To determine the effect on Type B and C equipment due to maintenance, LP&L has conducted a review of the LLRT logbook. This review has determined that maintenance was performed on only a few components out of a total of 117 and that in these cases acceptable Type B testing was performed post-maintenance.

Given the low burden placed on Type B and C components during a significant portion of the time since ILRT/LLRT testing, and the low level of maintenance on these components, it would be expected that increases in the containment and bypass leakage rates would be minor. This is borne out by Waterford 3's history of minor problems with containment pressure control. With a fairly tight Technical Specification on containment pressure, 14.9–15.4 psia depending on containment temperature, LP&L has found it necessary to frequently "burp" containment to maintain pressure at an acceptable level. Presently, pressure control is required every one to two days.

The containment air locks and the containment purge system (supply and exhaust) are systems exercised on fairly frequent basis and provide potential leakage paths. However, operability and leak testing of these systems are required separately through Technical Specifications 3.6.1.3 and 3.6.1.7, respectively. The proposed change has no effect on the leakage rate testing of the air locks and containment purge system.

Precedents for the proposed change exist. For example, on September 26, 1985 in response to an August 26, 1985 request, the NRC granted on exemption to Appendix J to allow Dresden Unit 3 to continue operation to their scheduled refueling. The request was primarily based on the presence of a four-month outage during which leak-sensitive components were not exercised. The proposed change for Waterford 3 will realign the scheduling to be consistent with the first refueling outage, which is anticipated to start between December 15, 1986 and March 1, 1987.

In summary, the proposed change is supported by:

- The large margin to Technical Specification limits demonstrated during the pre-operational LLRT.
- The low component usage factor prior to low power licensing.
- The minimal component maintenance and successful post-maintenance testing of a minor number of components.
- The continued leakage rate testing of the air locks and containment purge system, as already required.
- Granting of similar requests to other operating nuclear plants.
- The intent of Standard Technical Specification to require LLRT only at refueling intervals, as long as refueling takes place within a reasonable period of time.

The NRC staff proposes to determine that the proposed change does not involve a significant hazards consideration because it meets the criteria of 10 CFR 50.92(c). The basis for this proposed finding is given below.

(a) Operation of the facility in accordance with the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The FSAR Chapter 15 safety analyses assume the maximum allowable Technical Specification leakage in calculating off-site dose consequences. As stated above, the current leakage rate is estimated to be about 4% of the leakage rate allowed by the technical specifications. This low estimate for current actual leakage confirms the expectation that leakage would be low based on the low component usage factor in the first 8 months since the last tests were performed and the limited amount of component maintenance that has been required to date.

(b) Operation of the facility in accordance with this proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed. Specifically, the proposed change introduces no new systems, modes of operation, failure modes or other plant perturbations. The change is schedular in nature and for one-time only, as all required valve and penetration testing will be conducted at the first refueling outage. Taking credit for the low component usage factor between previous leak rate testing and plant licensing will align the leakage rate testing with the first refueling outage. Leakage rate testing will then be conducted at subsequent refueling outages which will occur at 18-month intervals, well within the 24 months allowable. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previousy evaluated.

(c) Operation of the facility in accordance with this proposed amendment does not involve a significant reduction in a margin of safety. Specifically, estimates of current local leakage rate about 4% of the leakage rate allowed by the technical specifications. The actual period of plant operation is well within the two-year period originally intended by the technical specifications. Current plant performance indicates little, if any, degradation in containment leakage. The low level of required maintenance and successful post-maintenance testing, combined with the performance of leakage rate testing during the remainder of Cycle 1, provide adequate assurance that any reduction in safety margin is minimal. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

On the basis that the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of an accident of a type different from any previously evaluated, or (3) involve a significant reduction in a margin of safety, the staff has made an initial determination that the proposed

amendment is not likely to involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Rules and Procedures Branch, Office of Administration.

Service Branch

By April 9, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amendment petition must satisfy the specificity requirements described above.

Not later than (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Rules and Procedures Branch, Office of Administration, or may be delivered to the Commission's Public Document Room, 1717 H Stree, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petitioner and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.7714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washinton, DC, and at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans 70122.

Dated at Bethesda, Maryland, this 4th day of March 1986.

For the nuclear regulatory commission.

George W. Knighton,

Director, PWR Project Directorate No. 7, Division of PWR Licensing-B.

[FR Doc. 86-5166 Filed 3-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-07022, License No. 29-13613-02, EA 86-17]

Radiation Technology, Inc.; Order Suspending the License (Effective Immediately)

I

Radation Technology, Incorporated, Lake Denmark Road, Rockaway, New Jersey 07866 (the licensee) is the holder of a materials license issued by the Nuclear Regulatory Commission (the

Commission or NRC) pursuant to 10 CFR Part 30. The license, which was issued on November 18, 1970, most recently renewed on August 17, 1981, and due to expire on August 31, 1986, authorizes the licensee to perform certain activities using byproduct material in accordance with criteria specified therein. This authorization includes, among other activities, the use of specified radioactive sources not to exceed 12,000 curies per source and 2,000,000 curies total, for service irradiation in the licensee's Radiation Technology Model 2102 service irradiator.

II

Products are irradiated in the Model 2102 service irradiator at the licensee's facility by placing them in metal boxes (totes) which enter and exit the service irradiator on a conveyor system. There are two conveyor openings in the irradiator room barrier with two "swing type"doors for each opening.

These openings are approximately 3½ ft by 3½ ft. A personnel access door is located adjacent to the two conveyor openings. Each of these three openings is protected with an interlock system.

The conveyor openings interlock system, which is described in documents incorporated into the license and required by the regulations, is designed to lower the sources, if exposed, when entry through a conveyor opening is made other than a tote. This system consists of tote-recognition switches located on each side of each of the two conveyor openings and a switch for each conveyor door. The tote-recognition switches function to identify a tote and disable the conveyor door switches so that the totes can pass through the conveyor door into the irradiator without the sources returning to the shielded position. If a conveyor door is opened during irradiator operation without the proper actuation of these tote-recognition switches, the switch on the conveyor door will cause the sources to be lowered to the shielded position and and an alarm to be sounded.

The personnel access door interlock system, described in documents incorporated into the license and required by the regulations, prevents opening the access door from the outside if the sources are exposed,and lowers the sources if the door is opened while the sources are in the exposed position. This system consists of: (1) An electrical key-operated lock; (2) a circuit which disables the key and prevents opening the door, except from inside the irradiator room by use of the inside dooorknob, whenever a high radiation condition exists in the irradiator room as detected by a radiation monitor; (3) a switch on the door jam which senses the position of the door and returns the sources to the shielded position in the service irradiator pool if the door is opened; and (4) an electric eye beam located approximatley six feet inside the door, which, if interrupted by the presence of an individual, wil also return the sources to the shielded position.

III

During an NRC inspection conducted at the licensee's facility on February 26, 1986, the NRC found that, because of a malfunction of the radiation monitor associated with the personnel access door interlock on February 20, 1986, the electrical lock on the personnel access door could not be opened with the door key. Also, the NRC found that in spite of this condition, licensee personnel continued to operate the irradiator while the monitor was not functioning. These personnel established a method of opening the door following an irradiator shutdown that consisted of inserting fingers and/or a screwdriver through the wire mesh door and minipulating the inside doorknob, which opened the door. Life threatening radiation levels exist in the irradiator room during irradiator operations and may continue to exist if the sources fail to lower into their shielded position following completion of operations or further interlock failures. Bypassing the electrical lock and opening the door using the inside doorknob could allow inadvertent personnel entry into the irradiator room. Bypassing of the personnel access door interlock consitituted violation of the requirements on License No. 29–13613–02.

IV

Another violation of NRC requirements was identified during an NRC inspection on September 21, 1984 at the licensee's facility in Rockaway, New Jersey, involving bypassing of the safety interlock system for one of the two conveyor openings to the service irradiator. Specifically, in accordance with a memorandum dated April 2, 1984 issued by the President/Radiation Safety Officer of the Company, the doors for the lower conveyor were tied open and the tote-recognition switches were tied back, disabling the protective interlocks. Consequently, an individual could have gained access to the irradiator through the lower conveyor doors while the sources were exposed without the sources being lowered to the shielded position as required. In response to this violation, NRC Region I issued a Confirmatory Action Letter to the licensee on September 26, 1984. The letter confirmed the licensee's commitment to:

1. Operate the irradiators in the facility only if all the safety interlocks described in the correspondence referenced in Conditions 17 and 18 of License No. 29–13613–02 are operable and functioning, and

2. Immediately cease the operation of the irradiator if a safety interlock referenced in Item 1 becomes inoperable or incapable of functioning as described in the correspondence referenced in Conditions 17 and 18 of License No. 29–13613–02.

As a result of the identification of this violation, an investigation was initiated. Although this investigation is still continuing, the investigation determined that after the Confirmatory Action Letter was issued, the licensee at times continued to operate the irradiator facility with the required interlock systems for the conveyor doors disabled.

In addition, contrary to the licensee's commitment to operate the facility in strict accordance with the license as described in the above Confirmatory Action Letter, the licensee replaced the approved conveyor interlock system with a new system in October or November 1985, and subsequently operated the irradiator, without informing the NRC and obtaining the required approval. A license amendment request and approval are required to permit the NRC to ensure that operation of the replacement interlocks would be in accordance with regulatory requirements. Approval was not requested until January 9, 1986, and approval has not yet been granted.

V

From the foregoing it is apparent that the licensee has not taken adequate actions to comply with Commission regulations, including 10 CFR 20.203 and Conditions 17 and 18 of its license and, consequently, the NRC lacks reasonable assurance that the facility will be operated in a manner to assure that the health and safety of the public (licensee employees) will be protected. Operation of the service irradiator with any safety interlock bypassed has potentially serious adverse effects for individuals at the facility. For example, in an earlier incident in 1977 at this same facility, when the personnel access door interlock system was rendered inoperable, a licensee employee entered the irradiator cell while the radioactive sources were exposed and received a radiation dose to the whole body in the range of 150–300 rem, an amount well in

excess of the regulatory limit. As a result, the NRC issued an Order suspending the license on September 23, 1977. The suspension Order was subsequently lifted on October 14, 1977.

In view of the events at this facility since 1984, a full investigation of the foregoing must be completed before I can determine whether there is reasonable assurance that the licensee will comply with Commission requirements, whether the health and safety of the public, including employees, will be protected and, whether, therefore, facility operation should be permitted to continue. Accordingly, I have determined that continued operation of the facility is an immediate threat to the public health and safety. Therefore, the public health, safety and interest require that License No. 29–13613–02 be suspended, effective immediately, until a full investigation is completed and I have further determined that no prior notice under 10 CFR 2.201 is required.

VI

In view of the foregoing, and pursuant to sections 81, 161b and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, pending completion of the Commission's investigation of these events and further order of the Commission: It is hereby ordered, effective immediately, that:

A. All operations authorized by License No. 29–13613–02 are suspended;

B. The licensee shall place and maintain all sources in their fully shielded position at the bottom of the irradiator pools, and conduct only those licensed activities required to maintain the facility in a safe condition.

C. The Regional Administrator, Region I, may relax or rescind any of the above provisions upon demonstration of good cause by the licensee.

VII

The licensee may show cause why this Order should not have been issued and should be vacated by filing a written answer under oath or affirmative within 20 days of the date of this Order which sets forth the matters of fact and law on which the licensee relies. The licensee may answer as provided in 10 CFR 2.202(b) by consenting to this Order.

The licensee or any other person adversely affected by this Order may request a hearing within 20 days of its issuance. Any answer to this Order or request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region I, 631 Park Avenue, King of Prussia, Pennsylvania 19406. Upon the failure of the licensee to answer or request a hearing within the specified time, this Order shall be final without further proceedings. An answer to this order or a request for hearing shall not stay the immediate effectiveness of section VI of this order.

If a hearing is requested by the licensee, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this order should be sustained.

Dated at Bethesda, Maryland, this 3rd day of March 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86–5167 Filed 3–7–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–397]

Washington Public Power Supply System, WPPSS Nuclear Project No. 2; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to Washington Public Power Supply System (the licensee), for operation of the WPPSS Nuclear Project No. 2 located in Benton County near Richland, Washington.

The amendment would modify the WNP–2 Technical Specifications to allow deferring the Type B leak rate test on the drywell head "O" rings from March 19, 1986, until the spring 1986 refueling outage. The spring 1986 refueling outage is presently scheduled to begin April 15, 1986. Concurrently the Supply System is seeking a one time only exemption to the maximum test interval requirement of 10 CFR Part 50, Appendix J requirements.

The Technical Specifications and Appendix J specify that the Type B and C leak tests are to be conducted at intervals no greater than 24 months. The WNP–2 drywell head "O" ring Type B test was last completed on March 19, 1984, making the next test due no later than March 19, 1986. This test requires plant shutdown and shield plug removal to allow access. The WNP–2 refueling outage is scheduled to begin less than one month later and the licensee requests this one time only Technical Specification and Appendix J exemption to defer this test to the forthcoming refueling outage. These revisions to the technical specifications would be made in response to the licensee's application for amendment dated January 17, 1986.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Accordingly, the licensee has determined, and the staff agrees, that the requested amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because, due to outages and the power ascension test program completion during the two year period, there were six months in which the "O" rings were not exposed to an operating environment; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated becasue no new designs or plant operating modes are affected by this amendment; or (3) involve a significant reduction in a margin of safety because, as discused in (1) above, the total time of operation under the amended technical specifications will not exceed that of the Appendix J requirement, i.e. 24 months. Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in shutdown of the power facility on March 20, 1986, because the last surveillance test of the containment lead "O" ring seals will have been performed more than 24 months prior. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to Elinor G. Adensam, Director of BWR Project Directorate No. 3, by collect call to (301) 492–8180 or submitted in writing to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch. All comments received by March 14, 1986, will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Local Public Document Room, Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Dated at Bethsda, Maryland, this 4th day of March, 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–5168 Filed 3–7–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on March 19 and 20, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

The meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, March 19, 1986—8:30 A.M. until the conclusion of business.
Thrusday, March 20, 1986—8:30 A.M. until the conclusion of business.

The Subcommittee will meet to: (1) Examine the potential for automating more of the monitoring and control functions in nuclear power plants to relieve the burden on plant operators and enhance safety, (2) review 1985 progress on the Human Factors Program Plan, and (3) be briefed on the status of EOP Implementation.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommitte, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statement's and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens (telephone 202/634–1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: March 4, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–5163 Filed 3–7–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Generalized System of Preferences (GSP); Deadline for Acceptance of Petitions Requesting Modification of List of Articles Eligible for Duty-Free Treatment Under the GSP

Notice is hereby given that, in order to be considered during the 1986 GSP annual review, all petitions to modify the list of articles eligible for duty-free treatment under the Generalized System of Preferences (GSP) and requests to review the GSP status of any beneficiary developing country must be received no later than the close of business, Monday, June 2, 1986. The GSP provides for the duty-free importation of qualifying eligible articles when imported from designated beneficiary developing countries. The GSP is authorized by Title V of the Trade Act of 1974, as amended, and has been implemented by Excecutive Order 11888 of November 24, 1975, and mofified by subsequent Executive Orders and Presidential Proclamations.

Interested parties or foreign governments may submit petitions (1) to designate additional articles as eligible for the GSP; or (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; or (3) to otherwise modify GSP coverage. Also, any person may file a request to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation critieria listed in subsections 502(b) or 502(c) of the Act (19 U.S. 2662 (b) and (c)).

Petitions and requests to modify GSP treatment should be submitted in English, in 20 copies, in conformity with regulations codified in 15 CFR, Chapter XX, especially Part 2007 and addressed to the Chairman, GSP Subcommittee, Trade Policy Staff Committee, Office of the United States Trade Representative, Room 517, 600 Seventeenth Street, NW., Washington, DC 20506. Further information may be obtained by calling the GSP Information Center at (202) 395–6971.

Prospective petitioners and requestors are strongly advised to review the GSP regulations published in the **Federal Register** on Tuesday, February 11, 1986, (51 FR 5035). Petitions and requests that do not conform to the requirements of these regulations will not be accepted for review.

Notice of petitions and requests accepted for review will be published in the **Federal Register** on or about Tuesday, July 15, 1986. The notice will also provide information concerning the opportunity for interested parties to comment on petitions and requests accepted for review through public hearings and written submissions. Any modifications to the GSP resulting from the 1986 GSP annual review will be

announced on or about April 1, 1987 and will take effect on July 1, 1987.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 86-5114 Filed 3-7-86; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14966, File No. 812-6207]

Fidelity California Tax-Free Fund et al.; Application

March 4, 1986.

Notice is hereby given that Fidelity California Tax-Free Fund; Fidelity Cash Reserves; Fidelity Congress Street Fund; Fidelity Contrafund; Fidelity Corporate Bond Fund; Fidelity Corporate Trust; Adjustable Rate Preferred Stock Fund; Fidelity Daily Income Trust; Daily Money Fund; Daily Tax-Exempt Money Fund; Fidelity Destiny Fund; Fidelity Discoverer Fund; Fidelity Equity-Income Fund; Equity Portfolio: Growth; Equity Portfolio: Income; Fidelity Exchange Fund; Financial Reserves Fund; Fixed-Income Portfolios; Fidelity Freedom Fund; Fidelity Fund; Fidelity Government Securities Fund; Fidelity High Income Fund; Fidelity High Yield Municipals; Institutional Cash Portfolios; Institutional Tax-Exempt Cash Portfolios; Fidelity Limited Term Municipals; Fidelity Magellan Fund; Fidelity Massachusetts Tax-Free Fund; Fidelity Mercury Fund; Fidelity Money Market Trust; Fidelity Mortgage Securities Fund; Fidelity Municipal Bond Fund; Fidelity New York Tax-Free Fund; North Carolina Cash Management Trust; Fidelity Overseas Fund; Fidelity Puritan Fund; Fidelity Qualified Dividend Fund; Rodney Square Fund; Fidelity Securities Fund: OTC Portfolio; Fidelity Select Portfolios; Fidelity Special Situations Fund; Fidelity Tax-Exempt Money Market Trust; Tax-Exempt Portfolios; Fidelity Thrift Trust; Fidelity Trend Fund; Fidelity U.S. Government Reserves Fund; and Variable Insurance Products Fund ("Applicants"), 82 Devonshire Street, Boston, Massachusetts 02109, filed an application on September 25, 1985, and an amendment thereto on February 13, 1986, for an order, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), exempting Applicants from the provisions of section 17(a) to the extent necessary to permit the Applicants to pay an equitable portion of the premium of a professional services liability insurance policy to be issued by an affiliate and to allow certain claims thereunder to be settled. The exemption is also sought with respect to all investment companies that may in the future be advised by Fidelity Management & Research Company ("FMR"), and whose trustees, managing general partners, and officers may be covered by such insurance policy. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicants are all registered investment companies, and, although the boards are not identical, they have common trustees. FMR, a registered investment adviser, provides investment advice and administrative and portfolio management services to Applicants. Fidelity Distributors Corporation, a wholly-owned subsidiary of FMR, acts as principal underwriter to Applicants. One of the Applicants is Daily Money Fund ("Daily Money"), an open-end diversified investment company which operates as a money market fund and is organized as a Massachusetts business trust. Daily Money is divided into two portfolios: the U.S. Treasury Portfolio and the Money Market Portfolio.

Old Republic International Corporation ("ORIC") is primarily a commercial lines underwriter providing insurance, reinsurance and related financial services to all of the major market areas and is comprised of about 125 separate subsidiaries, joint ventures, divisions and associated companies ("ORIC Group"). One of the first-tier subsidiaries of ORIC is Old Republic Marketing, Inc. ("Marketing"). Old Republic Equity Plans, Inc. ("Plans"), a broker-dealer, is a subsidiary of Marketing. Plans distributes Daily Money to numerous subsidiaries, divisions, and associated companies of ORIC. The accounts of all the companies in the ORIC Group on occasion hold in excess of 5% of the shares of either of Daily Money's portfolios, and of Daily Money as a whole. From time to time these accounts may also hold a presumptively controlling block of the securities of either portfolio and/or of Daily Money as a whole.

Old Republic General Insurance Group, Inc. ("General") is another first-tier subsidiary of ORIC. One of General's subsidiaries is Old Republic Insurance Company, Inc. ("Insurance Company"). According to the application, Insurance Company is one of a decreasing number of insurers that currently offer mutural fund errors and omissions and trustee liability insurance coverage to investment companies, and is also one of the few insurers willing to issue a policy following the policy from provided by the Applicants' primary insurance carriers.

Applicants' errors and omissions insurance coverage is structured such that several insurance companies have provided the various policies that in the aggregate constitute comprehensive coverage. Following notification in early 1985 that the Applicants' two primary errors and omissions insurance carriers would provide substantially reduced coverage, and based on the recommendation of FMR's insurance broker after analysis and comparision of various policies, Applicants' trustees determined that the interests of the Applicants would be furthered by the Applicants' joint participation in the purchase of additional errors and omissions coverage in the amount of $4,000,000 from Insurnace Company. The total premium to be paid to Insurance Company for this coverage is $90,000, of which $24,894 or 27.66% would be allocated to all mutual funds advised by FMR, including Applicants. As with the Funds' primary insurance coverage, payment of the premium would be allocated among the Funds, FMR, and affiliated non-fund entities on a basis determined by each Fund's board of directors to be fair and reasonable to that Fund, pursuant to Rule 17d-1(d)(7) under the Act. It is anticipated that the allocation among the Funds of premiums relating to the Insurance Company coverage will correspond to the allocation among the Funds of premiums relating to the Funds' primary insurance coverage. The Funds' primary insurer currently determines the allocation of premium payments among the Funds based on the ratio of each Fund's net assets to the total net assets of all covered Funds, and has represented that as a result the premium allocated to each Fund is less than its share of the sum of the premiums that would have been paid if such insurance coverage were purchased separately by the insured parties.

The management of Applicants additionally believes that the interests of the Applicants would be served by permitting extra-judicial settlement of certain claims arising under the proposed policy. In order to ensure fairness and eliminate any possibility of overreaching, the officers of each Applicant will continue to be required to report all losses or costs under the policy to that Applicant's Board. In the event of a loss or cost, the Board of the Applicant in question, including its independent members, would determine the amount of such loss or costs. If the amount exceeded the coverage provided

by the two primary carriers, the Board would submit a claim for its payment to Insurance Company. Where a proposed settlement offer by Insurance Company was in an amount less than the claim submitted to it, and where the indemnification provisions of an Applicant's governing documents might cause a claim to be made to that Applicant for such difference, the independent members of the Board of the Applicant in question, with the advice of their independent counsel, would determine the adequacy of the offer by Insurance Company. In determining the adequacy of such offer, the standards specified in section 17(b) would be considered.

Since certain subsidiaries or affiliates of ORIC may from time to time be deemed to be affiliated persons of Daily Money because of the ORIC Group's ownership of its securities, and certain other Applicants may be deemed affiliated persons of Daily Money because of the identity of their investment adviser and of certain of their trustees, Insurance Company may be deemed an affiliated person, or an affiliated person of an affiliated person, of Daily Money and the other Applicants. As such, Insurance Company may be deemed to be prohibited by section 17(a) of the Act from selling an errors and omissions policy to Applicants. In addition, these affiliations also may be deemed to prohibit the settlement of certain claims under the policy by Insurance Company for less than the full amount of the claim.

Applicants assert that, in view of the terms, quality and increasing scarcity of the insurance in question, coupled with the safeguards built into the settlement process through the role of the independent trustees or managing general partners, the purposes of the Act and the public interest would be furthered by granting an order pursuant to section 17(b) of the Act to the extent necessary to permit the Applicants to pay an equitable portion of the premiums of an errors and omissions policy provided by Insurance Company, and to permit the extra-judicial settlement of certain claims arising under such policy for less than the applicable amount of the claim without the need for further exemptive orders.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 28, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5172 Filed 3-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14967, File No. 812-6156]

Hutton Advantaged Properties II Limited Partnership; Application

March 4, 1986.

Notice is hereby given that Hutton Advantaged Properties II Limited Partnership ("Partnership"), a Delaware limited partnership, and its general partners, Related Advantaged Residential Associates Inc., Hutton Advantaged Housing Associates Inc. ("Hutton General Partner"), and Related and Hutton Associates Limited Partnership ("Related/Hutton Associates") (collectively, "General Partners", and together with the Partnership, "Applicants"), 645 Fifth Avenue, New York, New York 10022, filed an application on July 17, 1985, and an amendment thereto on January 8, 1986, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Partnership from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable provisions thereof.

According to the application, the Partnership intends to publicly offer an initial maximum of 10,000 units of limited partnership interests at a price of $5,000 per interest ("Interests"). The Interests will be offered through E.F. Hutton & Company Inc. ("Dealer Manager"), an affiliate of the Hutton General Partner and Related/Hutton Associates, on a "best efforts" basis. Applicants state that the Partnership has the right, exercisable in its sole discretion, to sell and require the Dealer Manager to offer up to 10,000 Interests in addition to the initial maximum of 10,000 Interests. Applicants state that on July 2, 1985, the Partnership filed a Registration Statement on Form S-11 with the Commission under the Securities Act of 1933, as amended, relating to the offering of Limited Partnership Interests in the Partnership, and such Registration Statement was declared effective on August 9, 1985.

Applicants state that the Partnership will operate as a "two-tier" partnership that is, the Partnership, as a limited partner, will invest in other limited partnerships ("Local Partnerships") which will own and operate residential housing developments ("Apartment Complexes") primarily in suburban locations, which are existing or under construction and benefit from financing at rates below those otherwise available from conventional lenders made available through various federal and state government programs or through the issuance of tax exempt bonds. Applicants state that the Partnership will generally acquire a 98% interest in the profits, losses and cash distributions of the Local Partnerships, although the Partnership may acquire a lesser interest, but not less than 90%. Applicants expect that Related/Hutton Associates, one of the General Partners, will become a local affiliated partner of the Local Partnership ("Local Affiliated Partner").

Applicants state that the existing Apartment Complexes owned by the Local Partnerships are expected to be subject to substantial mortgage obligations and will therefore be highly leveraged. Applicants state that the Partnership will obtain additional leverage with respect to Local Partnerships owning existing Apartment Complexes through the use of purchase money notes ("Purchase Money Notes"). Applicants further state that the Purchase Money Notes will be issued to the original partners of such Local Partnerships, evidencing the obligation of the Partnership to pay the deferred portion of the purchase price for its interest in the Local Partnerships, and will be secured by the Partnership's limited partnership interest in the Local Partnerships. Applicants represent that it is the intention of the General Partners that the majority of the Local Partnerships will own Apartment Complexes receiving the benefits of mortgage insurance under sections 221(d)(4) and 207 of the National Housing Act, as amended, tax exempt bond financing under section 103(b)(4) of the Internal Revenue Code of 1954, as amended, or rental assistance under Section 8 of the United States Housing

Act of 1937, as amended. Applicants state that tax-exempt bond financing of a residential rental project under section 103(b)(4) is expressly conditioned upon the occupancy of at least 20% of the units of such project by individuals of low and moderate income. Applicants further state that such occupancy by low and moderate income individuals must be on an ongoing basis and continue during the entire time that the bonds are outstanding.

Applicants state that any subscriptions for Interests will be approved by the General Partners, which approval will be required to be conditioned upon representations as to suitability of the investment for each subscriber. Applicants state that the form of subscription agreement for Interests provides that each subscriber represent, among other things, that he either (i) has an annual gross income of at least $30,000 and a net worth (exclusive of home, home furnishings and personal automobiles) of at least $30,000; or (ii) has a net worth (exclusive of home, home furnishings and personal automobiles) of at least $75,000; or (iii) is purchasing in a fiduciary capacity for a person having the net worth and annual gross income set forth in clause (i) or the net worth set forth in clause (ii).

Applicants state that the General Partners and affiliates of the General Partners ("Affiliates") will receive substantial reimbursements, fees and other compensation from the proceeds of the sale of the Interests. Applicants state that the General Partners and Affiliates will be reimbursed for the actual cost of organizational expenses and will each receive a distributive share of 1% of all items of cash flow, profits and losses of the Partnership and the Local Partnerships respectively. The General Partners and their Affiliates will receive additional fees for managing the conduct of the affairs of the Partnership and the local Partnerships and the continuing operation of Apartment Complexes owned by the Local Partnerships. Applicants represent that all compensation to be paid to the General Partners and Affiliates is specified in the Partnership Agreement and Prospectus and no compensation will be payable to the General Partners or Affiliates not so specified.

Applicants state that the Partnership has received an opinion of Partnership Counsel that it does not come within the definition of "investment company" as defined in section 3(a) of the Act and, therefore, is not required to register as an investment company under the Act. Applicants state that the opinion of Partnership Counsel is based in part upon the existence of the right of both the Partnership and the Local Affiliated Partner, upon a vote of a majority in interest of the Limited Partners, to remove a local general partner from a Local Partnership without cause. Applicants represent that these rights will expire upon the granting of the exemption requested in this Application.

Applicants state that at the time the Registration Statement was declared effective, several significant changes to the Internal Revenue Code of 1954 had been proposed by President Reagan in "The President's Tax Proposals to the Congress for Fairness, Growth and Simplicity" and were under consideration by Congress. Applicants represent that several of the proposed changes would have had an adverse effect on the ability of the Partnership to provide certain tax benefits to investors. Among these, according to Applicants, was the extension of at-risk limitations to real estate, the proposed amendments to the depreciation rules, and changes in the treatment of construction costs and construction period interest. Applicants further represent that many of these proposals would apply to property acquired or placed in service or to costs incurred, after January 1, 1986. Applicants determined, therefore, that it would be in the best interests of investors and consistent with the public policy in favor of providing housing for low and moderate income persons to commence the offering as soon as practicable, in order to raise sufficient proceeds to enable the Partnership to purchase interests in Local Partnerships which acquire Apartment Complexes in 1985.

Applicants believe that expediting the offering, and raising sufficient funds to permit the Partnership to acquire interests in approximately 13 Local Partnerships by the end of 1985, has been beneficial to investors. Applicants state that although the final form of the changes to the tax laws which will be enacted is still uncertain, Partnership Counsel believes that transitional rules may preserve certain tax benefits for Apartment Complexes acquired by Local Partnerships in 1985.

Furthermore, Applicants believe that the relief requested herein is justified in light of the unusual circumstances surrounding the proposed tax legislation. Applicants state that the scope of the tax changes being discussed is very broad and the uncertainty surrounding the legislative process has made planning transactions extremely difficult. Applicants submit that given these factors, the ability to expedite transactions and realize some certainty as to their tax consequences has become crucial in order to permit the realization of the investment objectives described in the Prospectus.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 28, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5173 Filed 3-7-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2232]

Nevada; Declaration of Disaster Loan Area

Carson City and Douglas, Lyon, Storey and Washoe Counties in the State of Nevada constitute a disaster area because of heavy rainstorms and winds causing flooding and mudslides which occurred February 15 through 20, 1986. Applications for loans for physical damage may be filed until the close of business on May 1, 1986, and for economic injury until the close of business on September 2, 1986, at the address listed below:

Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000

	Percent
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 223206 for physical and for economic injury the number is 638400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 28, 1986.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 86-5092 Filed 3-7-86; 8:45 am]

BILLING CODE 8025-01-M

Indiana District Advisory Council Meeting

The U.S. Small Business Administration, Region V, located in the geographical area of Indianapolis, Indiana, will hold a public meeting at 10:30 a.m., EST, on Wednesday, March 12, 1986, at the North Meridian Inn, Indianapolis, Indiana, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Robert D. General, District Director, U.S. Small Business Administration, Minton-Capehart Federal Building, Room 578, 575 North Pennsylvania Street, Indianapolis, Indiana, 46204-1584—(317) 269-7275.

March 4, 1986.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 86-5088 Filed 3-7-86; 8:45 am]

BILLING CODE 8025-01-M

San Francisco District Advisory Council Meeting

The U.S. Small Business Administration, Region IX, located in the geographical area of San Francisco, California, will hold a public meeting at 10:00 a.m., EST, on Tuesday, March 18, 1986, at 211 Main Street—5th Floor—Conference Room 543, San Francisco, California, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call the Office of the District, Director San Francisco District Office, 211 Main Street—4th Floor, San Francisco, California, 94105, (415) 974-0642.

Dated: March 4, 1986.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 86-5089 Filed 3-7-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0282]

Benox, Inc.; License Surrender

Notice is hereby given that Benox Incorporated, P.O. Box 1299, Industry, California 91749 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Benox Incorporated was licensed by the Small Business Administration on June 26, 1981.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was accepted on February 7, 1986, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 3, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-5090 Filed 3-7-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0291]

Hinsley Venture Capital, Inc.; Issuance of a License To Operate as a Small Business Investment Company

On November 22, 1985, a notice was published in the **Federal Register** (50 FR 48289), stating that Hinsley Venture Capital, Inc. (Hinsley Venture), located at 9494 Southwest Freeway-Suite 100, Houston, TX 77074, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1985), for a license to operate as a small business investment company under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on December 22, 1985, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 06/06-0291 to Hinsley Venture, effective February 21, 1986.

Dated: February 27, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-5091 Filed 3-7-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Applicable Rate of Interest on Nonqualified Withdrawals From a Capital Construction Fund

Under the authority in section 607(h)(4)(B) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(h)(4)(B)), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any nonqualified withdrawals from a capital construction fund established under section 607 of the Act shall be 13.32 percent, with respect to nonqualified withdrawals made in the taxable year beginning in 1985.

The determination of the applicable rate of interest with respect to nonqualified withdrawals was computed, according to the joint regulations issued under the Act (46 CFR 391.7(e)(2)(ii)), by multiplying eight percent by the ratio which (a) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year bears to (b) the average yield on 5-year Treasury securities for the calendar year 1970. The applicable rate so determined was computed to the nearest one-hundredth of one percent.

So ordered by: *Acting Deputy Administrator Maritime Administration.*

Administrator, National Oceanic and Atmospheric Administration.

Assistant Secretary for Tax Policy, *Department of the Treasury.*

Dated: March 3, 1986.

Richard E. Bowman,

Acting Deputy Maritime Administrator.

Anthony J. Calio,

Administrator, National Oceanic and Atmospheric Administration.

J. Roger Mentz,
Acting Assistant Secretary for Tax Policy.
[FR Doc. 86-4919 Filed 3-7-86; 8:45 am]
BILLING CODE 4910-81-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP85-14; Notice 2]

Motor Vehicle Safety Standards; Metzeler Kautschuck GmbH; Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Metzeler Kautschuck GmbH of Munchen, West Germany, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381, *et seq.*) for a noncompliance with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*. The basis of this petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on October 16, 1985, and an opportunity afforded for comment (50 FR 41978).

Paragraph S6.5(d) of Standard No. 119 requires tires to be marked with the maximum load rating and corresponding inflation pressure. Previous agency interpretations of this requirement have noted that only one load rating may appear on the sidewall of tires. Metzeler manufactured 9,000 ME88 Marathon motorcycle tires, in tire size designations 150/90H15, 140/90H16, 130/90H17, 120/90H18, wherein a second maximum load rating was marked for operational purposes. The subject tires were manufactured during the period from March through July 1985. These "H" speed rated motorcycle tires are designed for a maximum load at speeds up to, but not exceeding 130 mph. The second maximum load rating on these tires has been labeled for operations not exceeding 60 mph, and the maximum load rating has been adjusted accordingly. All other labeling is correct.

Metzeler argued that the noncompliance is inconsequential because the failure to label properly has no impact on safety and the tires otherwise comply with all requirements of Standard No. 119. Metzeler contended that it is providing information useful to riders who are using these motorcycle tires that are designed for heavily loaded touring motorcycles. It indicated that the violation only involves additional information, and not the lack of safety labeling. Metzeler further states that when apprised of the agency interpretation on August 8, 1985, it discontinued the use of the second load rating on August 9, 1985.

One comment was received on the petition, which supported it.

The tires covered by this petition have been manufactured for use on touring-type motorcycles. Such vehicles are usually operated at normal highway speeds, with one passenger and occasionally luggage. It is doubtful that a motorcycle tourist would load the motorcycle to the indicated maximum load for 60 mph and subsequently operate the motorcycle (with a passenger and luggage) at speeds up to 130 mph (where the maximum load rating would be lower). Thus, NHTSA has concluded that the error does not compromise safety. It notes that any attempt to correct the noncompliance by buffing off the superfluous information could create a safety problem, as the sidewalls of motorcycle tires are such that the buffing operation could quickly expose the cord material.

Accordingly, it is hereby found that the petitioner has met its burden of persuasion that the noncompliance with Standard No. 119 herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on March 5, 1986.

Barry Felrice,
Associate Administrotor for Rulemaking.
[FR Doc. 86-5128 Filed 3-7-86; 8:45 am]
BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Nonconventional Source Fuel Credit; Publication of Inflation Adjustment Factor and Reference Price for Calendar Year 1985

AGENCY: Internal Revenue Service, Treasury.

ACTION: Publication of inflation adjustment factor and reference price for calendar year 1985 as required by section 29(d)(2)(A) of the Internal Revenue Code (26 U.S.C. 29(d)(2)(A) (formerly 44D renumbered by the Tax Reform Act of 1984).

SUMMARY: The inflation adjustment factor and reference price are used in determining the availability of the tax credit for production of fuel from nonconventional sources under section 29 of the Internal Revenue Code.

DATE: The 1985 inflation adjustment factor and reference price apply to qualified fuels sold during calendar year 1985.

Inflation factor: The inflation adjustment factor for calendar year 1985 is 1.4211.

Price: The reference price for all qualified fuels is $24.08 per equivalent barrel for the 1985 calendar year.

Because the above reference price does not exceed $23.50 multiplied by the inflation adjustment factor, the phaseout of credit provided for in section 29(b)(1) of the Internal Revenue Code does not occur for any qualified fuel based on the above reference price.

Note.—After December 31, 1984, gas produced from a tight formation that also falls under any of the categories of gas specified in 18 CFR 272.103(a) (as amended) under the Natural Gas Policy Act of 1978 (NGPA) will no longer be eligible for the credit allowed by section 29 (formerly section 44D) of the Internal Revenue Code.

FOR FURTHER INFORMATION CONTACT:

For the inflation factor—Robert O'Keefe, PM:PFR:R, 1111 Constitution Avenue, NW., Internal Revenue Service, Washington, DC 20224, Telephone Number (202) 376-0720 (not a toll-free number).

For the reference price—Noel J. Sheehan, CC:C:E:1:2, Room 5232, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone Number (202) 566-4463 (not a toll-free number).

Peter K. Scott,
Acting Deputy, Associate Chief Counsel (Technical).
[FR Doc. 86-5122 Filed 3-7-86; 8:45 am]
BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 46
Monday, March 10, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

BOARD FOR INTERNATIONAL BROADCASTING

TIME AND DATE: 9:00 a.m., April 28–30, 1986.

PLACE: RFE/RL Broadcast Center, Oettingenstrasse 67, Am Englischen Garten, 8000 Munich 22, Federal Republic of Germany.

STATUS: Closed, pursuant to 5 U.S.C. 552(b)(c)(1) 22 CFR 1302.4 (c) and (h) of the Board's rules (42 FR 9388, March 12, 1977).

MATTERS TO BE CONSIDERED: Matters concerning the broad foreign policy objectives of the United States Government.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Angelo R. Manginelli, Acting Executive Director, Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036, 202–254–8040.

Board Meeting: April 28–30, 1986
Board for International Broadcasting, Suite 400, 1201 Connecticut Avenue, NW., Washington, DC 20036

Certification of Closed Meeting

The Acting Executive Director, in accordance with Section 3(f)(1) of the Government in the Sunshine Act (5 U.S.C. 552b(f)(1) and the Board's rules issued under that Act (22 CFR 1302), hereby certifies that the Board meeting of April 28–30, 1986, at which will be discussed matters concerning the broad foreign objectives of the United States Government, may properly be closed to the public on the basis of the exemptions set forth in the Board's rules in 22 CFR 1302.4 (c) and (h).

Dated: February 19, 1986.

Angelo R. Manginelli,

Acting Executive Director.

[FR Doc. 86–5220 Filed 3–6–86; 11:02 am]

BILLING CODE 6155-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, March 17, 1986, 2:00 p.m. (eastern time).

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: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operation (Optional)
3. Report on Pre-complaint Counseling and Complaint Processing for FY 1984
4. Proposed Revisions of the Commission's Regulations on Employee Responsibilities and Conduct
5. Proposed Revision to section 603 of Volume II of the Compliance Manual, Processing Cases Which Raise Issues Included on the Priority on Pending Lists.

Closed

1. Litigation Authorization: General Counsel Recommendations
2. 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: March 5, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86–5209 Filed 3–6–86; 10:24 am]

BILLING CODE 6750-06-M

3

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 11:00 a.m. Monday, April 14, 1986.

PLACE: Harry S. Truman Library, Independence, Missouri, 64050.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Call meeting to order.
2. Welcome—Director, Harry S. Truman Library
3. Adoption of proposed agenda.
4. Approval of minutes of September 9, 1985 meeting.
5. Discussion of economy measures mandated by Pub. L. 99–177.
6. Future scholar recruitment.
7. Report of the Chairman.
8. Report of the Executive Secretary.
9. Resolution to empower the Chairman/Executive Secretary to enter/renew contracts, conclude agreements, and conduct other Foundation business.
10. New business.
11. Discuss and set date, time and place of Fall Board meeting.
12. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary Telephone 202/395–4831.

Malcolm C. McCormack,

Executive Secretary.

[FR Doc. 86–5234 Filed 3–6–86; 12:48 pm]

BILLING CODE 9500-01-M

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INTER-AMERICAN FOUNDATION BOARD

TIME AND DATE:

March 10, 1986, 6:00–9:00 p.m.
March 11, 1986, 9:00 a.m.–12:00 noon

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

The Inter-American Foundation's Board meeting scheduled for March 10–11, 1986 has been cancelled. No new date has been set.

CONTACT PERSONS FOR MORE INFORMATION:

Robert W. Mashek, Secretary to the Board of Directors (703) 841–3844

Charles M. Berk, General Counsel, (703) 841–3812

Dated: March 5, 1986.

Charles M. Berk,

Sunshine Act Officer.

[FR Doc. 86–5213 Filed 3–6–86; 10:32 am]

BILLING CODE 7025–01–M

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NUCLEAR REGULATORY COMMISSION

Correction

In FR Doc. 86–4163 appearing on page 6859 in the issue of Wednesday, February 26, 1986, make the following correction in the second column: The telephone number in the fourth line from the bottom should read "(202) 634–1498".

BILLING CODE 1505–01–M

federal register

Monday
March 10, 1986

Part II

Department of Labor

Office of Workers' Compensation Programs

20 CFR Part 10

Claims for Medical Benefits Under the Federal Employees' Compensation Act; Final Rule

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 10

Claims for Medical Benefits Under the Federal Employees' Compensation Act

AGENCY: Office of Workers' Compensation Programs, Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor is revising the regulations concerning the procedures for submitting bills for medical services provided to Federal employees under Federal Employees' Compensation Act, and establishing limits for fees for medical procedures and services according to a published schedule developed and maintained by the Director of the Office of Workers' Compensation Programs (OWCP).

The final rule provides for the implementation of a schedule of maximum allowable charges; directs its maintenance and revision by the Director of the Workers' Compensation Programs; sets forth procedures for providers to seek reconsideration of fee determinations under the schedule; and establishes requirements for medical bills.

EFFECTIVE DATE: June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas M. Markey, Associate Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S-3229, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 523-7552.

SUPPLEMENTARY INFORMATION: Proposed regulations were published in the **Federal Register** on June 7, 1984 (49 FR 23658-63) and provided a 60-day period for comment. On August 24, 1984 (49 FR 33695), the comment period was extended for 60 days to allow additional time for comment. On January 31, 1985 (50 FR 4525), the period for comment was reopened for the period through March 4, 1985, to allow interested persons to evaluate additional information made available by the Department and to comment on the proposed rule. During the comment period, the Department of Labor received fifteen written comments, including five comments from labor organizations which represent Federal employees, five comments from Federal agencies, two comments from medical association, and three comments from private citizens.

The Department's analysis of the comments received are set forth below, starting with comments on the need for the schedule and its application to certain types and groups of medical providers.

Two labor organizations, one Federal agency, and one private citizen questioned the need for regulations establishing maximum allowable charges for medical procedures and services. We believe that the increasing costs of providing medical care to injured Federal workers make a variety of cost containment measures desirable. During the Fiscal Year 1984, the Secretary of Labor authorized payment of $165,000,000 from the Employees' Compensation Fund for medical services and expense associated with workplace injuries and illnesses. This represented a 9.1% increase over Fiscal Year 1983. Moreover, medical costs rose from about $15 million in FY 1967 to $69 million in FY 1977 and to $165,000,000 in FY 1984. An investigation by the Senate Permanent Subcommittee on Investigations, and hearings held by the Subcommittee in March 1982, concluded that while OWCP had a general policy of reviewing bills for reasonableness of charges, there was no consistent application of this policy in OWCP's local district offices, and no guidelines were provided for this purpose. Citing the disproportionate rise in medical outlays as compared to general compensation outlays, the Office of Inspector General strongly recommended adoption of a fee schedule as a first step in cost containment, in successive reports from 1982 until proposed regulations were published. Therefore, we conclude that the fee schedule will assist OWCP in its medical cost containment efforts. The OWCP will continue to monitor and analyse the expenditures for medical procedures and services, including the impact of the schedule of maximum allowable charges.

The comments of one Federal agency reflected an apparent misunderstanding of the scope of application of the schedule of maximum allowable charges. The commentator suggested that significant problems could arise in the case of hospital charges where the hospital would be subject to both the Department's schedule of maximum allowable charges and to a State-mandated billing system (such as the Diagnostic Related Group (DRG) billing systems implemented in the States of New York and New Jersey) or the nation-wide DRG billing system being implemented by the Health Care Financing Administration (HCFA) under the Medicare program. It is not the intent of the Department to apply the schedule of maximum allowable charges to hospitals, pharmacies or nursing homes as the structure of the schedule is not suited to this purpose. Thus, the conflict envisioned by the commentator will not arise. Being cognizant of the efforts of HCFA to utilize DRG billing systems for hospital charges, the Department will, after HCFA has gained experience with and had an opportunity to evaluate DRGs, revisit the issue of cost-containment measures for hospital charges. To eliminate possible future confusion, § 10.411(d)(1) is being amended to exclude hospitals, pharmacies and nursing homes from the medical providers subject to the schedule of maximum allowable charges. However, physicians' charges for services or treatment provided in a hospital or nursing home setting are subject to the schedule. For example, in the case of a laminectomy, charges for supplies and services furnished by the hospital such as operating room and recovery room charges would not be subject to the schedue of maximum allowable charges, but the physician's charges for the surgical procedure and any followup hospital room visits would be subject to application of the schedule.

To bring these regulations into conformance with the practices of Medicare, Medicaid, CHAMPUS, and most states, § 10.411(a) was modified to permit hospitals to submit bills on Uniform Bill (UB-82), or on the provider's own billing form.

One Federal agency commented on the negative impact the proposed rule would have on Federal agency medical facilities which request reimbursement for service rendered to injured Federal workers on a standardized per diem basis rather than by itemized costs per patient. It is not the intent of the Department to require a significant modification to the basic record-keeping and billing structure of these medical facilities. Therefore, § 10.411(d)(1) has been further revised to exempt from application of the schedule of maximum allowable charges requests for reimbursement from medical facilities of the U.S. Public Health Service, Army, Navy, Air Force, and Veterans Administration.

One medical association pointed out that the proposed CPT coding system for identifying the service or procedure performed by the provider does not address all distinctive procedures utilized by providers in diagnosing and treating illnesses. We have amended the rule to indicate that the Health Care Financing Administration Common Procedure Coding System (HCPCS),

which expands CPT–4 to cover a wider range of services, and the *International Classification of Disease, 9th Revision, Clinical Modification* (ICD–9–CM), are to be used to identify services and diagnosed conditions. These are the systems which have been adopted by the Health Care Financing Administration (HCFA), which administers Medicare and Medicaid, and by major insurance companies, and therefore should be most familiar to providers. The Department notes that the Washington State Relative Value Schedule (RVS), which serves as the model for OWCP's proposed fee schedule, regulates some fees by review of the provider's medical report, imposing no standard fee. Similarly, for procedures and services for which no unit value is established in the OWCP fee schedule, payment commensurate with the service performed will be made, taking into consideration the individual circumstances described in the medical report. This is provided for in the regulations at § 10.411(e), which is not revised.

Identical suggestions were made by two labor organizations that the Department should consider adopting the medical fee schedule of the Health Insurance Association of America (HIAA) inasmuch as the HIAA schedule is utilized by a large number, if not the majority, of OPM authorized Federal Employee Health Benefits Plans. The schedule of HIAA was one of the existing schedules of fees which were reviewed by the OWCP. However, it was found that the HIAA schedule was not sufficiently comprehensive in that it covers only surgical fees and does not address medical fees or procedures such as radiololgy, pathology, and physical therapy. In addition, the regional divisions to account for geographic cost variations were larger and thus less reflective of such variations than the Metropolitan Statistical Areas (MSA) established by the Bureau of the Census, which provided a high statistical correlation between HCFA and industry data.

Comments were also received concerning the possible negative effects the proposed schedule could have for the injured worker.

The proposed rule, or components thereof, led several commentators (two labor organizations, three agencies, one medical association, and one private individual) to contend that physicians may choose not to treat injured Federal employees thereby limiting the injured worker to fewer physicians from whom to obtain treatment with a possible result of reduced quality of care. Bases for this argument included the contentions that physicians do not utilize the CPT coding system and would not be willing to make the conversion, and that physicians will not be willing to risk the possible reduction of charges under the schedule of maximum allowable charges with the end result in either situation being the refusal by some physicians to accept injured Federal workers as patients. With regard to the first contention, the Department notes that HCFA is requiring all physicians (hospitals being excluded) to utilize the HCPCS coding system (an expansion of the CPT coding system) in billings under the Medicare program, and that the American Medical Association and the Health Insurance Association of America are involved in HCFA's ongoing work in devising HCPCS. Thus, the Department concludes that the vast majority of physicians have adopted or will adopt the HCPCS/CPT coding system in their billing procedures and that the requirement for the use of HCPCS/CPT will not result in injured Federal workers being refused medical treatment. With regard to the contention that providers will simply choose not to be subject to the possibility of fee reduction, the system as planned will subject approximately 5% of all billed medical procedures to question. Within this 5%, reduction will not occur or will be lessened where justification for a higher fee is shown. Further, it is expected that some percentage of medical providers will accept the maximum allowable fee as reasonable and will not contest the reduction of fee. Lastly, the fact that the fee for a particular service or procedure is reduced under the schedule does not necessarily mean that the fee for other services or procedures performed by that same provider will also be reduced. The Department concludes that the schedule of maximum allowable charges will not result in a significant number of providers refusing to treat injured Federal workers solely on the basis of the existence and application of the schedule.

The most frequently mentioned area of concern in the comments received pertained to §§ 10.411(i) and 10.412 (c) and (d) and the potential for injured workers having to bear some of the cost of the medical care for job-related injuries. Two labor organizations questioned the authority of the Department under 5 U.S.C. 8103 to establish a schedule of maximum allowable charges which may place injured Federal employees in a position where they may become vulnerable for payment of medical charges not accepted or approved by the OWCP. Three additional labor organizations, three Federal agencies, and one private citizen also expressed concern that under the proposed rule an injured employee could be liable for that amount of the charge over the allowable maximum, especially where the employee (who, as one labor organization pointed out, probably would not know the maximum allowable charge for a particular service or procedure) paid the medical provider directly and then requested reimbursement from OWCP.

Possible solutions put forth by the commentators to minimize or eliminate the envisioned vulnerability of injured workers for such payments included the recommendations to: Provide legal defense of injured workers who may become subject to litigation by the medical provider; pay all reimbursement requests in full; make direct billing of claim to OWCP mandatory for providers, thus removing the injured worker from the payment process; and establish criminal penalties against any provider who seeks payment from an injured employee for an amount over and above the maximum allowable charge. The Department agrees that injured workers should not be subject to payment of any portion of a charge above the allowable maximum. However, the proposed solutions taken individually are either impractical or unacceptable. The Department does not possess sufficient resources to defend injured workers in the event the medical provider attempts litigation. Further, this method of protection of the employee (whether provided by the Department of Labor or by the Department of Justice) would not, in and of itself, tend to reduce the instances of litigation. Payment of all employee requests for reimbursement of paid medical charges without regard to reasonableness is unacceptable as it simply ignores the cost-containment intent of the proposed rule.

With regard to the requirement for direct provider billing, we view such action as impractical. Although most providers bill OWCP directly, there are a significant number of cases in which, because OWCP has not yet accepted a case, because of an ongoing family-physician relationship with the provider, or because of the physician's preference, the claimant has already reimbursed the physician. This practice would continue unless an effective sanction were adopted, and it is difficult to imagine a sanction (such as OWCP's refusal to pay for treatment) which would not exacerbate the problem it was intended

to solve. Finally, the imposition of criminal sanctions is beyond the purview of these regulations.

To the extent that this problem may occur, the Department believes it will occur infrequently. However, in order to provide the injured worker with protection against being made vulnerable to payment for injury-related medical charges, the Department proposes a combination of sanctions against the provider and indemnification of the injured worker. Existing regulation (20 CFR 10.450; 49 FR 18980) provides for exclusion of medical providers from participation in the Federal Employees' Compensation program and for denying payment to such providers out of the Employees' Compensation Fund. The Department is revising § 10.450 to provide for exclusion for any single collection or any single formal and deliberate attempt by a provider or by anyone acting on the provider's behalf (to include billing, referral to a collection agent, or initiation of litigation) to collect from the injured worker any amount in excess of the maximum allowable charge. Thus, unless the provider agrees to cease such action, an attempt to collect the disallowed portion of the provider's charge will result in initiation of procedures to exclude the provider from payment under the Federal Employees' Compensation Act. Where a provider is excluded, notification of the exclusion will be provided, in accordance with 20 CFR 10.456(a), to certain individuals and agencies including the Health Care Financing Administration and the State or local authority responsible for licensing or certifying the excluded party.

In order to provide protection to the injured worker who pays the provider an amount which may exceed the maximum allowable charge under the schedule and subsequently requests reimbursement from OWCP, § 10.412 is modified to provide for OWCP to advise the provider of the maximum allowable fee for the service and request that the provider reimburse the injured worker for that amount of the payment above the allowable fee or provide justification for the additional charge. Failure of the provider to make such reimbursement within a reasonable time or to provide satisfactory justification will be deemed collection of a fee warranting initiation of the exclusion procedures (20 CFR 10.450–10.457). In addition, in determining the amount to be reimbursed to an employee who has paid a bill which exceeds the normal rate, the Office will take into consideration all the circumstances, including the fact that the employee paid the bill in good faith reliance on full reimbursement.

Section 10.411(i) has been expanded as a result of comments from a labor organization, a Federal agency, and one individual, to provide that if a fee for a particular service or procedure is lower to the general public than as provided by the schedule of maximum allowable fees, the provider shall bill at the lower rate. A charge to an injured Federal worker for a particular service or procedure which is higher than the provider's charge to the general public for that same service or procedure will be considered as a charge "substantially in excess of such provider's customary charges" for the purpose of the provisions of § 10.450(d) concerning exclusion of providers. The Department believes that this will minimize the potential for providers selectively increasing their usual and customary charges to equal the maximum allowable fee under the schedule. Further, as previously stated, the OWCP will continue to monitor and analyse the expenditures for medical procedures and services, including the impact of the schedule of maximum allowable charges.

The processing of provider requests for reconsideration of fee determinations and the requirements for payee verification of receipt of payment in claimant reimbursement situations were also commented upon.

One Federal agency expressed concern that the appeals procedure involved in adjudication of fees which exceed the schedule could result in a significant increase in paperwork processing requirements and concern over OWCP's ability to respond to providers within 30 days as specified by § 10.411(g)(2). We also appreciate the potential for increased paperwork but view it as an unavoidable consequence of the necessity to provide due process to providers whose charges are partially reduced under the schedule. However, we do not anticipate such processing to be overburdening or to endanger our ability to respond to the provider in 30 days givern the rather limited circumstances enunciated in § 10.411(g)(1) which will justify reevaluation of the amount paid.

The requirement in § 10.412(a)(1) for the signature of the provider or the provider's designee on a claimant's request for reimbursement certifying that payment for the service was received was viewed by one Federal agency as causing, in many cases, an unneccessary additional contact with the provider where the bill otherwise showed evidence of payment. The Department agress that such extra step is not essential. Therefore, § 10.412(a)(1) is revised to eliminate the signature requirement in all instances, and in lieu thereof, to include as "evidence . . . that payment for the service was received" a signed statement by the provider, a mechanical stamp or other device showing receipt of payment, a copy of the claimant's cancelled check (both front and back), or a copy of the claimant's credit card receipt. The elimination of the need in all instances for the signature of the provider (or official designee) certifying receipt of payment by the claimant in no way affects the requirement for such signature as provided by § 10.411(b), which also applies to bills submitted for reimbursement.

One medical association submitted extensive comments primarily related to the construction of the schedule of maximum allowable charges. These comments covered the general areas of selection of the Washington State RVS, development of the geographic cost index, and update procedures for the system.

On selection of the Washington State RVS, the commentator stated that the Washington State RVS, which is based on the 1969 California Relative Value Studies, is a "charge-based" system (i.e., is based upon an analysis of actual physician charge patterns), and that a "resource cost-based" system which includes such factors as time, complexity, cost of advanced professional education, and overhead is more appropriate. Also, while recognizing that the Washington State RVS has been modified over time with the involvement of the Washington State Medical Association, and that the revisions have taken such factors as time and complexity into account, the commentator noted that such modifications were not done with the contemplation of nationwide application in light of legitimate regional variations in care and that consensus judgments of physicians in any one state are not necessarily appropriate to physicians nationwide. The Washington State Department of Labor and Industry adopted the California system following a careful and thorough evaluation of the California unit values by a team of medical physicians appointed by that Washington State Department. Since then, a similar panel of physicians has updated the Washington State RVS annually to take account of new technologies in the practice of medicine by adjusting the unit values according to the risk, time, and ability involved in

performing the procedure. Additional annual adjustments, based on the same set of criteria, have been made by the panel to unit values for procedures whose technology may have remained constant, but whose relative "value" is now considered different from the California system. Moreover, the Department views the "charge-based" RVS to be a reasonably accurate indicator of resource costs based on the economic theory which purports that prices are a reflection of resource costs plus a reasonable profit. While it is agreed that the modifications to the Washington State RVS did not contemplate nationwide application, we believe that the procedures reviewed by the Washington State panel of physicians are accepted nationwide, are coded using a system usable nationwide (i.e., CPT), and on average are generally not viewed differently in terms of their relative "value" by physicians of different regions. Further, in reviewing existing schedules of medical fees, the Department did not find a comprehensive "resource cost-based" system of nationwide scope. However, should such a system be developed, it would be evaluated for possible application by the Department.

With regard to the geographic cost index developed to account for regional variations in charges, the commentator agreed that the use of MSAs and non-MSAs to define the geographic units appears to be preferable to the other options considered by the Department, but expressed concern that fees of physicians with practices based in teaching hospitals located outside of an MSA and physicians practicing in non-MSA regions located near an MSA may differ significantly from the non-MSA average. A similar concern was expressed by a Federal agency. It is acknowledged that fees of physicians with practices based in teaching hospitals, many of which are in MSA rather than non-MSA regions, are usually higher than those with practices in non-teaching hospitals. The schedule of maximum allowable charges reflects this phenomena to some extent by incorporating teaching hospital physician fee data into the development of the geographic costs indices for both MSA and non-MSA regions. Also, the fact that a provider possesses unusual qualifications (such as professorial rank) serves as a basis for requesting reevaluation of the maximum allowable charge. The use of MSA/non-MSA regional divisions may create a degree of imprecision in the indices near the "border areas" between an MSA and non-MSA region. The creation of a "transition zone" between regions is not possible due to lack of available data concerning location and geographic size of and procedure unit values for such "zones." Some degree of imperfection is difficult, if not impossible, to avoid when dividing an area into regional units such as MSAs. However, it is our judgment that a regional application of the schedule is appropriate given the fact that medical costs vary across the country and the benefits yielded from reflecting these variances far outweigh the imperfections associated with the MSA/non-MSA structure.

The commentator also questioned the appropriateness of using Medicare expenditure information as a starting point in developing the geographic cost indices since that information may not necessarily reflect physician charges given possible reduction by carrier "reasonable charge" determinations, and since it covers a population quite different from the FECA population. Recognizing the imperfections of Medicare data, as discussed by the Department in the Supplemental Information of the original proposal, the data was used as a starting point where the OWCP could not rely solely on FECA data. Medicare data was also used to substantiate the reliability of the FECA data as an indicator of regional variations in the cost of providing medical care, and it was found that the Medicare data correlated highly with both FECA and private sector based surgical data. Thus, the Department views Medicare data as a reliable measure of the degree of regional cost variations as opposed to a measure of actual costs.

With regard to the use of FECA costs in developing the indices, the commenter questioned the validity of the indices where data on some services was based on a limited number of claims, and also questioned the appropriateness of applying an index of FECA expenditures to a relative value unit to arrive at a physician payment. In developing the geographic cost indices, OWCP analyzed an average of 400 records per MSA/non-MSA and observed consistency in service mix throughout the country and in procedure price within each MSA/non-MSA (i.e., all procedures in a high cost area tended to be high relative to the cost of all procedures in a low cost area). Therefore, the fact that there were limited claims for certain specific procedures is not seen as undercutting the validity of the estimate which was based on an evaluation of several procedures and an average of 400 records within an MSA/non-MSA region, especially since the indices were based on a weighted average which accorded those procedures with fewer records less weight in the overall computation, and in view of the high correlation among FECA, Medicare, and private sector based surgical data. Finally, FECA expenditures were used to provided a reliable measure of regional variation in the cost of providing medical care, and not as a basis for setting prices for various medical procedures. The latter function is provided by the Washington State RVS.

Lastly, with regard to the maintenance of the schedule of maximum allowable charges, the commentator suggested that a national price index, preferably the medical care component of the Consumer Price Index, be used to update the dollar conversion factors, and that the Department should consider establishing its own process to maintain the RVS which underlies the schedule. Having found the Washington State RVS to have the most current and comprehensive data available, and given the process used by Washington State to assign and adjust its relative values, the Department will utilize the most recent revision of the relative value assignments published by the State of Washington Department of Labor and Industries. With regard to the internal procedure for updating the geographic cost indices to reflect economic change, the OWCP will adjust these indices by the annual percent change in the Medicare Economic Index for Physicians' Services as determined by the Health Care Financing Administration. The Medicare Economic Index consists of two components: one measuring increases in general earnings level (attributable to factors other than increases in productivity) and the other measuring increases in expenses of the kind incurred by physicians. This index was selected on the basis that it is clearly applicable to the medical community, easy to obtain, administratively facile to implement, and a valid and reliable measure of annual adjustments in both physicians' medical practice expenses and general earnings.

Classification—Executive Order 12291

The Department of Labor has concluded that the regulatory revision does not constitute a "major rule" under Executive Order 12291, because it is not likely to result in: (1) An annual effect of the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government

agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory analysis is required.

Paperwork Reduction Act

The information collection requirements entailed by the proposed regulations were previously approved by OMB under OMB Control Nos. 1215–0055 and 1215–0142. As no changes in these requirements were made in the final regulations, these control numbers remain valid.

Regulatory Flexibility Act

The Department believes that this rule will have "no significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. Law 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). Although this rule is applicable to small entities it should not result in or cause a significant economic impact to any small entity subject to its provisions. This conclusion is reached because application of the schedule of maximum allowable charges established by this rule will not significantly reduce the amount of money paid to most medical providers for the medical services rendered to FECA beneficiaries. The Secretary has certified these facts to the Chief Counsel for Advocacy of the Small Business Administration. Accordingly, no regulatory impact analysis is required.

List of Subjects in 20 CFR Part 10

Claims, Government employees, Archives and Records, Health records, Freedom of Information, Privacy, Penalties, Health professions, Workers' compensation, Employment, Administrative practice and procedure, Wages, Health facilities, Dental health, Medical devises, Health care, Lawyers, Legal services, Student, X-rays, Labor, Insurance, Kidney disease, Lung disease, Tort claims.

Accordingly, Part 10 of Chapter I of Title 20 of the Code of Federal Regulations is amended as set forth below.

PART 10—[AMENDED]

1. The authorities citation for Part 10 is revised to read as follows:

Authority: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 5 U.S.C. 8145, 8149; Secretary's Order 6–84, 49 FR 32473; Employment Standards Order 78–1, 43 FR 51469.

2. Section 10.1 is amended by revising paragraph (b) to read as follows:

§ 10.1 Statutory provisions.

* * * * *

(b) The Act provides for the payment of dollar benefits to enumerated classes of persons who are injured or disabled while in the performance of their duties in service to the United States and to persons within such classes who become sick or disabled as a result of their employment with or service to the United States. The Act further provides for the payment of dollar benefits to certain survivors of persons who have died as a result of or while in the performance of employment or services rendered to the United States. In addition to dollar benefits, eligible beneficiaries who have become disabled as a consequence of a service related injury, disease or other compensable condition, shall be entitled to receive the full range of medical benefits and services made necessary by the compensable condition, which shall be provided at the expense of the United States, subject to the limitations imposed by §§ 10.411 and 10.412 of this part. In appropriate cases, vocational rehabilitation services shall be provided to eligible beneficiaries. In the case of death due to a compensable injury, disease or other condition, certain burial expenses shall be paid, subject to the provisions of 5 U.S.C. 8134.

* * * * *

3. Section 10.411 is revised to read as follows:

§ 10.411 Submission of bills for medical services, appliances and supplies; limitation on payment for services.

(a)(1) All charges for medical and surgical treatment, appliances or supplies furnished to injured employees, except for treatment and supplies provided by hospitals, pharmacies and nursing homes, shall be supported by medical evidence as provided in § 10.410, itemized by the physician or provider on the American Medical Association standard "Health Insurance Claim Form," OWCP 1500a "Instructions for Completing Health Insurance Claim Form," and shall be forwarded promptly to the Office for consideration. The provider of such service shall identify each service performed, using the Health Care Financing Administration Common Procedure Coding System (HCPCS as periodically revised), with brief narrative description or, where no code is applicable, a detailed description of services performed. The provider shall also state each diagnosed condition and furnish the corresponding diagnostic code using the "International Classification of Disease, 9th Edition, Clinical Modification" (ICD–9–CM). A separate bill shall be submitted when the employee is discharged from treatment or monthly, if treatment for the work-related condition is necessary for more than 30 days.

(2) Charges for appliances, supplies, services or treatment provided by hospitals shall be supported by medical evidence as provided in § 10.410. Such charges should be itemized by the provider on Uniform Bill (UB–82), or in lieu thereof, on the provider's billhead stationery, and shall be forwarded promptly to the Office for consideration.

(3) Charges for appliances, supplies or services provided by pharmacies and nursing homes shall be itemized on the provider's billhead stationery or a standard form and forwarded promptly to the Office for consideration. Bills for prescription drugs must include the generic or trade name of the drug provided, the prescription number, and the date the prescription was filled.

(b) The physician or other provider (or official designee) shall sign the billing form signifying that services were performed as described and were necessary, and signifying agreement to accept the fee determined by the Office as payment in full for each itemized service.

(c) Bills submitted by providers, other than hospitals, pharmacies and nursing homes, which are not itemized on the American Medical Association "Health Insurance Claim Form," or are not signed by the provider and the claimant, or on which procedures are not identified by the provider using HCPCS/CPT codes, or on which diagnoses are not identified using ICD–9–CM codes, may be returned to the provider for correction and resubmission.

(d)(1) Payment for medical and other health services furnished by physicians and other persons for work-connected injuries shall, except as provided below, be no greater than a maximum allowable charge for such service as determined by the Director. The schedule of maximum allowable charges is not applicable to charges for appliances, supplies, services or treatment provided and billed for by hospitals, pharmacies or nursing homes, but is applicable to charges for services or treatment furnished by a physician in a hospital or nursing home setting. The schedule of maximum allowable charges is also not applicable to charges for appliances, supplies, services or treatment furnished by medical facilities of the U.S. Public Health Service, the

Departments of the Army, Navy and Air Force, and the Veterans Administration. The Director shall maintain a schedule of maximum allowable fees for procedures performed in a given locality. The schedule shall consist of an assignment of a value to procedures identified by HCPCS/CPT which represents the relative skill, effort, risk, and time required to perform the procedure, as compared to other procedures of the same general class; a classification of the procedure into one of the following categories: medical, surgical, pathology, radiology; an index representing the average cost of medical care per capita in the locality where service is provided, in relation to other areas, as a measure of the reasonable cost of a single service in that area; and a monetary value assignment (conversion factor) for one unit of value in each of the four categories of service. Payment for performance of a procedure identified by a HCPCS/CPT code shall not be more than the amount derived by multiplying the relative value for that procedure by the geographic index for services in that area and by the dollar amount assigned to one unit in that category of service.

(2) The "locality" which serves as a bases for determination of average cost is defined by the Bureau of Census Metropolitan Statistical Areas. The Director shall base the determination of the relative per capita cost of medical care in a locality using information about enrollment and medical cost per county, provided by the Health Care Financing Administration (HCFA).

(3) The relative value assignments published by the State of Washington Department of Labor and Industries shall be adopted, using the most recent revision. The conversion factors for each of the four categories of service used in the State of Washington will be adopted as the base dollar multipliers for those categories and will be associated with the average cost of medical care derived from HCFA data for Washington State. The geographic index factor for a given MSA shall be based on statistical analyses of charges to OWCP, for groupings of MSA's that have similar HCFA per capita medical costs when compared to the per capita cost of medical care for the State of Washington. Index factors will be further adjusted to reflect statistical data concerning charges submitted for services to OWCP.

(4) Thus, if the unit value for a particular surgical procedure is 14.0, and the dollar value assigned to one unit in that category of service (surgery) is $59.49, then the maximum allowable charge for one performance of that procedure, in a locale whose index is 1.0, would be the product of 14, 1.0, and $59.49, or $832.86.

(e) Where there is wide variation in the time, effort and skill required to perform a particular procedure from one occasion to the next, the Director may choose not to assign a relative value to that procedure, but the allowable charge for the procedure may be set individually based on consideration of a detailed medical report and other evidence. The Office may, at its discretion, set fees without regard to schedule limits for specially authorized consultant examinations, for examinations performed under 5 U.S.C. 8123, and for other specially authorized services.

(f) The Director shall review the schedule of fees at least once a year, and may adjust the schedule or any of its components when deemed necessary or appropriate.

(g)(1) A provider's designation of the HCPCS/CPT code to identify a procedure being billed shall be accepted by the Office if it is consistent with medical reports and other evidence.

Where no code is supplied, the Office may determine the correct procedure code based on the narrative description of the procedure supplied on the billing form and in associated medical reports, and pay no more than the maximum allowable fee for that procedure. If the charge submitted by a provider for a treatment or service supplied to an injured employee exceeds the maximum amount determined to be reasonable according to the schedule, the Office shall pay the amount allowed by the schedule for that service and shall notify the provider in writing that payment was reduced for that service in accordance with the schedule. The provider shall also be notified of procedures for requesting reconsideration of the balance of the charge.

(2) A physician or other provider whose charge for service is only partially paid because it exceeds a maximum allowable amount set by the Director may, within 30 days, request reconsideration of the fee determination. Such request should be made to the OWCP District Office having jurisdiction over the injured employee's case, and must be accompanied by documentary evidence that the actual procedure performed was incorrectly identified by HCPCS/CPT code; that the presence of a severe or concomitant medical condition made treatment especially difficult; or that the provider possessed unusual qualifications. Board-certification in a specialty is not sufficient evidence in itself of unusual qualification to justify an exception. These are the only circumstances which will justify reevaluation of the paid amount. A list of OWCP District Offices and their respective areas of jurisdiction is available upon request from the U.S. Department of Labor, Office of Workers' Compensation Programs, Washington, DC 20210. Within 30 days of receiving the request for reconsideration, the OWCP District Office shall respond in writing stating whether or not an additional amount will be allowed as reasonable, considering the evidence submitted.

(h) If an appealed amount continues to be disallowed by the decision of the OWCP District Office, the provider may apply, within thirty days of the date of that decision, to the Assistant Regional Administrator of the region having jurisdiction over the district office. The application may be accompanied by additional evidence. Within 60 days of receipt of the application, the Assistant Regional Administrator shall issue a decision in writing stating whether or not an additional amount will be allowed as reasonable, considering the evidence submitted. This decision shall be final, and shall not be subject to further review.

(i)(1) A provider whose fee for service is partially paid by OWCP as a result of the application of its fee schedule or other tests for reasonableness in accordance with these regulations shall not request reimbursement from the employee (patient) for additional amounts.

(2) Where a provider's fee for a particular service or procedure is lower to the general public than as provided by the schedule of maximum allowable charges, the provider shall bill at a lower rate. A charge to an injured Federal employee for a particular service or procedure which is higher than the provider's charge to the general public for that same service or procedure will be considered a charge "substantially in excess of such provider's customary charges" for the purposes of § 10.450(d).

(3) A provider whose fee for service is partially paid by OWCP as the result of the application of its schedule of maximum allowable charges and who collects or attempts to collect from the injured employee, either directly or through a collection agent, any amount in excess of the charge allowed by the Office, and who does not cease such action or make appropriate refund to the injured employee within 60 days of the date of the decision of the Office, shall

be subject to the exclusion procedures as provided by § 10.450(h).

4. Section 10.412 is revised to read as follows:

§ 10.412 Reimbursement for medical expenses, transportation costs, loss of wages and incidental expenses.

(a)(1) If bills for medical, surgical, or dental services, supplies, or appliances have been paid for by an injured employee on account of an injury incurred in the performance of duty, an itemized bill on the American Medical Association "Health Insurance Claim Form," OWCP 1500a "Instructions for Completing Health Insurance Claim Form," together with a medical report as provided in § 10.410, may be submitted to the Office for consideration. The provider of such service shall state each diagnosed condition and furnish the applicable ICD–9–CM diagnostic code and identify each service performed using the applicable HCPCS/CPT procedure code, with a brief narrative description of the service performed, or where no code is applicable, a detailed description of that service. The bill must be accompanied by evidence that payment for the service was received from the injured employee and the amount of that payment. Acceptable evidence that payment was received includes, but is not necessarily limited to, a signed statement by the provider, a mechanical stamp or other device showing receipt of payment, a copy of the claimant's cancelled check (both front and back), or a copy of the claimant's credit card receipt.

(2) If services were provided by a hospital, pharmacy or nursing home, the bill should be submitted in accordance with the provisions of § 10.411(a) (2) or (3), as appropriate. Any request for reimbursement must be accompanied by evidence, as described in paragraph (a)(1) of this section, that payment for the service was received from the employee and the amount of that payment.

(3) These requirements may be waived by the Office if extensive delays in the filing or the adjudication of a claim make it unusually difficult for the claimant to obtain the required information.

(b) Copies of bills shall not be paid unless they bear the original signature of the provider, with evidence of payment. Payment for medical and surgical treatment, appliances or supplies shall in general be no greater than the maximum allowable charge for such service determined by the Director, as set forth in § 10.411.

(c) If a claimant is only partially reimbursed for medical expenses because the amount paid by the claimant to the physician for a service exceeds the maximum allowable charge set by the Director's schedule, the Office shall advise the provider of the maximum allowable charge for the service in question and allow the provider the opportunity to refund to the claimant, or credit to the claimant's account, the amount paid by the claimant which exceeds the maximum allowable charge, or to request reconsideration of the fee determination as provided by § 10.411 (g) and (h). Failure of the provider to make appropriate refund to the claimant, or to credit the claimant's account, within 60 days after the date of this notification by the Office, or the date of a subsequent reconsideration decision which continues to disallow all or a portion of the appealed amount, shall result in initiation of exclusion procedures as provided by § 10.450(h).

(d) After notification as provided in paragraph (c) of this section, if the amount of money paid in excess of the charge allowed by the Office is not refunded by the provider or credited to the claimant's account, the Office may make reasonable reimbursement to the claimant based on a review of the facts and circumstances of the case.

5. Section 10.450 is revised by adding paragraph (h) to read as follows:

§ 10.450 Exclusion for fraud and abuse: Grounds.

* * * * *

(h) Collected or attempted to collect from the claimant, either directly or through a collection agent, an amount in excess of the charge allowed by the Office for the procedure performed, and has failed or refused to make appropriate refund to the injured employee, or to cease such collection attempts, within 60 days of the date of the decision of the Office.

Signed at Washington, DC, this 3rd day of March, 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86–5071 Filed 3–7–86; 8:45 am]

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federal register

Monday
March 10, 1986

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-4]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at the 11 airports listed below. The designation date for Metropolitan Oakland International Airport, CA, is April 9, 1987, due to an unforeseen delay in delivery and installation of equipment at Oakland Tower. Each location designated is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 UTC, April 10, 1986, except for Metropolitan Oakland International Airport, CA, ARSA which will be effective 0901 UTC, April 9, 1987.

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

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. These locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Columbus and January 19, 1985, for Austin were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 11 ARSA's as published in the **Federal Register** on November 1, 1985 (50 FR 45718), 11 ARSA's on December 9, 1985 (50 FR 50254), and 12 on February 7, 1986 (51 FR 4872), in the implementation of this NAR recommendation.

On September 30, 1985, the FAA proposed to designate ARSA's at 11 airports under Airspace Docket No. 85-AWA-4 (50 FR 39822). This rule designates ARSA's at these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposals to the FAA. Additionally, the FAA has held informal airspace meetings for each of the proposed airports. In response to public comments received the FAA has modified several of the proposals.

Related Rulemaking

In addition to the airports addressed here and those previously designated, the FAA published proposed ARSA designations for 17 additional airports on September 30, 1985 (50 FR 39822).

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designations. Additionally, several of the comments on individual designations are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposals at particular locations.

ARSA Program Comments

Comments received from the Aircraft Owners and Pilots Association (AOPA) and several others claimed that the notification for some of the informal airspace meetings held for some of the candidate airports was inadequate. The schedule of the meetings was published in the Notice of Proposed Rulemaking (NPRM) (September 30, 1985, 50 FR 39822). Additionally, the FAA sent announcements to individuals, fixed-base operators, aviation user organizations, and to the news media organizations in each airport's area. The ARSA program has received considerable coverage in newsletters and official publications of aviation organizations and the schedule of the meetings mailed to members. Furthermore, a 126-day comment period was provided for Airspace Docket No. 85-AWA-4 in which the public could make comment to the public docket on the proposals. For the above reasons the FAA believes the opportunity was sufficient to permit full public comment on the proposals.

AOPA and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA and the Experimental Aircraft Association (EAA), disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus

additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

SSA claimed that the ARSA rule should state that the ultimate responsibilty for separation from other aircraft operating in VFR conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designate locations.

Numerous commenters also objected to the proposals based upon their belief that air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

AOPA discounted the FAA delay estimates claiming that they were based upon a standard ARSA. The FAA does not agree. Estimates of costs and benefits were based upon the ARSA proposed for the individual locations whether they were standard or modified.

Several commenters questioned the validity of FAA's estimates of the time savings expected to be realized as a result of the greater flexibility allowed air traffic controllers in handling traffic within an ARSA. FAA wants to reemphasize that its estimates of expected savings in time and money which will result from the greater flexibility allowed air traffic controllers in handling traffic within an ARSA are quite preliminary. These estimated savings may or may not offset the delay anticipated at some sites after initial establishment of an ARSA, but are expected to provide overall time savings to all traffic, IFR as well as VFR, which will exceed delay as controllers gain experience with ARSA operating procedures.

Other commenters questioned the operating cost and passenger time values used to calculate delay costs and time savings. The values used are weighted averages of overall activity within an aircraft category for various aircraft types, and represent a typical mix of air passengers. FAA recognizes that for some specific operations actual operating cost and passenger time values will exceed the average values used, while in other cases, the actual values will be less. However, weighted averages represent the most appropriate and equitable measure to use when assessing *overall* impacts. Further, because the delay resulting from implementing ARSA procedures is expected to be transitory and efficiency improvements in the movement of traffic are ultimately expected to result, those operators whose variable cost and passenger time values exceed the averages used in the regulatory evaluation may in fact realize above average benefits.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

SSA claimed that some FAA field personnel had indicated that a transponder would be needed to enter an ARSA, and thus, the cost to implement the program was grossly underestimated. An operable two-way radio is the only avionics required for flight in an ARSA. A transponder is not required and the costing estimates are correct.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact

of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is significantly reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, SSA, the State of Montana Aeronautics Division, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR§ 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but participation which would not require deviation and would result in controllers providing radar assistance for see-and-avoid. However, the above claim was that ARSA designation would require pilots to violate other regulations. In light of the foregoing the FAA does not agree.

SSA, and other commenters, claimed that designation of these ARSA's would negatively impact cross-country glider flights operating out of airports 20 miles, or more, from these ARSA's. While some deviations may be required, the FAA does not agree that the minor deviations that may be required will result in negatively impacting cross-country glider operations.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, EAA, and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1-2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this group of candidates was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is

inappropriate for a particular location." (49 FR 47184, November 30, 1984).

AOPA, EAA, and others commented that the existence of a TRSA in the above mentioned category should not be considered as justification for an ARSA. After a review of all comments received to the above referenced proposal, the FAA adopted that NAR recommendation (50 FR 9252, March 6, 1985). Therefore, absent a finding that designation would be inappropriate, the existence of a TRSA within that criteria is deemed sufficient for designation.

AOPA, EAA, and others indicated that several of the proposed locations do not meet the criteria that the FAA is considering for future ARSA candidates. The FAA has circulated proposed criteria for future application. However, whatever the nature of any criteria eventually adopted, this group of locations which qualify as ARSA candidates under the adopted NAR criteria would not be affected.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with the assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, SSA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

AOPA and SSA objected to the ARSA's based upon a claim that an insufficient amount of pilot education had been accomplished by the agency. AOPA cited Birmingham as an example where there were 19 days between the informal airspace meeting and the closing of the comment period, and SSA claimed that the comment period and a single informal airspace meeting were insufficient. The FAA does not agree. The example cited by AOPA references the comment period, not the total period to provide for pilot education. Pilot education will continue after the comment period has ended and until the effective date of the ARSA's. In addition to the comment period and the informal airspace meeting, user meetings will be held for each designated location.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

AOPA and others commented that FAA underestimated the one-time cost of distributing Letters to Airmen and the Advisory Circular, and neglected costs related to the informal public meetings. Both of these issues were discussed in the detailed regulatory evaluation of the NPRM, which has been available in the regulatory docket since publication of the NPRM. The availability of this detailed evaluation was indicated in the introductory paragraph of the regulatory evaluation summary included in the **Federal Register** NPRM (50 FR 39822, 39824, September 30, 1985). AOPA's comments assumed that every active pilot would be notified at least once. However, FAA intends to mail individual Letters to Airmen only to those pilots living in the vicinity of ARSA sites, and consequently its cost estimate is less than that of AOPA. The total one-time cost of distributing Letters to Airmen and the Advisory Circular was also prorated to reflect only those sites included in the notice, and both total and prorated cost estimates were provided in the notice. Further, as FAA indicated in the detailed regulatory evaluation, the expenses associated with public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, and consequently these expenses are more appropriately considered sunken costs attributable to the rulemaking process rather than implementation costs of the ARSA program. Similarly, information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

SSA, and other commenters questioned whether the FAA considered the impact of the proposed ARSA's on individuals in making its Regulatory Flexibility Determination, and whether the threshold for determining if a significant economic impact on a substantial number of small entities had been exceeded because some small entities might be impacted. The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit

organizations. Individual citizens, as such, are not considered small entities under the terms of the RFA; however, an individual whose business is a sole proprietorship would be considered a small entity under the RFA. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding almost every satellite airport located within the 5-mile ring to avoid adversely impacting their operations, and in some cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, a substantial number of small entities, defined in FAA Order 2100.14, "Regulatory Flexibility Criteria and Guidance," as more than one-third (but not less than eleven) of the small entities subject to a proposed rule, clearly will not be impacted by this rulemaking. Therefore, adoption of this final rule will not result in a significant economic impact on a substantial number of small entities.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Particular Locations

Beale AFB, Mather AFB, McClellan AFB, and Sacramento

The United States Air Force (USAF) supported the designations as improvements in aviation safety. However, the USAF recommended that the base altitude of the 5- to 10-mile shelf at Mather AFB be lowered to 1,100 feet MSL to contain aircraft executing an ILS approach to Runway 22L. The FAA does not agree with the recommendation. To incorporate that modification would require a departure from the standard floor of 1,200 feet above ground level that has not been done at any location. Furthermore, the purpose of the ARSA, unlike Terminal Control Area's, is not to contain aircraft. The National Airspace Review Task Group was aware that the standard configuration would not contain all final approaches across the country. However, the recommended model provides an increased level of safety at all locations.

Several commenters, including AOPA, objected to the designations based upon a claim that the proposed ARSA's had no relationship to flight patterns in the Sacramento area. These commenters suggested that any such proposal should be based upon quantitative data showing the number and direction of flights and past conflicts. The FAA agrees that the proposed ARSA's were not based upon such information. However, the ARSA program has not been proposed as an en route program but a terminal program centered around the candidate airports. Thus, the recommendation goes well beyond the scope of the proposals and could not be adopted by the FAA without additional rulemaking.

AOPA and several other commenters objected to the designation based upon their belief that insufficient time was allowed by the agency to properly evaluate the comments received. The FAA does not agree. Although the period of time from the closing of comments until the effective date is somewhat short, the agency has not waited until the closing of comments to begin the evaluation of the comments received prior to closing.

AOPA, SSA, and several other commenters objected to the designations at Mather and McClellan AFB's claiming that the latter did not meet the criteria. The FAA does not agree. All candidates meet the recommended and adopted criteria.

The Sacramento Director of Airports submitted comments that were generally supportive of the ARSA as an improvement in safety. However, the Director suggested that only one ARSA be designated in the area at this time and that it be evaluated prior to making a decision on the others. The FAA appreciates the Director's suggestion. However, the implementation of the ARSA program on a revised schedule as suggested would require considerably more time during which both users and the agency were faced with multiple terminal radar programs for the same geographic area. The agency believes the simultaneous designations to be preferable.

Several commenters objected to the base altitudes of the 5- to 10-mile circles claiming that during periods of marginal VFR weather the shelf altitudes would invite the compression of air traffic. The FAA has addressed the possibility of compression discussed above. However, the agency believes that participation in such programs as ARSA is even more important during periods of marginal VFR weather, regardless of the base altitude of the ARSA shelf.

Several commenters objected to the ARSA but requested that if designation was to occur that the ARSA's be limited to the 5-mile circle plus 2-mile wide extensions to coincide with arrival and departure paths. The FAA does not agree. The configuration of the ARSA was specifically designed to provide ARSA services to all aircraft, arriving, departing, and transiting, within the proposed proximity of the candidate airport. Furthermore, there is a sufficient amount of air traffic that does not conform to the suggested airspace configuration to warrant adoption of the standard configuration.

Several commenters suggested that the Sacramento VORTAC should be included in the ARSA because it serves as the final approach fix for instrument approaches and is the point at which several airways cross. The FAA does not agree. First, the suggestion goes well beyond the proposal and would require additional rulemaking and notification to establish. Additionally, the ARSA program has not been proposed to contain all approaching aircraft nor those transiting outside the proposed airspace. Finally, such would be a sharp departure from the standardization sought by the recommending Task Group and the agency.

Several commenters objected to the ARSA but requested that if designation was to occur that VFR corridors be established along Highways 50 and 80 to provide for greater nonparticipative access to secondary airports. The FAA does not agree. Both highways pass through airport traffic areas. Cutouts have been provided for three secondary airports in the area and a corridor has been provided for the two airports between Sacramento and McClellan. Although the configurations alter past requirements for some aircraft operating at these airports, that alteration was specifically addressed and intended (49 FR 47184, 47186, November 30, 1984).

SSA objected to the designations claiming that the FAA should further evaluate combination or multiple ARSA's prior to proceeding with such designations. The FAA does not agree. The ARSA program has been adopted as a replacement for the TRSA program. These airports fall within that criteria.

SSA objected to the designations claiming that the ARSA's would negatively impact cross-country glider activity and eliminate the possible use of these airports as landing sites. The FAA does not agree. Glider activity from nearby locations can be accommodated on a prior approval basis, traffic permitting. Cross-country flights would be impacted to only a minor extent, and landing at these locations previously required two-way radio communications due to the airport traffic areas.

Some commenters objected to the ARSA designation at Sacramento Metropolitan claiming that if designation was to occur at any airport in the area, it should be at Sacramento Executive Airport. The FAA does not agree. The ARSA program is a TRSA replacement program, and since Executive Airport was not contained within a TRSA it did not qualify as a candidate.

Birmingham Municipal Airport, AL

Some commenters claimed the ARSA was proposed for Birmingham based upon anticipated growth which according to their claim would not occur. The FAA does not agree. An ARSA was proposed for Birmingham based upon the current status and traffic without regard to any projections.

Some commenters claimed that the amount of air traffic at Birmingham was only sufficient to justify an ARSA for a few hours each day. The FAA does not agree. The recommended and adopted criteria covers this point, namely, an airport with an operating airport traffic control tower. Thus, according to that criteria the ARSA should be effective during the operational hours of the airport traffic control tower.

Burlington International Airport, VT

Several commenters, including AOPA, objected to the designation of an ARSA but requested that if designation was to occur that the base altitude of the 5- to 10-mile shelf to the west be raised to 2,200 feet MSL to coincide with the shelf altitude to the east. The bases for these comments were to provide greater standardization and simplification and to provide for greater nonparticipative access to the Bostwick and Shelburne Airports. The FAA has raised the base altitude to the east to 1,500 feet MSL in partial response to this suggestion. However, if the altitude were raised to 2,200 feet MSL, such would not provide the level of safety and service envisioned for air traffic using Burlington International. The FAA believes this deviation from the standard is warranted due to the terrain east of the airport.

Several commenters requested the base altitude be raised citing the pervailing weather conditions during the months of October through January. The FAA does not agree. Radar service is of even greater importance during periods of marginal VFR weather and should be encouraged, rather than making provision for nonparticipation.

Castle AFB, CA

The Office of the Director of Transportation of Merced Airport objected to the designation at Castle AFB claiming that such would negatively impact commercial aviation at Merced. The FAA does not agree. The designation at Castle will enhance aviation safety in the area and improve the efficiency of air traffic control. Both of these will improve rather than impede commercial flight.

A group of citizens commented that since Castle is a military facility general aviation aircraft are prohibited from using the airport, and therefore, an ARSA was unnecessary. The FAA does not agree. ARSA designation is being made at Castle AFB to provide a level of safety and efficiency of service in the airspace in proximity to a relatively busy airport, regardless of whether a particular category of air traffic use the airport itself.

Some commenters objected to the designation claiming that to do so without a study of local conditions and without obtaining local input was not in the best interest of aviation safety. The FAA does not agree with the premise of the objection. A study and evaluation of local conditions began prior to the publication of the proposal and continued until this rule was issued. During that period local input was received from local users and was given full consideration prior to the agency reaching a decision.

Several commenters objected to designation because the ARSA does not contain all of the final approach into Castle AFB. The purpose of the ARSA is not to contain all of any final approach course. No ARSA has been proposed that fully encompasses that amount of airspace, and the FAA does not agree that designation should not occur simply because the final approach is not fully contained.

Several commenters, including AOPA, requested that if designation were to occur that the Castle ARSA be limited to the east side of the airport. This request was based upon the claim that all military air traffic into Castle remained to the east side of the airport. The FAA does not agree. The military segregates the air traffic at Castle using the east side for the heavy jets, but the west side is used for lighter aircraft.

Several commenters objected to the designation claiming that it would encourage pilots to violate the interagency agreement, to which the FAA is party, regarding flying over wildlife refuges at no less than 2,000 feet above ground level. The FAA does not agree. The refuges in the vicinity of Castle AFB are well beyond 10 miles from Castle, and the designation does not impact upon that agreement.

The USAF supported the ARSA as a positive step to increase aviation safety. However, the USAF recommended that the 1,900 feet MSL base altitude to the east be lowered to 1,800 feet MSL; that the 320° bearing which delineates an altitude segment be moved to the 290° bearing from the airport; and, that the cutout for Atwater Airport be enlarged. The bases for these recommendations were that the base altitude to the east

had been incorrectly computed; that the proposed segment line did not provide protection for arrivals to Runway 13 or for departures off Runway 31; and, that enlarging the cutout would not decrease the level of safety and service envisioned by the proposal and would provide increased ease of access to the Atwater Airport. The FAA agrees with the later recommendation, and the cutout for Atwater has been enlarged. The first and second recommendations by the USAF would increase the degree of restriction envisioned in the proposal. Therefore, they are not adopted by the agency, and would of necessity require additional rulemaking and notification to establish.

In the NPRM, the FAA estimated 9 no radio (NORDO) aircraft based at Atwater Airport would have to install two-way radios to continue operations as they did prior to the implementation of the ARSA. A large cutout has been provided for Atwater Airport to allow these operators to continue operations to and from this airport without the expense of installing two-way radios.

Charlotte/Douglas International Airport, NC

The Air Transport Association supported the designation as an improvement in aviation safety and service. The FAA agrees.

Comments received opposing designation of the Charlotte ARSA have been addressed above.

Columbus Metropolitan Airport, GA

One commenter objected to the designation claiming that one of the FAA representatives had said at the informal airspace meeting that Columbus air traffic controllers would not be allowed to apply ARSA procedures, and therefore, there would be no advantage in the ARSA program. The FAA does not agree. The representative gave assurances at the meeting that air traffic controllers at Columbus would provide safety alerts to VFR pilots if they did not see one another after the issuance of traffic advisories, one of the procedures utilized in the ARSA program.

Several commenters objected to the designation because the Columbus ARSA is nonstandard in dimensions. While the FAA agrees that the Columbus ARSA is nonstandard, the agency does not agree that such is a valid objection. In adoption of the ARSA program the FAA indicated that several proposed locations would have nonstandard configurations. Other regulatory airspace, such as exists at Columbus, was one of the reasons cited for such nonstandard configurations.

Several commenters objected to the designation claiming that the ARSA would negatively impact recreational flying. Some of these commenters indicated at the informal airspace meeting that the air traffic controllers at Columbus had been most cooperative in the past. The FAA envisions no charge in that level of cooperation and recreational flying can be accommodated on the same basis as it has been in the past. If that should prove unsatisfactory, a local agreement can be established between such operators and the air traffic control facility to provide for this activity.

Metropolitan Oakland International Airport, CA

The operator of Sky Sailing Airport claimed that sailplane operations would be unacceptable affected because of the proximity of the Oakland ARSA. The FAA does not agree. Sky Sailing Airport is 8 miles from the ARSA boundary with the major area of sailplane activity 12 miles east of the ARSA. The modifications to the original proposal will provide additional areas of no restriction from the ARSA.

Several commenters, including the San Francisco Chamber of Commerce, claimed that the proposed ARSA would hinder eastbound helicopter operations from a new heliport on the San Francisco waterfront. The FAA does not agree. The communications requirement for the ARSA is no different from that presently required of the helicopter operations in the present airport traffic areas.

The United States Navy at Alameda Naval Air Station objects to the ARSA as proposed due to the omission of the airspace beyond 5 miles from the Oakland 347° radial to the Oakland 060° radial. They state the large concentration of light civil air traffic in this area will conflict with Navy traffic to Runway 25 at Alameda Naval Air Station. The FAA does not agree. The terrain in this area is such that the base altitude of the shelf would afford less than 200 feet of ARSA airspace. The FAA recognizes the concerns of the Navy but feels that including this airspace would be more restrictive than is required.

Several commenters, including AOPA, claimed that approaches to Hayward Airport from the east and Lake Chabot area would require too many frequency changes for landing at Haywood. The FAA agrees. For this reason, the airspace boundaries in these areas have been modified to allow access to Hayward Airport from the northeast, east, and south without entering the ARSA.

Several commenters claimed that traffic arriving and departing Hayward Airport would cause additional workload for controllers at Oakland Approach Control. The FAA does not agree. Comments concerning workload have been previously addressed. Letters of agreement between FAA facilities for use of the airspace in the Hayward Airport traffic area will be addressed by the facilities involved.

Oakland Tower was originally scheduled to receive a piece of replacement radar equipment in the summer of 1985. Due to unforeseen delay in equipment delivery, associated software development and installation scheduling, the earliest this radar equipment can be installed and certified will be late 1986. For these reasons, the effective date of the Metropolitan Oakland International Airport ARSA will be April 9, 1987.

Nashville Metropolitan Airport, TN

Several commenters objected to the designation claiming that the ARSA would negatively impact balloon operations in the area. Some of these commenters indicated that under the TRSA program they had called the radar approach control facility and had received good cooperation from the air traffic controllers, but they anticipated the ARSA would curb their activity. The FAA envisions no change to the procedure followed by these balloonists. The designation of the ARSA simply requires the type of approval and coordination that has been occurring previously on a voluntary basis or mandatory basis within the airport traffic area.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments which addressed information presented in the Regulatory Evaluations of the notices for the dockets included in this final rule have been discussed above. A detailed Regulatory Evaluation of the final rule has been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of

reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the group of ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM, and those comments which addressed it have been discussed above. For the reasons presented in the NPRM and clarified in the Discussion of Comments, FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates Airport Radar Service Areas (ARSA) at the 11 airports listed below. Each location designated is a public or military airport at which a nonregulatory Terminal Radar Service Area is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control while in the ARSA. Implementation of ARSA procedures at each of the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

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; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

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:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

2. § 71.501 is amended as follows:

Beale AFB, CA [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of Beale AFB (lat. 39°08'10" N., long. 121°26'08" W.), and that airspace extending upward from 1,600 feet MSL to 4,100 feet MSL within a 10-mile radius of Beale AFB from the 127° bearing from the airport clockwise to the 007° bearing from the airport, and that airspace extending upward from 2,600 feet MSL to 4,100 feet MSL within a 10-mile radius of the airport from the 007° bearing from the airport clockwise to the 127° bearing from the airport.

Birmingham Municipal Airport, AL [New]

That airspace extending upward from the surface to and including 4,600 feet MSL within a 5-mile radius of the Birmingham Municipal Airport (lat. 33°33'50"N., long. 86°45'16" W.), and that airspace extending upward from 2,400 feet MSL to 4,600 feet MSL within a 10-mile radius of Birmingham Municipal Airport from the 343° bearing from the airport clockwise to the 231° bearing from the airport, and that airspace extending upward from 1,900 feet MSL to 4,600 feet MSL within a 10-mile radius of the airport from the 231° bearing from the airport clockwise to the 343° bearing from the airport.

Burlington International Airport, VT [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the Burlington International Airport (lat. 44°28'17" N., long. 73°09'12" W.), and that airspace extending upward from 2,200 feet MSL to 4,400 feet MSL within a 10-mile radius of Burlington International Airport from the 360° bearing from the airport clockwise to the 180° bearing from the airport, excluding the airspace within Restricted Area R-6501; and that airspace extending upward from 1,500 feet MSL to 4,400 feet MSL within a 10-mile radius of the airport from the 180° bearing from the airport clockwise to the 360° bearing from the airport.

Castle AFB, CA [New]

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of Castle AFB (lat. 37°22'52" N., long. 120°34'00" W.), excluding that airspace within an area bounded by a line beginning at the point where the 186° bearing from Castle AFB intersects the 5-mile radius of Castle AFB and thence northerly via the 186° bearing to the point where the 186° bearing intersects the 1.5-mile arc from the Atwater Airport (lat. 37°20'05" N., long. 120°36'15" W.) and thence counterclockwise via the 1.5-mile arc from Atwater Airport to the point where it intersects the 240° bearing from Castle AFB and thence southwesterly via the 240° bearing to the point where the 240° bearing intersects the 5-mile radius of Castle AFB; and that airspace extending upward from 1,400 feet MSL to and including 4,200 feet MSL within a 10-mile radius of Castle AFB from the 126° bearing from Castle AFB clockwise to the 306° bearing from Castle AFB, and that airspace extending upward from 1,900 feet MSL to and including 4,200 feet MSL within a 10-mile radius of Castle AFB from the 306° bearing from Castle AFB clockwise to the 126° bearing from Castle AFB.

Charlotte-Douglas International Airport, NC [New]

That airspace extending upward from the surface to and including 4,700 feet MSL within a 5-mile radius of the Charlotte-Douglas International Airport (lat. 35°12'52" N., long. 80°56'37" W.), and the airspace extending upward from 2,000 feet MSL to 4,700 feet MSL within a 10-mile radius of the Charlotte/Douglas International Airport.

Columbus Metropolitan Airport, GA [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of Columbus Metropolitan Airport (lat. 32°30'58" N., long. 84°56'20" W.), excluding that airspace within Restricted Area R-3002; and that airspace extending upward from 1,700 feet MSL to and including 4,400 feet MSL within a 10-mile radius of Columbus Metropolitan Airport from the 079° bearing from the airport clockwise to the 325° bearing from the airport,excluding that airspace within Restricted Area R-3002; and that airspace extending upward from 1,900 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the airport from the 325° bearing from the airport clockwise to the 079° bearing from the airport, excluding that airspace within Restricted Area R-3002. This airport radar service area is effective during the specific days and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Mather AFB, CA [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Mather AFB (lat. 38°33'23" N., long. 121°17'44" W.) to the points where the 5-mile radius intersects the 5-mile radius of the McClellan AFB, CA, Airport Radar Service Area (ARSA), and that airspace extending upward from 1,600 feet MSL to and including 4,100 feet MSL within a 10-mile radius of Mather AFB to the points where the 10-mile radius intersects the 10-mile radius of the McClellan AFB ARSA.

McClellan AFB, CA [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of McClellan AFB (lat. 38°40'02" N., long. 121°23'58" W.) to the points where the 5-mile radius intersects the 5-mile radius of the Mather AFB, CA, Airport Radar Service Area (ARSA), excluding that airspace within an area bounded by a line beginning at a point where the 321° bearing from McClellan AFB intersects the 5-mile radius of McClellan thence southeasterly via this 321° bearing to a point where it intersects the 007° bearing from Rio Linda Airport (lat. 38°40'34" N., long. 121°26'40" W.) and thence direct to the point where the 187° bearing from Rio Linda Airport intersects the 215° bearing from McClellan AFB and thence southwesterly via the 215° bearing to the 5-mile radius of McClellan AFB; and that airspace extending upward from 1,600 feet MSL to 4,100 feet MSL within a 10-mile radius of McClellan AFB to the points where this 10-mile radius intercepts the 10-mile radii of the Sacramento Metropolitan Airport, CA, ARSA and the Mather AFB ARSA.

Metropolitan Oakland International Airport, CA [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Metropolitan Oakland Airport (lat. 37°43'17" N., long. 120°13'11" W.), excluding that airspace contained within the San Francisco, CA Terminal Control Area (TCA); and that airspace extending upward from 1,500 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the Metropolitan Oakland Airport, excluding that airspace contained within the San Francisco TCA, and that airspace beyond 5 miles from the Metropolitan Oakland Airport from the Oakland VORTAC 004° radial clockwise to the Oakland VORTAC 092° radial, and that airspace beyond the 15-mile radius of the San Francisco TCA.

Nashville Metropolitan Airport, TN [New]

That airspace extending upward from the surface to and including 4,600 feet MSL within a 5-mile radius of the Nashville Metropolitan Airport (lat. 36°07'37" N., long. 86°40'53" W.), excluding that airspace within a 1.5-mile radius of lat. 36°12'00" N., long. 86°42'10" W. (in the vicinity of Cornelia Fort Airport); and that airspace extending upward from 2,100 feet MSL to and including 4,600 feet MSL within a 10-mile radius of Nashville Metropolitan Airport from the 018° bearing from the airport clockwise to the 198° bearing from the airport, and that airspace extending upward from 2,400 feet MSL to and including 4,600 feet MSL within a 10-mile radius of the airport from the 198° bearing from the airport clockwise to the 018° bearing from the airport.

Sacramento Metropolitan Airport, CA [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Sacramento Metropolitan Airport (lat. 38°41'44" N., long. 121°36'01" W.), excluding that airspace within a 2-mile radius of Riego Flight Strip (lat. 38°45'15" N., long. 121°33'43" W.), and that airspace within a 2-mile radius of Natomas Field (lat. 38°38'18" N., long 121°30'51" W.), and that airspace east of the 002° bearing from Natomas Field; and that airspace extending upward from 1,600 feet MSL to 4,100 feet MSL within a 10-mile radius of Sacramento Metropolitan Airport to the points where this 10-mile radius intercepts the 10-mile radius of McClellan AFB, CA, Airport Radar Service Area.

Issued in Washington, DC, on March 4, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-5115 Filed 3-7-86; 8:45 am]

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Federal Register

Monday
March 10, 1986

Part IV

Department of Education

34 CFR Part 280

Magnet Schools Assistance Program
Proposed Rule; and Application Notice
for Noncompeting Continuation Projects
for Fiscal Year 1986

DEPARTMENT OF EDUCATION

34 CFR Part 280

Magnet Schools Assistance Program

AGENCY: Department of Education.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The Secretary proposes to amend three sections of the regulations which implement the Magnet Schools Assistance Program. These amendments to the regulations are necessary to implement the statutory changes to the Magnet Schools Assistance Act (Title VII of the Education for Economic Security Act, Pub. L. 98–377) which were enacted on November 22, 1985 as part of the National Science, Engineering, and Mathematics Authorization Act of 1985, Pub. L. 99–159.

DATE: Comments must be received on or before April 9, 1986.

ADDRESS: Comments should be addressed to M. Patricia Goins, Division of Educational Support, U.S. Department of Education (Room 2023, FOB–6) 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: M. Patricia Goins, Telephone: (202) 472–7960.

SUPPLEMENTARY INFORMATION:

Summary of Proposed Amendments

Section 703 of the Act which describes the purposes of the Magnet Schools Assistance Program has been amended by combining the four clauses in the statement of purpose into two clauses. This change in language does not significantly alter the purposes of the Magnet Schools Assistance Program. Section 280.1 of the regulations is amended to conform to the statutory change.

Section 706 of the Act has been amended to narrow the range of activities for which magnet schools funds may be used. Under Section 706, grants may be used by an eligible local educational agency (LEA) for—

(1) Planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

(2) The acquisition of books, materials, and equipment (including computers) and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

(3) The payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools.

With respect to clauses (2) and (3), assistance must be directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

Only the above-described activities may be supported with magnet schools funds. A new § 280.40 setting out these authorized activities has been added to the regulations.

Section 709 of the Act has been amended by deleting the prohibitions on secular humanism instruction. This prohibition, presently codified at § 280.40(d) of the regulations, is deleted. The remaining provisions currently in § 280.40 are redesignated as § 280.41.

Executive Order 12291

These proposed amendments have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed amendments will not have a significant economic impact on a substantial number of small entities.

The small entities affected by this program are LEAs. The amendments do not impose burdensome reporting or recordkeeping requirements and will not have a significant economic impact on the limited number of LEAs affected.

Intergovermental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed amendments.

All comments submitted in response to these proposed amendments will be available for public inspection, during and after the comment period, in Room 2023 FOB–6, 400 Maryland Avenue SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 280

Civil rights, Desegregation, Education, Elementary and secondary education, Grant programs-education, Magnet schools.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations. The citation is the appropriate section of the Act (Title VII of the Education for Economic Security Act, Pub. L. 98–377, 98 Stat. 1299–1302 (20 U.S.C. 4051–4062).

(Catalog of Federal Domestic Assistance number 84.165, Magnet Schools Assistance Program)

Dated: March 3, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by amending Part 280 as follows:

PART 280—MAGNET SCHOOLS ASSISTANCE PROGRAM

1. The authority citation for Part 280 is revised to read as follows:

Authority: 20 U.S.C. 4051–4062, unless otherwise noted.

2. Section 280.1 is revised to read as follows:

§ 280.1 What is the Magnet Schools Assistance Program?

The Magnet Schools Assistance Program provides grants to eligible local educational agencies (LEAs) for use in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic and racial backgrounds together. The purposes of the program are to support, through financial assistance to eligible LEAs,—

(a) The elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

(b) Courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

(20 U.S.C. 4053)

§ 280.4 [Amended]

3. In § 280.4(b), under the definition, "special curriculum", the "of" is changed to "or" between the words, "elementary" and "secondary".

§ 280.10 [Amended]

4. Section 280.10 is amended by: removing "for planning and conducting programs" from paragraph (a); removing paragraphs (d) and (e); and revising the citation of authority to read "(20 U.S.C. 4054)".

§ 280.40 [Redesignated as § 280.41]

5. Section 280.40 is redesignated as § 280.41 and paragraph (d) is removed. After the semicolon at the end of paragraph (b) insert "or". At the end of paragraph (c) replace the semicolon and the "or" with a period.

6. A new § 280.40 is added to read as follows:

§ 280.40 What costs are allowable?

An LEA may use funds received under this part for the following activities:

(a) Planning and promotional activities directly related to the expansion and enhancement of academic programs and services offered at magnet schools, though planning activities are subject to the restriction in § 280.41(a).

(b) The acquisition of books, materials, and equipment (including computers) and the maintenance and operation thereof. Any books, materials or equipment purchased with grant funds must be—

(1) Necessary for the conduct of programs in magnet schools; and

(2) Directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

(c) The payment or subsidization of the compensation of elementary and secondary school teachers—

(1) Who are certified or licensed by the State;

(2) Who are necessary to conduct programs in magnet schools; and

(3) Whose employment is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

(20 U.S.C. 4056)

[FR Doc. 86-5121 Filed 3-7-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Magnet Schools Assistance Program

AGENCY: Department of Education.

ACTION: Application Notice for Noncompeting Continuation Projects for Fiscal Year 1986.

Applications are invited for noncompeting continuation projects under the Magnet Schools Assistance Program (MSAP).

Authority for this program is contained in Title VII of the Education for Economic Security Act, Pub. L. 98–377. (20 U.S.C. 4051–4062)

The MSAP provides Federal financial assistance for projects in magnet schools that are part of approved desegegration plans that local educational agencies (LEAs) are implementing. LEAs may use funds to plan and promote magnet schools; to purchase books, materials, and equipment (including computers) for magnet school programs; and to pay or subsidize certified or licensed school teachers in magnet schools. A "magnet school" is defined by the Act as a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, applicants for noncompeting continuation awards should mail or hand deliver their applications on or before May 2, 1986.

If an application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuation awards and may decline to accept it.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Washington, DC 20202. Applications for the MSAP should be marked Attention: 84.165.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3635, Regional Office Building 3, 7th and D Streets SW., Washington, DC.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, or Federal holidays.

Program Information: The present recipients of MSAP awards are eligible to apply for the continuation of those awards. Section 280.33 of the MSAP regulations states that the Secretary is authorized to approve the continuation of an existing MSAP award if the recipient of that award "is making satisfactory progress toward achieving the purposes of [the program]" and meets the conditions of 34 CFR 75.253(a).

Applicants should be aware that the range of authorized activities for which magnet schools funds may be used has been narrowed by an amendment to the Magnet Schools Assistance Act. Applicants should review the Notice of Proposed Rulemaking for the Magnet Schools Program published in this issue of the **Federal Register** to ensure that their proposed activities for fiscal year 1986 meet the criteria in the new § 280.40 of the regulations.

Intergovernmental Review: This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The Magnet Schools Assistance Program is a new program, and States have not made a determination as to whether it will be included or excluded from review under the State review process. Therefore, immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about and to comply with the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by June 2, 1986 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.165) 400 Maryland Avenue, SW., Washington, DC 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATIONS. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

Available Funds: The amount of funds available for fiscal year 1986 for MSAP is $71,775,000. (This amount reflects a reduction of $3,225,000 from the fiscal year 1986 appropriation pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. 99–177.)

In fiscal year 1985, the Department awarded 44 grants for MSAP projects. These grantees are eligible to apply for fiscal year 1986 continuation awards.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing on April 1, 1986. They may be obtained by writing to the Magnet Schools Assistance Program Staff, U.S. Department of Education (Room 2023, FOB–6), 400 Maryland Avenue SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that applicants not submit information that is not requested.

(The application is approved under OMB Control Number 1810–0516)

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Magnet Schools Assistance Program, 34 CFR Part 280 published in the **Federal Register** on May 22, 1985 at 50 FR 21190 and the proposed amendments published in this issue of the **Federal Register.** (If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise or resubmit their applications.)

(b) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 78, and 79.

FOR FURTHER INFORMATION: For further information contact M. Patricia Goins, Division of Educational Support, U.S. Department of Education (Room 2023, FOB–6), Mail Stop 6264, 400 Maryland Avenue, SW Washington, DC 20202. Telephone: (202) 472–7960.

(20 U.S.C. 4051–4062)

(Catalog of Federal Domestic Assistance Number 84.165, Magnet Schools Assistance Program)

Dated: March 3, 1986.

Lawrence F. Davenport,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 86–5120 Filed 3–7–86; 8:45am]

BILLING CODE 4000–01–M

federal register

Monday
March 10, 1986

Part V

Commission on the Bicentennial of the United States Constitution

45 CFR Part 2001

Project Recognition and Support; Final Rule

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

45 CFR Part 2001

Project Recognition and Support

AGENCY: Commission on the Bicentennial of the United States Constitution.

ACTION: Interim rule with request for comments.

SUMMARY: These regulations set forth general provisions and policies governing the process adopted by the Commission on the Bicentennial of the United States Constitution for project recognition and support. These policies will apply to all projects, programs and other activities designed to commemorate the 200th anniversary of the drafting, signing, ratification and adoption of the United States Constitution, in 1787 and 1788, and the beginnings of the Federal Government under the Constitution in 1789, including the election of the First Congress and of America's first President and Vice President, the creation of the first cabinet departments and the creation of the Federal judiciary system.

These regulations are necessary so that the mandates of Congress may be carried out by the Commission in accomplishing its principal purpose, to promote and coordinate activities to commemorate the bicentennial of the Constitution. (See sec. 3, Pub. L. 98–101; 97 Stat. 719.) The provisions of these regulations will enable individuals and private and public groups, including governmental agencies and states, to obtain official recognition of the Commission for their proposed projects and to use the Commission's National Bicentennial Logo. The regulations will also make clear the criteria for Commission involvement with projects and the limitations on such involvement.

DATES: Interim rule effective January 23, 1986; comments must be received on or before May 9, 1986.

ADDRESS: Comments should be mailed or delivered to the General Counsel of the Commission at 734 Jackson Place, NW., Washington, DC 20503. Comments received may also be inspected at this address between 9:00 p.m. and 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joseph B. McGrath, General Counsel, Tel. (202) USA–1787.

SUPPLEMENTARY INFORMATION:

Background

These regulations were approved by the Commission on November 25, 1985 as an interim rule to govern policies on project recognition and support during the organizational phase of Commission operations. It is intended that the regulations will be published as a final rule following consideration of comments received and further review by the Commission.

Classification

This is not a major rule under E.O. 12291 since it is not likely to have any effect on the economy, on costs or on prices, nor does it affect competition, employment, investment, productivity, innovation or the ability of U.S. based enterprises to compete with foreign enterprises. A regulatory analysis is not required for this rulemaking. The rule has no effect on the environment and an environmental impact statement under the National Environmental Policy Act is not required.

Statutory Authority

This regulation is authorized under Pub. L. 98–101, 97 Stat. 719. No previous regulation on these subject matters has been issued. The principal draftsmen of this regulation were Dr. Bradford P. Wilson and Joseph B. McGrath of the Commission staff.

Request for Comments

A 60 day public comment period ending [insert date] has been provided for the purpose of receiving comments and recommendations for improvement of the regulation prior to publication of a final rule. Comments should be mailed or delivered to the General Counsel of the Commission at 734 Jackson Place, NW., Washington, DC 20503.

Paperwork Reduction Act

The information collection requirement contained in this rule has been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with the information collection requirement until it has been approved and assigned an OMB control number. The OMB control number, after it has been assigned, will be announced in the final rule or by separate notice in the **Federal Register.**

List of Subjects in 45 CFR Part 2001

National Bicentennial logo, State Bicentennial Commission, Designated bicentennial community, National Register of Bicentennial Projects, U.S. Constitution Bicentennial, Officially recognized projects, Seals and insignia.

Issued in Washington, DC on January 23, 1986.

Mark W. Cannon,

Staff Director.

For the reasons set out in the preamble and under the authority of Pub. L. 98–101, 97 Stat. 719, a new Chapter XX is established and a new Part 2001 is added to Title 45, *Code of Federal Regulations* to read as follows.

CHAPTER XX—COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

PART 2001—PROJECT RECOGNITION AND SUPPORT

Subpart A—General Policies

Sec.

Subpart B—National Bicentennial Logo

Subpart C—Involvement with Bicentennial Projects

Subpart D—Selection Process

Subpart E—Coordination and Information

Authority: Pub. L. 98–101; 97 Stat. 719, 5 U.S.C. 552.

Subpart A—General Policies

§ 2001.10 Commission policy.

The Commission on the Bicentennial of the United States Constitution was established by Pub. L. 98–101 to promote and coordinate activities to commemorate the bicentennial of the Constitution. All public and private groups are encouraged to conduct activities that will foster awareness, knowledge and appreciation of the Constitution of the United States during

the bicentennial years of 1986–89. Insofar as its resources permit, the Commission will offer information, advisory assistance, and coordination to individuals and groups interested or involved in bicentennial activities.

§ 2001.11 Financial support decisions.

Commission involvement with a project in any of the ways herein described does not obligate the Commission to contribute financial support to that project. Any decision to provide financial support to a bicentennial project shall be considered by the Commission separately and on its own merits in relation to the resources of the Commission.

§ 2001.12 Nonexclusive involvement.

Unless otherwise indicated by the Commission in advance and in writing, Commission involvement with a project will not in any way limit the Commission from involving itself in other projects of the same or a similar nature.

Subpart B—National Bicentennial Logo

§ 2001.20 Design and adoption.

Under the authority granted by section 5(j) of Pub. L. 98–101, 97 Stat. 719, 721, the Commission has designed and adopted a Logo as the official emblem of the bicentennial. This design is depicted and described in Appendix A to this Part of the Commission's regulations. It is hereby designated by the Commission as the official National Bicentennial Logo and this designation includes any likeness of this Logo which, in whole or in part, is used in such manner as to suggest this Logo. Its use shall be governed by these regulations.

§ 2001.21 Authorized use of logo.

Authorization for use of the National Bicentennial Logo shall be granted only at the sole discretion of the Commission and in accord with these regulations. Reproduction of the Logo is permitted only after written authorization of the Commission. Authorized users may not delegate use of the Logo to others unless specifically authorized to do so in writing by the Commission or by these regulations.

§ 2001.22 No commercial use permitted.

No commercial use of the National Bicentennial Logo is authorized. The Commission shall review all requests for use of the Logo by commercial organizations. The Commission shall also review requests of a State Bicentennial Commission or a Designated Bicentennial Community (see below) for use of the Logo by a commercial sponsor of a project officially recognized by such Commission or Community. In exercising its discretion, the Commission shall determine each case on its merits.

Subpart C—Involvement With Bicentennial Projects

§ 2001.30 Commission decisions.

Unless delegated by vote of the Commission to a committee of the Commission, or to the Commission's Staff Director, authority to decide Commission involvement with projects remains with the full Commission. Commission involvement with bicentennial projects shall be determined by written decisions on each project as set forth herein.

§ 2001.31 Withdrawal of involvement.

The Commission reserves the right at all times and with respect to any project to withdraw its involvement or recognition, or both, including any authorization for use of the Logs.

§ 2001.32 Types of projects.

Initially, there will be five forms of Commission involvement with bicentennial projects. These are identified as Commission Projects, Cosponsored Projects, Officially Recognized Projects, State Bicentennial Commissions, and Designated Bicentennial Communities. The details as to each type of project recognition are set forth in the following sections of this Subpart.

§ 2001.33 Commission projects.

Commission Projects are defined as projects of national or international significance, for the development and implementation of which the Commission takes full responsibility. Such projects will be few in number and approved in advance by the Commission.

§ 2001.34 Cosponsored projects.

(a) *Commission participation.* The Commission may choose to cosponsor a limited number of projects with private and public organizations, domestic and foreign, including all branches and agencies of the Federal Government. In doing so, the Commission reserves the option to participate in a project's development and implementation, although primary responsibility for the project will ordinarily rest with the other sponsor or sponsors.

(b) *Use of logo.* Cosponsors shall be authorized to use the National Bicentennial Logo solely in connection with the project for which the Commission is a cosponsor. Such use shall include the legend, "Cosponsored by the Commission on the Bicentennial of the United States Constitution." A cosponsored project shall also be considered an Officially Recognized Project (see below).

(c) *Qualification criteria.* For a project to qualify for Commission cosponsorship the Commission must determine that (1) the project will make an exceptional contribution to advancing the national commemoration; (2) the project will increase public understanding and appreciation of the Constitution; (3) the cost to the Commission, if any, is reasonable in relation to what the project will accomplish; and, (4) the project will be adequately financed and directed.

§ 2001.35 Officially recognized projects.

(a) *Recognition requirements.* The Commission shall grant Official Recognition to projects of exceptional merit with regional, national, or international signficance. To be considered for Official Recognition, such projects must have substantial educational and historical value in relation to the U.S. Constitution and must be adequately financed and directed.

(b) *Implementation.* Responsibility to develop and implement an Officially Recognized Project lies with the Project's sponsor or sponsors. To the extent feasible the Commission shall monitor all Officially Recognized Projects.

(c) *Certificates of recognition.* Projects granted Official Recognition shall receive a Certificate of Official Recognition and such other symbolic recognition as may be approved by the Commission.

(d) *Use of logo.* Sponsors of Officially Recognized Projects are authorized to use the National Bicentennial Logo solely in connection with the Recognized Project. Sush use shall include the legend, "Officially Recognized by the Commission on the Bicentennial of the United States Constitution."

§ 2001.36 State Bicentennial Commission.

(a) *Recognition.* The Commission shall recognize any bicentennial organization as a State Bicentennial Commission upon the request of the Governor or the legislature of a State, or upon the request of the chief executive in the case of the District of Columbia, the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, and the Virgin Islands. A State Bicentennial Commission, so recognized, shall qualify as a State advisory

commission under section 6(d) of Pub. L. 98–101, 97 Stat. 719, 722. The Commission is authorized to delegate authority to such State advisory commissions to assist the Commission in carrying out its purposes.

(b) *Use of logo.* Recognized State Bicentennial Commissions are authorized to use and to grant use of the National Bicentennial Logo. Permission to use the Logo may be granted only to nonprofit organizations which are sponsors of projects officially recognized by a State commission as a part of a State bicentennial program, provided such sponsors have been advised in writing by the State commission of such recognition. In order to grant use of the Logo, the State commission shall determine in advance that the project will increase public understanding and appreciation of the U.S. Constitution, and that it will be adequately financed and directed.

(c) *Nonprofit organizations.* Nonprofit organizations which are sponsors of State-recognized projects may be authorized to use the National Bicentennial Logo solely in connection with the recognized project. Such use shall include the legend, "Recognized by the [Name of State Bicentennial Commission]."

(d) *Monitoring responsibility.* A State commission which grants use of the National Bicentennial Logo shall be responsible for monitoring such use to assure that it is consistent with the requirements of this Commission and with the letter and spirit of Pub. L. 98–101, 97 Stat. 719, and any amendments thereto.

§ 2001.37 Designated Bicentennial Communities

(a) *Definitions.* The Commission encourages local governing bodies to establish Bicentennial Communities. The term "community" includes all political subdivisions having an elected government, such as a city, county, town, village, township, borough, any Native American tribe or reservation, or any combination thereof. Unincorporated areas which have an established identity of their own may also apply for designation.

(b) *Qualification criteria.* A Designated Bicentennial Community is one which (1) has established a bicentennial committee broadly representative of the Community; (2) has developed a commemorative program that will educate its residents about the meaning and significance of the Constitution; and, (3) has received an official designation from the Commission.

(c) *Application Process.* To be considered as a Designated Bicentennial Community, a community should submit a completed application form to its State Bicentennial Commission. Upon approval, by the State commission, the application with the State commission's recommendation shall be sent to this Commission for its review and decision. (See Subpart D—Selection Process below.) The Commission shall prepare, publish and supply the required application forms and shall issue a Certificate of Designation to all communities whose applications are approved by the Commission.

(d) *Use of logo.* Designated Bicentennial Communities are authorized to grant use of the National Bicentennial Logo to nonprofit organizations which are sponsors of projects officially recognized by the Designated Community Bicentennial Committee as part of the community bicentennial program, provided the sponsors have been advised in writing by the local Bicentennial Committee of such recognition.

(e) *Nonprofit organizations.* Organization sponsors of Community-recognized projects are authorized to use the National Bicentennial Logo only in connection with the recognized project. Such use shall include the legend, "Recognized by [Name of Community], a Bicentennial Community."

(f) *Monitoring responsibility.* A Designated Bicentennial Community which grants use of the National Bicentennial Logo shall be responsible for monitoring such use to assure that it is consistent with the requirements of this Commission and with the letter and spirit of Pub. L. 98–101, 97 Stat. 719, and any amendments thereto.

Subpart D—Selection Process

§ 2001.40 Submission of application.

To apply for Commission Cosponsorship or Official Recognition of a project, sponsors must complete a Commission application and submit it together with all required materials to: Commission on the Bicentennial of the United States Constitution, 734 Jackson Place NW., Washington, DC 20503.

§ 2001.41 Application requirements.

Applications should include a comprehensive description of the project and a narrative statement indicating how the project meets the criteria established by the Commission, as provided on the application form. The application form shall include a statement that the applicant agrees to be bound by all policies, requirements, regulations and other decisions made by the Commission affecting the applicant's project and responsibilities. See Appendix B for sample form.

§ 2001.42 Evaluation.

The Commission staff shall evaluate all requests for cosponsorship or official recognition and shall prepare recommendations for action thereon by the Commission or its committees, or both. The Commission shall be informed of all applications for cosponsorship or official recognition and of all requests for recognition of State Bicentennial Commissions and Designated Bicentennial Communities.

§ 2001.43 State Commission approval.

Approval of the appropriate State Bicentennial Commission shall be required if the project is to be conducted or carried out within a single State.

§ 2001.44 Interim letter.

The Commission may issue a Letter of Encouragement when a project demonstrates outstanding merit but has not reached that stage of development or obtained that level of support which would provide reasonable assurance of implementation. This Letter does not authorize use of the National Bicentennial Logo.

§ 2001.45 Commission approval.

Commission approval of an application shall be in writing and result in the issuance of a letter of agreement to cosponsorship or a Certificate of Official Recognition, or both.

Subpart E—Coordination and Information

§ 2001.50 National Register of bicentennial projects.

(a) As a means of coordination, and to enable the Commission to provide information and advisory assistance to all interested individuals and groups, the Commission shall maintain a National Register of Bicentennial Projects.

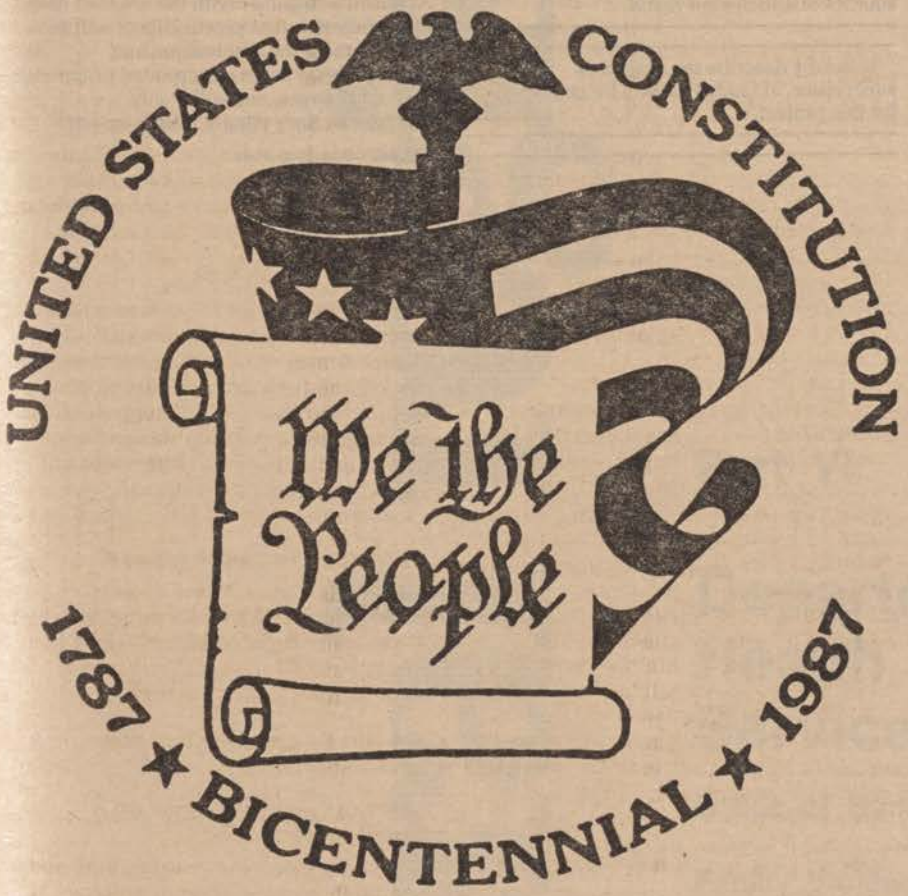
(b) This Register shall include all those projects, activities, and programs in which the Commission has involved itself. These may also be publicized by inclusion in commemorative calendars and schedules of bicentennial events published by the Commission.

(c) Within the limits of Commission resources, and to the extent feasible, the National Register shall be expanded to include officially recognized bicentennial projects approved and reported to the Commission by State Bicentennial Commissions and Designated Bicentennial Communities.

Appendix A to Part 2001—National Bicentennial Logo

This Appendix is intended to improve the utility of Part 2002 by setting forth a description and depiction of the National Bicentennial Logo adopted by the Commission on the Bicentennial of the United States Constitution. This Logo is the subject of Subpart B, §§ 2001.20–2001.22, and it is referred to repeatedly thereafter. Copies of the Logo may be obtained from the Commission. This Appendix contains no requirements or restrictions which are not already in the regulations.

Description: In color the Logo is intended to appear on a white or light-colored field. The canton of the American flag is dark blue and the stripes are bright red. The scroll lettering and borders are in gold; the eagle and flag staff are in gold. The circular lettering and dates are in dark blue. The Logo may also be duplicated wholly is black or dark blue on a light or white field.



Appendix B to Part 2001—Application For Recognition

This Appendix is intended to improve the utility of Part 2002 by setting forth a sample application form for use in applying to the Commission on the Bicentennial of the United States Constitution for official project recognition and support under the regulations contained therein. It contains no requirements or restrictions which are not already in the regulations.

The expectation of the Commission is that this application form will be used by all applicants or that applicants will use the form as a guide in submitting information with their applications, modifying its requirements as may be necessary for particular projects or activities. As a general matter, however, the information requested on the form set forth below will be required by the Commission for its evaluation process prior to granting official recognition of a commemorative project or activity.

Commission File No. _____

Application for Official Recognition by the Commission on the Bicentennial of the United States Constitution

(please type or print)

_____
Date of Application

I. *Identification*

1. _____
Name of Sponsor (individual, organization, or agency)

2. _____
_____
Address of Sponsor

3. ( ) _____
Sponsor's Telephone Number

4. _____
Name of Projects for which Recognition is Sought

5. _____
Name of Project Director

6. _____
Address and Tel. Number (if different from sponsor)

General Background Information (attach separate sheet)

1. Brief identification and history of the sponsor, including names of the members of the Board of Directors or other leadership body of the sponsoring organization, relevant background of principal organization personnel, and description of sponsor's previous experience, if any, with this type of project.

Please indicate who will be responsible for the operation of the project and in what capacity they will be so responsible. (Please attach resumes of director and co-director or equivalents.) Note: If sponsor is a nonprofit 501 (c)(3) organization please attach IRS verification.

2. A summary of the operations and programs of the sponsoring organization during the year immediately preceding the date of this application, including income and budget data. (Not applicable to newly formed organizations.)

3. Please attach copies of significant or representative endorsements of the project by individuals and governmental, business, community, service, academic, Bicentennial, or other organizations.

III. *Project Description* (attach additional sheets)

1. Provide a brief (no more than one typewritten page) description of the project for which recognition is sought.

2. Attach a *comprehensive* description of the project in narrative form, including the ways in which the project will be carried out, dates at which significant progress will be reached, the approximate number and background of probable participants and/or audience, and any other information relevant to successful conduct of the project. Also, please indicate how the project meets the regulatory criteria established by the Commission on the Bicentennial of the U.S. Constitution (see attached regulations).

IV. *Timing and Budget Information*

1. Please state the beginning and ending dates of the project. If specific dates are not yet determined, please state the criteria that will determine the duration of the project.

_____
_____
Period of major emphasis: _____

2. Total Actual or Estimated Cost of Project:

$ _____
Actual __ Estimated __

3. Total Funds Available (Do not include funds committed but not yet received):

$ _____

4. Please indicate the sources of funds included in number 3 above:

	Amount
Federal	
State	
Local Government	
Corporate	
Foundation Grants	
Other	

Please indicate below the government agencies and programs, if any, from which funds have been received and, if you choose to do so, the names of corporations and foundations that have provided funds.

5. Please indicate by source the amount of required funds not currently available for the project but that are committed or otherwise anticipated. Please indicate the status of any pending applications or requests, including approximate time receipt of funds is expected.

	Amount	Status
Federal		
State		
Local Government		
Corporation		
Foundation Grants		
Other		

If you choose to do so, please indicate the agencies, corporations, foundations, or other sources of anticipated funds.

6. Briefly describe the system of supervision of funds that will be employed for this project.

The signature below attests to the applicant's agreement to be bound by all policies, requirements, regulations, and other decisions that have been made, or will be made, by the Commission on the Bicentennial of the United States Constitution affecting the applicant's project and responsibilities.

Signature of Responsible Officer:

Title

Note to Applicants: It is not required, but it will be helpful to the Commission, for applicants to transmit three (3) copies of their Application together with the original. Also, to the fullest extent practicable, it will be appreciated if the Application and accompanying papers are printed or typed on 8½" x 11" pages, one-sided only.

[FR Doc. 86-5072 Filed 3-7-86; 8:45 am]

BILLING CODE 6340-01-M

federal register

Monday
March 10, 1986

Part VI

Department of Health and Human Services

Office of Human Development Services

Family Violence Prevention and Services; Availability of Funds for State and Tribal Grants

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Family Violence Prevention and Services

AGENCY: Office of Human Development Services (HDS), HHS.

ACTION: Notice of the availability of funds for State and Tribal grants for family violence prevention and services.

SUMMARY: FY 1985 and FY 1986 funds are now available for demonstration grants to States (including Territories and Insular Areas) and Indian Tribes and Tribal organizations to assist in establishing, maintaining, and expanding programs and projects to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents. This Notice sets forth the application process and requirements for these demonstration grants. The Department expects that these FY 1986 Family Violence Prevention and Services grants will serve as a one year transition into the Administration's proposed Family Crisis and Protective Services program in FY 1987.

DATE: Applications must be received by May 9, 1986.

ADDRESS: Address applications to: Enid A. Borden, Office of Policy and Legislation, Room 306-E Humphrey Bldg., 200 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Enid A. Borden, (202) 245-7027.

SUPPLEMENTARY INFORMATION:

Background

On October 9, 1984, the President signed into law the Child Abuse Amendments of 1984 (Pub. L. 98-457, 42 U.S.C. 10401 et. seq.). Title III of these Amendments is entitled the "Family Violence Prevention and Services Act" (Act). The purposes of this legislation are to: assist States in their efforts to prevent family violence and provide immediate shelter and related assistance for victims of family violence and their dependents; and carry out coordination, research, training, technical assistance, and evaluation activities. In addition, the Secretary may also make grants directly to Indian Tribes and tribal organizations.

The Department has been an active participant in ongoing family violence prevention service activities, child abuse and neglect prevention and service activities, and initatives and efforts in the areas of elder abuse, services to runaway youth and prevention of youth suicide. In addition to funding and administering categorical, block grant, and discretionary grant programs that address these concerns, the Department has undertaken several national initiatives:

- A Federal government-wide interagency meeting was held in April of 1985 with representatives of 22 Federal departments and agencies as an initial step in coordinating Federal activities concerning the prevention and treatment of family violence as required under the Act.
- The Department sponsored the "Surgeon General's Workshop on Violence and Public Health" in 1985, which focused on the impact of domestic violence on family life.
- The Family violence segment of PROJECT SHARE, a Department-operated human services clearinghouse, has been expanded.

Funds under the Act will supplement the many excellent activities and programs currently being carried out by the public and private sectors. We particularly urge the continuation of private sector involvement, through in-kind or monetary contributions, to community-based family violence prevention activities.

Funds Available

Public Law 99-88, the Supplemental Appropriations Act of 1985, made $6 million available for the program through FY 1986. The Department's FY 1986 appropriation bill, Pub. L. 99-178, appropriated an additional $2.5 million. Public Law 99-177, the Gramm-Rudman-Hollings legislation, reduces this $8.5 appropriation to $8.393 million.

The Department will make $7.1 million (85% of total funds) available for grants to States (see section 310(b) of the Act). State allocations are listed at the end of this Notice and have been computed based on the formula in section 304. Section 304 also contains a provision for reallotment to other States of any funds not made available to a State because of such State's failure to meet the requirements for a grant.

The Department has also set aside $400,000 for direct grants to those Indian tribes or tribal organizations which: (1) Meet the definition of "Indian tribe" or "tribal organization" in sections 4(b) and (c) of the Indian Self-Determination and Education Assistance Act (25 USC 450(b)) (or any consortium of such Indian tribes or tribal organizations); and (2) which have current "638" contracts with the Bureau of Indian Affairs (BIA) to carry out social services programs and activities. According to the BIA, this represents 102 Tribes and tribal organizations.

We explored the possibility of funding all Tribes based on Indian population in proportion to the State's population, but that was not feasible given the amount of funds available. In view of the requirement in section 303(g) that 60% of grant funds be made available for "immediate shelter and related assistance," the Department believes that those Indian Tribes already operating social services programs will be able to utilize these funds most effectively. Since section 304(a) specifies a minimum base amount for State allocations, we have set a base amount for eligible Tribes. Tribes which meet the application requirements and whose reservation and surrounding tribal trust lands population is less than 3,000 will receive a minimum of $3,000; tribes which meet the application requirements and whose reservation and tribal trust lands population exceeds 3000 will receive a minimum of $8,000, except for the Navajo Tribe which will receive a minimum of $20,000. The Department will use the best available population figures from the Census Bureau. Where Census Bureau data is unavailable, we will use figures from the BIA Indian Population and Labor Force Report.

The remaining funds under Pub. L. 99-88 and Pub. L. 99-178 will be used to carry out the research, training, technical assistance, evaluation, coordination, and clearinghouse activities required by the Act.

Eligibility

"States" as defined in section 309(6) of the Act are eligible to apply for funds. The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau in accordance with section 514 of Pub. L. 99-178.

"Indian tribes" and "Tribal organizations" are eligible to apply if they meet the definitions in section 4(b) and (c) of the Indian Self-Determination and Education Assistance Act (section 309(2)) and have FY 1985 "638" contracts with the BIA for the delivery of social services.

Application Requirements—General

The application requirements for these grants do not go beyond the requirements in the statute. We have cited each requirement to the specific section of the law. We suggest that this Notice be read in conjunction with the

statute and specifically call to your attention the definitions of "family violence," "shelter," and "related assistance" in section 309 and, for States, the sub-state matching requirements in section 303(f).

State Application Requirements

The Secretary will approve any application that meets the requirements of the Act and this Notice and will not disapprove an application unless the State has been given reasonable notice of the Department's intention to disapprove and an opportunity to correct any deficiencies (section 303(a)(3)).

The application must be signed by the Chief Executive of the State and must contain the following information and assurances:

(1) The name of the State agency designated as responsible for the administration of State programs and activities related to family violence carried out under the Act and for coordination of related State programs (section 303(a)(2)(D)).

(2) The procedures designed to involve knowledgeable individuals and interested organizations and assure an equitable distribution of grants and grant funds within the State and between rural and urban areas in the State (section 303(a)(2)(C)).

(3) The following assurances:

(a) That funds under the Act will be distributed in demonstration grants to local public agencies and nonprofit private organizations for programs and projects within the State to prevent incidents of family violence and to provide immediate shelter and related assistance for victims and their dependents (section 303(a)(2)(A)).

(b) That not less than 60% of the funds distributed shall be used for immediate shelter and related assistance (section 303(g)).

(c) That not more than 5% of the funds will be used for State administrative costs (section 303(a)(2)(B)(i)).

(d) That in distributing the funds, the State will give special emphasis to the support of the projects specified in section 303(a)(2)(B)(ii), i.e., community-based projects of demonstrated effectiveness carried out by nonprofit private organizations (particularly those projects the primary purpose of which is to operate shelters for victims of family violence and their dependents) and those which provide counseling, alcohol and drug abuse treatment, and self-help services to abusers and victims.

(e) That no entity funded by the State will receive more than $50,000 in any one fiscal year, no entity will be funded for a total period in excess of three years, and no entity will receive more than a total of $150,000 under this Act (section 303(c)).

(f) That demonstration grants funded by the State will meet the matching requirements in section 303(f), i.e., 35% in the first year, 55% in the second year, and 65% in the third year; that, except in the case of a public entity, not less than 50% of the local matching share shall be raised from private sources; the local share may be in cash or in-kind; and the local share may not include any Federal funds provided under any authority other than this title.

(g) That demonstration grants funded by the State may not be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(h) That no income eligibility standard will be imposed on individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(i) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(j) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written authorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(k) That all demonstration grants made by the State under the Act must prohibit discrimination on the basis of age, handicap, sex, race, color, national origin or religion (section 307).

(l) That within one year after receiving a grant, the State will provide assurances that the State has or has under consideration a procedure for the eviction of an abusing spouse from a shared residence (section 303(a)(2)(F)).

(m) That States will comply with Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR Part 74.

Indian Tribe and Tribal Organization Application Requirements

The application from the Indian Tribe or Tribal organization must be signed by the Chief Executive Officer of the Indian Tribe or Tribal organization and must contain the following information and assurances:

(1) The name of the organization or agency designated as responsible for the administration of the programs and activities related to family violence carried out under the Act and for coordination of related programs (section 303(a)(2)(D)).

(2) A statement that the applicant has obtained the authority to submit an application on behalf of the Indian individuals in the Tribe(s) (section 303(a)(2)(G)).

(3) The procedures designed to involve knowledgeable individuals and interested organizations in providing services under the Act (section 303(a)(2)(C)).

(4) A brief description of how the Indian Tribe or Tribal organization plans to use the grant funds to prevent incidents of family violence and to provide immediate shelter and related assistance to victims of family violence and their dependents (section 303(a)(2)(G)).

(5) The following assurances:

(a) That not less than 60% of the funds shall be used for immediate shelter and related assistance (section 303(g)).

(b) That no funds under the Act will be used as direct payment to any victim or dependent of a victim of family violence (section 303(d)).

(c) That no income eligibility standard will be applied to individuals receiving assistance or services supported with funds appropriated to carry out the Act (section 303(e)).

(d) That procedures will be developed to assure the confidentiality of records pertaining to persons receiving assistance or services from any program assisted under the Act as specified in section 303(a)(2)(E).

(e) That the address or location of any shelter-facility assisted under the Act will not be made public, except with written autorization of the person or persons responsible for the operation of such shelter (section 303(a)(2)(E)).

(f) That Indian grantees will comply with Department recordkeeping and reporting requirements and general grant administration requirements of 45 CFR Part 74.

Additional information

As a part of the legislative history for these Amendments, the Conference Report (H.R. Rep. No. 1038, 98th Cong., 2nd Sess., page 30, 1984) contained a statement of Congressional concern regarding a number of programmatic issues for this program. In order to share all available information with States for this new program, we have paraphrased the language of the Conference Report as follows:

States may wish to consider giving priority to applicants in communities currently without a family violence prevention program or who can demonstrate that current services or programs are inadequate to meet the needs of the community.

States and Indian tribes are also encouraged to coordinate at all levels of service delivery with other public and private programs; and to include personnel with appropriate skills training, and experience in the administration of the programs and projects funded. We also suggest that recipients of funds under this title should take all reasonable steps to facilitate the reconciliation, where possible, of spouses and the family. In that regard we believe it would be inappropriate for demonstration grant recipients that provide temporary shelter for abused spouses to require a minimum length of stay for shelter residents, to censor mail or telephone calls of shelter residents, or to interfere with reconciliation efforts unless requested to do so by the resident.

Notification Under Executive Order 12372

For States, this program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" for State plan consolidation and simplification only—45 CFR 100.12. The review and comment provisions of the Executive Order and Part 100 do not apply. Federally recognized Indian Tribes are exempt from the provisions and requirements of E.O. 12372.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980–0175.

State Allocations: Family Violence Prevention and Services Act

Alabama	$111,289
Alaska	50,000
American Samoa	8,918
Arizona	85,154
Arkansas	65,518
California	714,649
Colorado	88,641
Connecticut	87,971
Delaware	50,000
District of Columbia	50,000
Florida	306,142
Georgia	162,805
Guam	8,918
Hawaii	50,000
Idaho	50,000
Illinois	321,064
Indiana	153,350
Iowa	81,166
Kansas	68,001
Kentucky	103,842
Louisiana	124,454
Maine	50,000
Maryland	121,302
Massachusetts	161,718
Michigan	253,120
Minnesota	116,086
Mississippi	72,463
Missouri	139,683
Montana	50,000
Nebraska	50,000
Nevada	50,000
New Hampshire	50,000
New Jersey	209,608
New Mexico	50,000
New York	494,664
North Carolina	171,954
North Dakota	50,000
No. Mariana Islands	8,918
Ohio	299,894
Oklahoma	91,988
Oregon	74,583
Pennsylvania	331,942
Puerto Rico	90,956
Rhode Island	50,000
South Carolina	92,043
South Dakota	50,000
Tennessee	131,566
Texas	445,965
Palau [1]	8,918
Utah	50,000
Vermont	50,000
Virgin Islands	8,918
Virginia	157,199
Washington	121,302
West Virginia	54,445
Wisconsin	132,933
Wyoming	50,000
Total	7,134,050

[1] Replaces Trust Territory of the Pacific Islands.

Indian Tribal Eligibility

Based on BIA data, below are two lists of Indian Tribes (or in one instance, a consortium of Tribes) which have FY 1985 contracts with the BIA to provide social services. Tribes are listed by BIA Area Office based on Census Bureau population data or, where that is not available, BIA data.

Tribes Under 3,000 Population

Eastern Area Office

Houlton Bank of Maliseet Indians of Maine
Indian Township Passamaguoddy Reservation of Maine
Miccosukee Tribe of Indians of Florida
Mississippi Band of Choctaw Indians, Mississippi
Narragansett Indian Tribe of Rhode Island
Penobscot Tribe of Maine
Pleasant Point Passamaguoddy Reservation of Maine
Seminole Tribe of Florida

Aberdeen Area Office

Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Devil's Lake Sioux Tribe of the Devil's Lake Sioux Reservation, North Dakota
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Yankton Sioux Tribe of South Dakota

Minneapolis Area Office

Grand Traverse Band of Ottawa and Chippewa Indians of Michigan
Menominee Indian Tribe of Wisconsin
Michigan Inter-Tribal Council on behalf of:
Bay Mills Indian Community
Hannahville Indian Community
Keweenah Bay Indian Community
Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation, Michigan
Sault Saint Marie Tribe of Chippewa Indians of Michigan

Anadarko Area Office

Apache Tribe of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Comanche Indian Tribe of Oklahoma
Kiowa Indian Tribe of Oklahoma
Wichita Indian Tribe of Oklahoma

Billings Area Office

Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana

Phoenix Area Office

Cocopah Tribe of Arizona
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Elko Band Council
Ft. McDermitt Paiute and Shoshone Tribes of the Ft. McDermitt Indian Reservation, Nevada
Ft. McDowell Mohave-Apache Indian Community, Arizona
Ft. Mojave Indian Tribe of Arizona
Hualapai Tribe of the Hualapai Reservation, Arizona
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Paiute Indian Tribe of Utah
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Pascua Yaqui Tribe of Arizona
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quechan Tribe of the Ft. Yuma Indian Reservation, California
Reno-Sparks Indian Colony, Nevada
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Shoshone Paiute Tribes of the Duck Valley Reservation, Nevada

Te-Moak Bands of Western Shoshone Indians, Nevada
Ute Indian Tribe of the Unitah and Ouray Reservation, Utah
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Washoe Tribe of Nevada and California
Yavapai-Apache Indian Community of the Camp Verde Reservation, Arizona
Yerington Paiute Tribe of the Yerington Colony and Campbell Ranch

Albuquerque Area Office

Jicarilla Apache Tribe, New Mexico
Pueblo of Acoma, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Juan, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Santo Domingo, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Zia, New Mexico
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Ute Mountain Tribe of the Ute Reservation, Colorado, New Mexico and Utah

Portland Area Office

Burns Paiute Indian Colony, Oregon
Confederated Tribes of the Siletz Reservation, Oregon
Confederated Tribes of the Umatilla Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation, Oregon
Kootenai Tribe of Idaho
Metlakatla Indian Community, Alaska
Nez Perce Tribe of Idaho
Quinault Tribe of the Quinault Reservation, Washington
Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho

Juneau Area Office

Fairbanks Native Association, Alaska
Ketchikan Indian Corporation, Alaska
Kuskokwim Native Association, Alaska
Orutsaramuit Native Council, Alaska
Sitka Community Association, Alaska
Tanana Indian Reorganization Act Council, Alaska
United Crow Band, Alaska

Tribes Over 3,000 Population

Eastern Area Office

Eastern Band of Cherokee Indians of North Carolina

Muskogee Area Office

Cherokee Nation of Oklahoma

Aberdeen Area Office

Oglala Sioux Tribe of the Pine River Reservation, South Dakota
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Standing Rock Sioux Tribe of the Standing Rock Reservation, North and South Dakota
Turtle Mountain Band of Chippewa Indians, Turtle Mountain Indian Reservation, North Dakota

Billings Area Office

North Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana

Phoenix Area Office

Gila River Pima-Maricopa Indian Community of the Gila River Reservation, Arizona
Hopi Tribe of Arizona
Papago Tribe of the Sells, Gila Bend and San Xavier Reservations, Arizona
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
White Mountain Apache Tribe of the Fort Apache Indian Reservation, Arizona

Navajo Area Office

Navajo Tribe of Arizona, New Mexico and Utah

Albuquerque Area Office

Pueblo of Laguna, New Mexico
Zuni Tribe of the Zuni Reservation, New Mexico

Portland Area Office

Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Colville Reservation, Washington

Juneau Area Office

Association of Village Council Presidents, Alaska
Central Council of the Tlingit and Haida Indians of Alaska
Tanana Chiefs Conference, Alaska

Dated: February 20, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

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[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.

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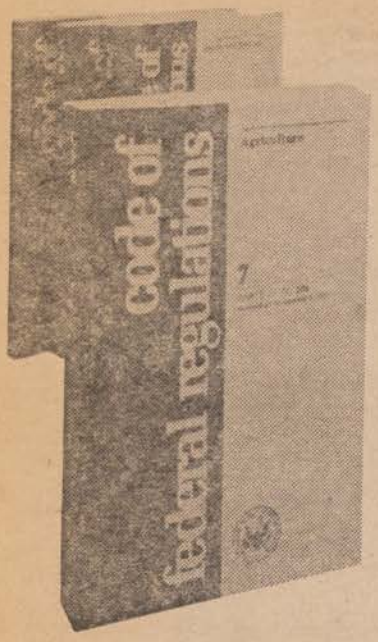

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