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Federal Register

Friday
March 14, 1986

50th Anniversary

March 14, 1936—March 14, 1986

Today marks the 50th anniversary of the first edition of the **Federal Register.**

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Cemeteries
National Park Service

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Fisheries
National Oceanic and Atmospheric Administration

Government Procurement
Interior Department

Grant Programs—Education
Education Department

Marketing Agreements
Agricultural Marketing Service

Meat and Meat Products
Agricultural Marketing Service

Old-Age, Survivors and Disability Insurance
Social Security Administration

Organization and Functions (Government Agencies)
Federal Home Loan Bank Board

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Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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

Postal Service
Postal Rate Commission

Securities
Securities and Exchange Commission

Seizures and Forfeitures
Justice Department

Surface Mining
Surface Mining Reclamation and Enforcement Office

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

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

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

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

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
Austin 512-472-5494
Houston 713-229-2552
San Antonio 512-224-4471
for reservations

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 422

[Doc. No. 3238S]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for potato crop insurance in Delaware, Maryland, and New Jersey, effective for the 1986 crop year only. This action is necessary because actuarial material for potatoes has just been received by agents. Additional time is hereby accorded agents to market new and existing potato contracts in those states. The intended effect of this notice is to advise all interested parties of the extension of the sales closing date and to comply with the provisions of the potato crop insurance program with respect to the Manager's authority to extend sales closing dates. The authority for this action is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: March 14, 1986.

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

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR 422.7, the sales closing date for accepting applications for potato crop insurance in Delaware, Maryland, and New Jersey is March 15. Because actuarial material was delayed in reaching the agents responsible for marketing new and existing contracts, FCIC is extending the sales closing date in these states.

Under the provisions of 7 CFR 422.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Accordingly, pursuant to the authority contained in 7 CFR 422.7, the Federal Crop Insurance Corporation herewith gives notice that the sales closing date for accepting applications for potato insurance in Delaware, Maryland, and New Jersey, is hereby extended through the close of business on April 15, 1986, effective for the 1986 crop year only.

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 March 10, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–5569 Filed 3–13–86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Parts 905, 907, 908, 912, 913, 916, 917, 928, and 932

Expenses and Rates of Assessments for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenditures and establishes assessment rates under Marketing Orders 905, 907, 908, 912, 913, 928, and 932. In addition, this regulation increases the 1985–86 budget under M.O.'s 916 (California nectarines) and 917 (applicable to California pears). Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: March 1, 1985–February 28, 1986 (§§ 916.224 and 917.243); August 1, 1985–July 31, 1986 (§§ 905.215, 912.225, and 913.221); January 1, 1986–December 31, 1986 (§§ 928.215 and 932.220); November 1, 1985–October 31, 1986 (§§ 907.223 and 908.225).

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

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

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

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

List of Subjects in 7 CFR Parts 905, 907, 908, 912, 913, 916, 917, 928, and 932

Marketing agreements and orders Oranges, Grapefruit, Tangerines, and Tangelos, Arizona, California, Florida, Grapefruit, Indian River District and Interior District, Florida, Nectarines, California, Pears, California, Papayas, Hawaii, Olives, California.

1. The authority citation for 7 CFR Parts 905, 907, 908, 912, 913, 916, 917, 928, and 932 continue to read as follows:

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

2. Therefore, new §§ 905.224, 907.223, 908.225, 912.225, 913.221, 928.215, and 932.220 are added; § 916.224 (50 FR 28337) and § 917.243 (50 FR 31342) are amended to read as follows (the following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

§ 905.224 Expenses and assessment rate.

Expenses of $227,270 by the Citrus Administrative Committee are authorized, and an assessment rate of $0.004 per ⅘ bushel carton of fruit is established for the fiscal period ending July 31, 1986. Unexpended funds may be carried over as a reserve.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 907.223 Expenses and assessment rate.

Expenses of $1,185,140 by the Navel Orange Administrative Committee are authorized and an assessment rate of $0.022 per 37½ pound standard carton of Navel oranges or the equivalent in any other size carton is established for the fiscal year ending October 31, 1986.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 908.225 Expenses and assessment rate.

Expenses of $632,410 by the Valencia Orange Administrative Committee are authorized and an assessment rate of $0.027 per 37½ pound standard carton of Valencia oranges or the equivalent in any other size carton is established for the fiscal year ending October 31, 1986.

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

§ 912.225 Expenses.

Expenses of $3,320 by the Indian River Grapefruit Committee are authorized for the fiscal period ending July 31, 1986. Funds to pay the expenses will be obtained from excess assessment income from previous seasons.

PART 913—GRAPEFRUIT GROWN IN THE INTERIOR DISTRICT IN FLORIDA

§ 913.221 Expenses and assessment rate.

Expenses of $4,100 by the Interior Grapefruit Marketing Committee are authorized and an assessment rate of $0.0005 per carton (⅘ bushel) of grapefruit is established for the fiscal year ending July 31, 1986. Unexpended funds may be carried over as a reserve.

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.24 [Amended]

Section 916.224 is amended by changing $2,687,576 to $2,701,668.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

§ 917.243 [Amended]

Section 917.243 is amended by changing $669,504 to $672,504.

PART 928—PAPAYAS GROWN IN HAWAII

§ 928.215 Expenses and assessment rate.

Expenses of $447,240 by the Papaya Administrative Committee are authorized and an assessment rate of $0.006 per pound of papayas is established for the fiscal year ending December 31, 1986. Unexpended funds may be carried over as a reserve.

PART 932—OLIVES GROWN IN CALIFORNIA

§ 932.220 Expenses and assessment rate.

Expenses of $2,309,350 by the California Olive Committee are authorized for the fiscal year January 1, 1986 through December 31, 1986. The rate of assessment for that period shall be established at $27.83 per ton, less any amount credited pursuant to § 932.45 but not to exceed $6.92 per ton. Unexpended funds may be carried over as a reserve.

Dated: March 7, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86–5605 Filed 3–13–86; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 500 and 512

Organization, Practice and Procedure; Office of Enforcement

Dated: February 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Bank Board" or "Board") has revised its regulations governing the organization of the Bank Board and the channeling of its functions to reflect its recent creation of an Office of Enforcement. In addition, the Bank Board has amended the regulation governing the release of resolutions authorizing formal examinations and investigations to authorize the Office of Enforcement to approve or deny requests for such resolutions.

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: Marianne E. Roche (202–377–7000), Deputy Director for Operations and Administration, or Rosemary Stewart (202–377–6437), Director, Office of Enforcement, Federal Home Loan Bank Board, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: On November 14, 1985, the Chairman of the Bank Board created an Office of Enforcement that reports directly to and is subject to the supervision of the Bank Board. The former Enforcement Division of the Office of General Counsel was redesignated as the new Office of Enforcement.

The Bank Board is required by 5 U.S.C. 552(a) to make available to the public descriptions of its organization and to the channeling of its functions. Therefore, the Bank Board has adopted these amendments to reflect the creation of the Office of Enforcement and to make the resulting deletions in the functions of the Office of General Counsel that previously were handled by its Enforcement Division. In addition, the amendments delete the outdated description of the organization of the Office of General Counsel so that future reorganizations of that office will not necessitate a regulatory amendment.

New § 500.15 describes the functions of the Director of the Office of Enforcement. Generally, the Director is responsible for the supervision and conduct of all formal enforcement activities of the Bank Board's staff and agents. In particular, the Director of the Office of Enforcement will be responsible for handling all referrals for

enforcement action received from other offices of the Board or any Federal Home Loan Bank and for recommending the initiation of formal enforcement actions by the Bank Board and "prosecuting" such actions in appropriate legal proceedings.

Section 500.17, which describes the functions of the General Counsel, is being amended to relect the transfer of certain functions of that office to the new Office of Enforcement and to delete the outdated description of the organization of the Office of General Counsel.

The Board also is amending § 512.5 of the General Regulations to indicate that the Director or any Deputy Director of the Office of Enforcement, rather than the Director or Deputy Director of the Office of Examinations and Supervision and General Counsel or any Deputy or Associate General Counsel, is authorized to approve requests under that section for Board resolutions authorizing proceedings under section 407(m)(2) and 408(h)(2) of the National Housing Act, 12 U.S.C. 1730(m)(2) and 1730a(h)(2). These decisions traditionally have been made by the Director of the Enforcement Division, who is now Director of the Office of Enforcement, so this change is viewed as a technical correction to the regulation.

The Bank Board finds that observance of the public notice and comment procedures prescribed by 5 U.S.C. 553(b) and 12 CFR 508.12 and 508.13 and delay of the effective date pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 are unnecessary because these amendments relate to Bank Board organization, procedure or practice and the delegation of Bank Board functions to the various offices in the agency.

List of Subjects in 12 CFR Parts 500 and 512

Administrative practice and procedure, Investigations, Organization and channelling of functions.

Accordingly, the Bank Board hereby amends Parts 500 and 512, Subchapter A, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER A—GENERAL

PART 500—ORGANIZATION AND CHANNELLING OF FUNCTIONS

1. The authority citation for Part 500 continues to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

2. Add a new § 500.15 to read as follows:

§ 500.15 Director of the Office of Enforcement.

The Director of the Office of Enforcement is responsible for the supervision and conduct of all formal enforcement activities, including formal examination proceedings and investigations by the staff and agents of the Board and the Federal Savings and Loan Insurance Corporation under each of the Acts administered by the Board. The Director is responsible for reviewing and handling referrals for enforcement action from the agents of the Board at the Federal Home Loan Banks, the Office of Examinations and Supervision, the Office of General Counsel and other Offices of the Board, as appropriate, and for determining whether the available evidence supports the allegations in such referrals. In addition, the Director is responsible for recommending the institution of administrative, injunctive or other appropriate legal actions arising out of such enforcement activities and for representing the Board and the Corporation in the litigation of such enforcement actions in administrative and judicial proceedings. The Director also is responsible, in collaboration with the Director of the Office of Examinations and Supervision, for directing and counseling the staff and agents of the Board with regard to referring matters to appropriate criminal and civil law enforcement authorities and for cooperating with such authorities.

3. Revise § 500.17 to read as follows:

§ 500.17 The General Counsel.

The General Counsel is the chief legal officer of the Board and has, among other functions, those set forth below. The General Counsel is responsible for the representation of the Board and the Federal Savings and Loan Insurance Corporation in judicial proceedings in which the Board or the Corporation is involved as a party or as amicus curiae, except for those enforcement actions in which the agency is represented by the Office of Enforcement. He also is responsible for defending all appeals of final Bank Board orders in the federal Courts of Appeal. The General Counsel is responsible for advising the Board with respect to interpretations involving questions of law, for the preparation of legislation submitted by the Board to Congress, for the preparation of Board comments to Congress upon pending legislation, and for the preparation and interpretation of regulations. In addition, the General Counsel also is responsible for dealing with general problems arising under the Administrative Procedure Act and for dealing with legal problems arising under applications to the Board and the Federal Savings and Loan Insurance Corporation.

PART 512—RULES FOR INVESTIGATIVE PROCEEDINGS AND FORMAL EXAMINATION PROCEEDINGS

4. The authority citation for Part 512 is revised to read as follows:

Authority: Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 407, 48 Stat. 1256, 1260, as amended, sec. 408, 48 Stat. 1261, as added by 73 Stat. 691, as amended (12 U.S.C. 1725, 1730, 1730a); sec. 12, 48 Stat. 892, as amended (15 U.S.C. 781); Reorg. Plan No. 3 of 1947; 3 CFR 1943–1948 Comp.

5. Amend § 512.5 by revising the last sentence of paragraph (a) to read as follows:

§ 512.5 Rights of Witnesses.

(a) * * * Copies of such resolution shall be furnished, for their retention, to such persons only with the written approval of the Director or any Deputy Director of the Office of Enforcement.

* * * * *

6. Amend § 512.5 by removing the authority citation located at the end of the section.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–5592 Filed 3–13–86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–21–AD; Amdt. 39–5258]

Airworthiness Directives; SAAB-Fairchild Model SF–340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain SAAB-Fairchild Model SF–340A series airplanes which requires the installation of a positive stop to limit the maximum flap setting to 20 degrees. This action is prompted by reports of uncommanded pitch excursions at a flap setting of 35 degrees when tailplane icing is present. Failure to limit the flap

extension to 20 degrees could result in temporary loss of control of the airplane.

EFFECTIVE DATE: April 1, 1986.

ADDRESS: The service bulletin specified in this AD may be obtained upon request to SAAB-Fairchild Corporation, Product Support, S. 58188, Linkoping, Sweden. It may be examined at the Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Swedish Board of Civil Aviation (BCA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which exists on certain Model SF-340A airplanes. When ice is present on the tailplane, it is possible for uncommanded pitch excursions to occur with a flap setting of 35 degrees during the approach phase of flight. In order to prevent this from occurring, the BCA has issued Swedish AD 1-015, dated February 13, 1986, which requires a flight manual change restricting the maximum flap setting to 20 degrees, which is the next highest available setting, and requires installation of a positive stop on the flap quadrant to physically limit the maximum flap setting to 20 degrees, in accordance with SAAB-Fairchild Service Bulletin SF 340-27-036, dated February 13, 1986.

Since this condition may exist on airplanes of the same type design registered in the United States, this AD requires an amendment to the FAA-approved airplane flight manual and an installation of a positive stop on the flap quadrant, as previously described.

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

The FAA has determined that this regulation is an emergency regulation that is not 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 document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FDR 11034; February 26, 1979), and 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.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

SAAB-Fairchild: Applies to Model SF-340A series airplanes, serial numbers 003 through 048, inclusive, certificated in any category. Compliance is required as indicated below, unless previously accomplished:

1. Within the next seven days after the effective date of this AD, incorporate the following into the limitations section of the airplane flight manual: "More than 20° flap is NOT authorized at any time." This may be accomplished by including a copy of this AD in the airplane flight manual.

2. Within the next 21 days after the effective date of this AD, install a mechanical stop on the flap handle to limit the flap extension to a maximum setting of 20° in accordance with SAAB-Fairchild Service Bulletin SF 340-27-036, dated February 13, 1986.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-Fairchild Corporation, Product Support, S.58188, Linkoping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective April 1, 1986.

Issued in Seattle, Washington, on March 7, 1986.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR. Doc. 86-5571 Filed 3-13-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-14-AD; Amdt. 39-5257]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to all Boeing Model 767 airplanes, which requires the inspection of the pneumatic system 8th stage check valve, and repair or replacement of the valve, as necessary. This action is prompted by reports of fragments of failed values becoming lodged in other pneumatic system components, by reports of engine damage caused by ingested valve fragments, and by reports of cracked valves which have been removed from service. This condition, if not corrected, could cause engine shutdown, engine damage, or damage to the pneumatic system.

DATES: Effective April 1, 1986.

Comments must be received by April 1, 1986.

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

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Lium, Systems and Equipment Branch, ANM-130S; telephone (206) 431-2946. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On January 25, 1986, a Boeing Model 767 operator experienced an engine malfunction, which was determined to be caused by fragments from the pneumatic system 8th stage check valve being ingested by the engine. There have also been reports of valve fragments causing damage to the pneumatic systems on the Model 767, in addition to

numerous reports of cracked valves that have not yet failed.

Two major failure modes of this valve have been identified. One involves improper assembly of the valve by the manufacturer, whereby insufficient torque is applied to the nut which holds the valve poppet assembly together. The other failure mode involves fatigue cracks of the poppet itself. Since the first failure mode may exist in brand-new valves, an initial inspection is required to check for loose bolts and nuts. The fatigue cracks develop and progress with time, and this failure mode is thus addressed by a repetitive inspection requirement. The same inspection procedure is called out in the AD for both the initial and repetitive inspections, since it is possible that fatigue cracks could be discovered on the initial inspection, and an improperly torqued nut could be found to be loose on a later inspection. The inspection procedure allows for both possibilities.

The direction that valve fragments would travel through the pneumatic duct in the event of valve failure changes several times during a given flight, and is determined by the automatic switchover of bleed air sources by the pneumatic system. At high engine power settings, such as during takeoff and climb, the airplane is being supplied bleed air from the low-pressure bleed source, and any fragments from a failed check valve would be carried away from the engine, and into the pneumatic system. At low engine power settings, such as at some cruise conditions and descent, there is insufficient bleed air available from the low-pressure source, and a high-pressure bleed valve automatically opens. The check valve discussed herein is designed to prevent this high pressure air from re-entering the engine through the low-pressure port. If the check valve should fail in this situation, valve fragments would be swept into the engine, or, if the valve had failed earlier in the flight, high-pressure bleed air would not be prevented from re-entering the engine. This could result in a compressor stall or other engine abnormalities.

On January 17, 1986, The Boeing Company issued Service Bulletin 767-36-0017, which describes inspection and repair procedures applicable to the subject valve.

Terminating action for this AD, which will require a design change to the valve, has not been identified at this time.

Since this condition is likely to exist or develop on other airplanes of this model, the FAA has determined that an AD is necessary which requires inspection, and, as necessary, repair or replacement of all pneumatic system 8th stage check valves in accordance with the service bulletin previously mentioned.

Further, since a situation exists that requires 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.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directives Rules Docket No. 86-NM-14-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. All communications received before the closing date will be considered by the Administrator, and the AD may be changed in light of the comments received.

The FAA has determined that this regulation is an emergency regulation that is not 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 document 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).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 767 airplanes, certificated in any category. Compliance is required as stated below. To preclude engine or pneumatic system damage caused by the failure of the pneumatic system 8th stage check valve, Hamilton Standard Part Number 773856-3, accomplish the following, unless already accomplished:

A. Within 500 hours time in service after the effective date of this AD, inspect the pneumatic system 8th stage check valve, Hamilton Standard Part Number 773856-3, in accordance with Boeing Service Bulletin 767-36-0017, dated January 17, 1986, or later FAA-approved revisions. If the valve contains any visible cracks, or exceeds the allowable wear limits specified in the reference service bulletin, repair the valve in accordance with the referenced service bulletin, or replace the valve with a servicable valve before further flight. Valves not installed on an airplane must be inspected prior to their installation.

B. Repeat the inspection procedures in paragraph A., above, at intervals not to exceed 2,000 hours time in service.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this AD who have not already received copies of the Service Bulletin cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective April 1, 1986.

Issued in Seattle, Washington, on March 7, 1986.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 86-5570 Filed 3-13-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 24935; Amdt. No. 1316]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination:

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

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

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

For Purchase:

Individual SIAP copies may be obtained from:

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

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

By Subscription:

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

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

SUPPLEMENTARY INFORMATION:

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

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

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

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

List of Subjects in 14 CFR Part 97

Aviation safety, Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on March 7, 1986.

John S. Kern,

Acting Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

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

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

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

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

. . . Effective 8 May 1986

Camden, AR—Harrell Field, VOR/DME RWY 18, Amdt. 3, Cancelled
Hot Springs—AR, Memorial Field, VOR-1 RWY 5, Amdt. 14
Hot Springs—AR, Memorial Field, VOR-2 RWY 5, Amdt. 2
Hot Springs—AR, Memorial Field, ILS RWY 5, Amdt. 11
Kahului, HI—Kahului, VOR/DME or TACAN RWY 20, Amdt. 5
Kahului, HI—Kahului, VOR/DME or TACAN-A, Amdt. 5
Kahului, HI—Kahului, LOC/DME (BC) RWY 20, Amdt. 9

Connersville, IN—Mettel Field, VOR/DME-A, Amdt. 5
Connersville, IN—Mettel Field, NDB RWY 18, Amdt. 9
Connersville, IN—Mettel Field, RNAV RWY 18, Amdt. 5
New Castle, IN—New Castle-Henry County Muni., NDB RWY 9, Amdt. 4
New Castle, IN—New Castle-Henry County Muni., NDB RWY 27, Amdt. 4
Richmond, IN—Richmond Muni, VOR RWY 6, Amdt. 9
Richmond, IN—Richmond Muni, VOR RWY 24, Amdt. 9
Winchester, IN—Randolph County, VOR-A, Amdt. 7
Winchester, IN—Randolph County, NDB RWY 25, Amdt. 3
Davenport, IA—Davenport Muni, NDB RWY 3, Amdt. 13, Cancelled
Hastings, MI—Hastings, VOR RWY 12, Amdt. 7
Houghton Lake, MI—Roscommon County, VOR RWY 27, Orig.
Sidney, MT—Sidney-Richland Muni, NDB RWY 1, Amdt. 1
Sidney, MT—Sidney-Richland Muni, NDB RWY 19, Amdt. 2
Farmington, NM—Four Corners Regional, VOR/DME RWY 7, Amdt. 2
Reno, NV—Reno Cannon Intl, VOR/DME RWY 34L, Orig.
Dayton, OH—Dayton General Arpt South, VOR RWY 20, Amdt. 7
Dayton, OH—Dayton General Arpt South, VOR A, Amdt. 11
Dayton, OH—Dayton General Arpt South, NDB RWY 9, Amdt. 5
Dayton, OH—James Cox Dayton Intl, NDB RWY 6R, Amdt. 5
Dayton, OH—James Cox Dayton Intl, RNAV RWY 6R, Amdt. 6
Harrison, OH—Harrison, VOR RWY 18, Amdt. 1
Lebanon, OH—Lebanon-Warren County, NDB-A, Amdt. 3
Brookings, SD—Brookings Muni, VOR RWY 12, Amdt. 7
Brookings, SD—Brookings Muni, VOR RWY 30, Amdt. 5
Houston, TX—Houston-Hull Field, LOC RWY 35, Amdt. 1, Cancelled
Houston, TX—Houston-Hull Field, ILS RWY 35, Orig
Killeen, TX—Killeen Muni, VOR-A, Amdt. 1
Appleton, WI—Outagamie County, VOR/DME RWY 3, Amdt. 3
Appleton, WI—Outagamie County, LOC BC RWY 21, Amdt. 4
Appleton, WI—Outagamie County, NDB RWY 3, Amdt. 10
Appleton, WI—Outagamie County, NDB RWY 11, Amdt. 3
Appleton, WI—Outagamie County, NDB RWY 29, Amdt. 3
Appleton, WI—Outagamie County, ILS RWY 3, Amdt. 12
Appleton, WI—Outagamie County, RNAV RWY 29, Amdt. 3
Delavan, WI—Lake Lawn, NDB RWY 18, Amdt. 2
Manitowoc, WI—Manitowoc County, VOR RWY 35, Amdt. 10
Oconto, WI—Oconto Muni, NDB RWY 11, Amdt. 4

. . . Effective 10 April 1986

Butler, AL—Butler-Choctaw County, NDB RWY 11, Amdt. 1
Key West, FL—Key West Intl, RADAR-1, Amdt. 2
Miami, FL—Miami Intl, RADAR-1, Amdt. 21, Cancelled
Monroe, GA—Monroe-Walton County, NDB RWY 3, Amdt. 1
Thomasville, GA—Thomasville Muni, VOR/RWY 22, Amdt. 10
Thomasville, GA—Thomasville Muni, VOR/DME RWY 22, Amdt. 4
Thomasville, GA—Thomasville Muni, LOC RWY 22, Amdt. 2
Thomasville, GA—Thomasville Muni, NDB RWY 22, Amdt. 2
Thomasville, GA—Thomasville Muni, RNAV RWY 32, Amdt. 3
Winder, GA—Winder, LOC RWY 31, Amdt. 7
Winder, GA—Winder, NDB RWY, Amdt. 7
Mount Sterling, KY—Mt Sterling-Montgomery County, VOR RWY 7, Amdt. 2, Cancelled
Mount Sterling, KY—Mt Sterling-Montgomery County, VOR/DME RWY 7, Amdt. 32, Cancelled
Mount Sterling, KY—Mt Sterling-Montgomery County, VOR A, Orig
Mount Sterling, KY—Mt Sterling-Montgomery County, VOR/DME-B, Orig
Baton Rouge, LA—Baton Rouge Metropolitan, Ryan Field, LOC BC RWY 4, Orig.
Houlton, ME—Houlton Intl, VOR RWY 5, Amdt. 8
Baltimore, MD—Baltimore-Washington Intl, RNAV RWY 22, Amdt. 6
Oakland, MD—Garrett County, VOR RWY 26, Amdt. 3
Fayetteville, NC—Fayetteville Muni (Grannis Fld), VOR RWY 4, Amdt. 15
Fayetteville, NC—Fayetteville Muni (Grannis Fld), VOR RWY 22, Amdt. 4
Fayetteville, NC—Fayetteville Muni (Grannis Fld), VOR RWY 28, Amdt. 6
Fayetteville, NC—Fayetteville Muni (Grannis Fld), LOC BC RWY 22, Amdt. 5
Fayetteville, NC—Fayetteville Muni (Grannis Fld), NDB RWY 4, Amdt. 14
Fayetteville, NC—Fayetteville Muni (Grannis Fld), ILS RWY 4, Amdt. 14
Fayetteville, NC—Fayetteville Muni (Grannis Fld), RADAR-1, Amdt. 4
Sanford, NC—Sanford-Lee County Brick Field, NDB RWY 3, Orig.
West Jefferson, NC—Ashe County, NDB RWY 27, Admt. 1
Mandan, ND—Mandan Muni, RADAR-1, Amdt. 1
Beaufort, SC—Beaufort County, RADAR-1, Amdt. 1
Laredo, TX—Laredo Intl, LOC BC RWY 35L, Orig., Cancelled

. . . Effective 20 February 1986

Russellville, AR—Russellville Muni, NDB-A, Amdt. 3

[FR Doc. 86-5572 Filed 3-13-86; 8:45 am]
BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-22979; File No. S7-36-84]

Exemption of Certain Direct Participation Program Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting Rule 3a12-9 under the Securities Exchange Act of 1934 ("Exchange Act"). The Rule exempts the securities of certain direct participation programs from the "arranging" provisions of sections 7(c) and 11(d)(1) of the Exchange Act. The Rule will thus allow broker-dealers to participate in public offerings of the securities of direct participation programs with mandatory deferred payments, provided that certain conditions are met. The Commission does not believe that public offerings which meet the requirements of the Rule present the potential for abuse which sections 7(c) and 11(d)(1) were designed to prevent.

EFFECTIVE DATE: April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Edward L. Pittman, Esq., (202) 272-2848; Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission today announced the adoption of Rule 3a12-9 (17 CFR 240.3a12-9) under the Exchange Act.[1] The Rule was published for comment in November, 1984.[2] Pursuant to section 3(a)(12) of the Exchange Act, the Rule provides that interests in certain direct participation programs[3] are exempted securities for purposes of the arranging for credit provisions of sections 7(c) and 11(d)(1) of the Exchange Act.[4] The Rule

[1] 15 U.S.C. 78a *et. seq.*

[2] Securities Exchange Act Release No. 21495 (November 16, 1984), 49 FR 46556 (November 27, 1984).

[3] As defined more fully in the Rule, direct participation programs are programs which provide for flow-through tax consequences to their investors such as limited partnerships or some investment contract securities. It is anticipated that such programs may include oil and gas, real estate, agricultural, cattle breeding, and equipment leasing programs.

[4] The Rule does not provide an exemption from the prohibition against the direct extension of credit by the broker-dealer, nor does it permit the broker-dealer to arrange for the extension of credit beyond the deferred payment itself.

will thus permit broker-dealers to participate in public offerings of securities of direct participation programs that provide for mandatory payments on a deferred basis,[5] provided that certain conditions are met. Specifically: (1) The securities must be registered under the Securities Act of 1933 ("1933 Act") or be offered exclusively on an intrastate basis in accordance with section 3(a)(11) of that Act, (2) the mandatory deferred payments must bear a reasonable relationship to the capital needs and program objectives describes in a business development plan, (3) a minimum of 50 percent of the purchase price of the program securities must be paid by the investor at the time the securities are sold; and (4) the total purchase price of a program security must be paid within three years in the case of specified property programs and two years in the case of non-specified property programs.

II. Background

Since 1972, Regulation T,[6] promulgated by the Board of Governors of the Federal Reserve System ("Board") under section 7 of the Exchange Act, and section 11(d)(1) of the Exchange Act,[7] have been interpreted to prohibit broker-dealers from participating in public offerings of securities of direct participation programs with mandatory installment or deferred payment features.[8] Sales of program securities with deferred payment features have been permissible, however, in private placements.[9] An effect of these prohibitions has been to force issuers to either eliminate deferred payments altogether in public offerings, use private placements for sales of interests in direct participation programs with mandatory installment payment features, or to make public offerings with voluntary installment payments.[10]

In 1972, shortly after the Board's staff indicated that Regulation T was applicable to public offerings of direct participation programs with installment features, the Commission's Real Estate Advisory Committee, composed of members of the real estate syndication industry and Commission staff, issued a report based upon a comprehensive review of the disclosure procedures and policy objectives in the area of real estate securities ("REAC Report"). Among the recommendations contained in the REAC Report was that the Commission use its rulemaking authority to exempt from the requirements of Regulation T interests in real estate limited partnerships where deferred payments "are made on a schedule based on anticipated need as is set forth in the registration statement."[11] More recently, in 1983, the National Association of Securities Dealers, Inc. ("NASD") petitioned the staff of the Board to provide relief in this area.[12] The NASD argued in its request that relief was appropriate since, among other things, the concerns which led Congress to adopt section 7(c) are not present in the context of deferred sales of direct participation programs. In addition, the NASD noted that regulatory oversight of the programs by the states, the NASD, and the federal government has increased substantially over the past decade.

The NASD suggested that sales of direct participation program interests on a deferred payment basis should be entirely exempt from the credit restrictions. Alternatively, the NASD suggested several conditions that could apply to such sales. After extensive consultation between the staff of the Board and the Commission's staff, it appeared that the most efficient way to expose the issue for public comment was for the Commission to propose a rule pursuant to its authority under section 3(a)(12) of the Exchange Act, which allows the Commission to define exempted securities.[13]

III. Determination To Adopt Rule 3a12–9

In response to the release proposing Rule 3a12–9, the Commission received letters from 125 commentators. The comment letters reflected a broad range of interests within the securities industry and were evenly divided in support of and opposition to adoption of the proposed Rule.[14] After evaluating the comment letters, the Commission has determined to adopt Rule 3a12–9, incorporating a number of changes in the Rule as a result of suggestions made in the comment letters. The Commission believes that permitting program interests to be sold on a deferred payment basis, so that payments by investors to a program can be coordinated to match the program's capital needs, will produce economic benefits to investors and program sponsors which justify adoption of the Rule. Nevertheless, the Commission also believes that the imposition of specific conditions in connection with sales of program interests with deferred payments is necessary to preserve investor protection.

Commentators noted that under the previous credit restrictions applied to public offerings of direct participation programs, investors were forced to make cash contributions at the outset of the program, even though a considerable portion of the funds might remain idle until used by the program, perhaps a significant period of time following termination of the offering. For example, where projects are completed over a

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[5] For some purposes a distinction may be drawn by state regulators between the terms "installment payments" and "deferred payments." The latter, which are intended to be encompassed by Rule 3a12–9, must bear a reasonable relationship to the program's cash needs and business objectives, and are not merely an optional method of financing the purchase of program interests over a period of time. Nevertheless, these two terms, along with the term "staged payments," may in some instances be used interchangeably for purposes of this release.

[6] 12 CFR Part 220.

[7] Section 11(d)(1) of the Exchange Act generally prohibits a broker-dealer who participates in a distribution of securities from extending or arranging for credit during the first 30 days following termination of the distribution.

[8] In March of 1972, the Board concluded that the sale by a broker-dealer of a publicly offered tax shelter program with installment features constitutes an "arranging" for the extension of credit in violation of Regulation T (12 CFR 220.124). Subsequently, the Board adopted an "economic penalty" test in determining whether the likelihood of an exercise of a warrant was so great as to make it equivalent to an installment purchase. Securities Credit Transactions Handbook section 5–560.31 (Board Ruling of October 30, 1973). *See also, Id. at* section 5–606.31 (Staff Op. September 30, 1983).

[9] In July of 1972, the Board's staff indicated that the prohibition against the use of installment payments under Regulation T set forth in its March interpretation related only to publicly offered programs which were not exempt from registration with the Commission. Securities Credit Transaction Handbook, section 5–551. In 1975, the Board amended Regulation T to except from the arranging prohibition those private offerings exempt from registration with the Commission pursuant to section 4(2) of the 1933 Act. *See*, 12 CFR 220.7(a). Because the prohibitions of section 11(d)(1) of the Exchange Act would have rendered an exemption for intrastate offerings ineffective, the staffs of the Board and the Commission concluded that an express exemption from Regulation T for intrastate offerings was inappropriate.

[10] Public offerings with deferred payment features have been conducted using so-called "toothless notes" which do not involve an economic penalty to the investors for failure to pay subsequent installations and therefore are permissible under Regulation T.

[11] *Report of the Real Estate Advisory Committee to the Securities and Exchange Commission*, at 65 (October 12, 1972.

[12] *See*, Letter dated April 26, 1983 to Robert S. Plotkin, Assistant Director of the Board, from Frank J. Wilson, Executive Vice President, NASD (publicly available in File No. S7–36–84).

[13] Section 3(a)(12) defines "exempted securities" to include such securities: "as the Commission may, by such rules and regulations as its deems consistent with the public interest and the protection of investors, either unconditionally or upon [specified terms and conditions or for stated periods, exempt from the operation of any [one] or more provisions of this title which by their terms do not apply to an "exempted security" or to "exempted securities."

[14] A summary of the comments prepared by the Commission's staff is available for public inspection and copying in File No. S7–36–84.

period of time in identifiable stages, the program may not need investor funds to make payments until work has been completed on a particular industry stage. In such cases, all the investor's money is at risk, while the program may hold unneeded funds providing the investor with either no return, or a return at a far lower rate than he or she might have received if allowed to make alternative investments until the program had an actual need for funds.

Commentators also pointed out that the Rule will allow program sponsors to access new sources of capital. Because programs with staged payments have only been available in private offerings, many investors, for whom investments in such programs would otherwise be suitable, were denied the opportunity to participate. Commentators argued that by permitting public offerings of direct participation programs with deferred payment features, the Rule will provide investors with new investment alternatives and, at the same time, facilitate the formation of programs with broader capital bases. The Commission believes that the Rule will reduce the current constraints on the formation of capital and eliminate the misallocation of investor resources without compromising investor protection or contravening the intent of Congress in enacting sections 7(c) and 11(d)(1).

The rationale behind the adoption of section 7 of the Exchange Act was to limit the amount of credit which might be devoted to speculation in the securities markets, to maintain the availability of credit for financing local commerce and industry, to prevent undue market volatility by exerting a positive, stabilizing effect on the market and, to protect investors from purchasing on too thin a margin. Section 11(d)(1), in turn, was enacted by Congress to prevent potential conflicts of interest which might arise where underwriters, who are both brokers and dealers, extend credit on new issues of securities.[15]

In deciding whether to adopt Rule 3a12–9, the Commission gave extensive consideration to the impact of the Rule in light of the Congressional philosophy underlying the credit restrictions. Since interests in direct participation programs are generally not traded on exchanges or actively traded in the over-the-counter market, they are considered to be illiquid instruments and therefore afford less opportunities for speculation and related abuses which Congress sought to prevent by enacting the credit restrictions. Although the Commission is aware that an active secondary market has developed for a few direct participation programs, it is not expected that programs with deferred payment features will be active traded. Moreover, limitations have been established in the Rule which are designed to preclude those direct participation programs with deferred payment features which are actively traded from taken advantage of the Rule's exemptive provisions.

Some commentators suggested that allowing direct participation programs with deferred payments to be sold through public offerings might lead to instances of broker-dealer overreaching. Many of the same commentators also forecast the possibility of widespread defaults on deferred payments by investors in public offerings who lacked the financial capacity to fulfill their commitments. By permitting programs with staged payments to be publicly offered, the Commission believes that Rule 3a12–9 will enhance investor protection.

Public offerings of direct participation program securities are subject to many regulatory standards imposed by the states and the NASD which are not directly applicable to most private offerings. For example, Appendix F to the NASD's Rules of Fair Practice[16] imposes additional regulation on public offerings direct participation programs in areas such as investor suitability, due diligence by members, the accuracy and adequacy of disclosure and the amount and form of underwriting compensation. In addition, separate state regulatory guidelines for the offering of direct participation programs in real estate, oil and gas, and equipment leasing have been adopted by the North American Securities Administrators Association, Inc. ("NASAA"), a voluntary organization comprised of state securities regulatory agencies. The NASAA guidelines, which are followed by many states and apply primarily to public offerings, establish standards regulating program sponsors, impose investor suitability requirements, and require that substantive features designed to protect investors are included in the partnership agreement.

In the Commission's view the provisions of the Rule, coupled with state laws, NASD regulations, and the antifraud provisions under the federal securities laws, are sufficient to protect investors against abusive sales practices. In this regard, broker-dealers are remined that Rule 15c2–5 under the Exchange Act requires that they make a suitability determination when arranging for the extension of credit in transactions, such as those under Rule 3a12–9, which are not subject to Regulation T.[17]

The Commission also notes that it has not been presented with any evidence that significant numbers of defaults have occurred in the private offerings of direct participation programs with deferred payment features which are currently being made. Indeed, the Commission understands that the number of defaults by investors in these offerings has been minimal. While the Commission recognizes that most purchases of program interests in private offerings have been accredited investors, the Commission has no basis upon which to conclude that other creditworthy investors, for whom the transactions are otherwise suitable, are more likely to default on their payments. In addition, provisions have been added to the Rule which require a substantial down payment and limit the duration of the pay-in period. These provisions will increase the incentive of the investor to fulfill his obligation to make additional payments and, at the same time, reduce the likelihood that unforeseen events will alter the economic attractiveness of the program or effect the investor's ability to make payments.[18]

Commentators also raised concerns that adoption of Rule 3a12–9 might cause sponsors to offer increased numbers of programs emphasizing tax benefits at the expense of the underlying economics of the programs' operations

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[15] See, Securities Exchange Act Release No. 11220, 40 FR 6644 (February 13, 1975) (adopting Rule 3a12–5; 17 CFR 240.3a12–5). *See also, A Review and Evaluation of Federal Margin Regulations, A Study by the Staff of the Board of Governors of the Federal Reserve System* (December 1984).

[16] Appendix F to Art. III, Section 34, NASD Rules of Fair Practice.

[17] Rule 15c2–5 (17 CFR 240.15c2–5) states, among other things, that it shall constitute a "fraudulant, deceptive, or manipulative act or practice," as used in section 15(c)(2) of the Exchange Act, for a broker-dealer to arrange for credit in connection with the sale of any security unless, prior to the purchase, the broker-dealer obtains information concerning the financial situation and needs of the investor and reasonably determines that the entire transaction, including the loan arrangement, is suitable for the investor. Although this rule does not apply to transactions made in accordance with the provisions of Regulation T, it does not distinguish between public and private offerings. Accordingly, Rule 15c2–5's requirements are equally applicable to transactions which are not governed by Regulation T because they are either made pursuant to Rule 3a12–9 or because they are done in private offerings.

[18] Commentators indicated that it is currently the practice in many private offerings using installment payments to obtain insurance to protect the working capital of the program in the event of investor defaults. The Commission anticipates that similar practices will develop among publicly offered programs with staged payment features.

or perhaps encourage the promotion of abusive tax shelters. Because of this, they estimated that the Rule would adversely affect federal tax revenues. While the admininstration of federal tax policy is not within its jurisdiction, the Commission notes that the Internal Revenue Service has substantial weapons with which to monitor and combat abusive tax shelters.

In sum, the Commission believes that Rule 3a12–9 will provide a useful alternative for capital formation to sponsors that wish to provide for mandatory deferred payments in public offerings of direct participation programs. In addition, investors who previously were denied the opportunity to invest in such offerings will now have access to these programs. Finally, in the Commission's view, the Rule will eliminate the current misallocation of economic resources in a manner consistent with the protection of investors.

IV. Scope of Rule 3a12–9

A. General

As noted earlier, Rule 3a12–9 is designed to permit broker-dealers to participate in public offerings of securities with deferred payment features where the securities satisfy the provisions of the Rule. The Rule does not, however, require that all offerings with deferred payment features be offered on a public basis or that private offerings comply with its provisions. Instead, the Rule is intended to provide both investors and promoters with previously unavailable alternatives.

As adopted, the Rule contains a number of amendments which were made as a result of suggestions received from commentators. Specifically, in response to concerns raised by state regulations, along with members of the syndication industry, the Rule now contains several limitations designed to minimize the possibility of investor defaults and make the extension of credit under the Rule compatible with current regulations applied to margin securities under Regulation T of the Exchange Act. At the same time, however, the Commission has deleted requirements in the proposed Rule which commentators believed would impose additional costs or uncertainty on the part of program sponsors without a corresponding increase in investor protection.

B. Definition of Director Participation Program

As proposed, the Rule applied to direct participation program securities, which were defined as securities created pursuant to a contractual agreement between and among investors, that were not margin securities, and that provided direct flow through tax consequences to investors. The proposed Rule also specifically excluded from the defintion of a direct participation program certain forms of business organizations which might otherwise have fallen within the definition.

The definition of direct participation program as adopted in paragraph (b)(1) of the Rule has been broadened by eliminating the requirement that the program be created through contractual agreements between and among investors, and that tax consequences flow directly to investors. These changes were made, in part, to reflect commentator's observations that certain financing vehicles which fall within the spirit of the Rule, such as some investment contract securities, might be precluded from relying on the Rule if the definition of a direct participation program were adopted as proposed.[19]

Finally, the Commission recognizes that some program securities may have active secondary markets. These securities raise price volatility and supeculation concerns that are central to the policy underlying the Exchange Act's margin regulations. To ensure that actively traded securities are treated in a manner consistent with all other potentially marginable securities, the Commission is modifying the definition of a direct participation program to exclude securities that are listed on exchanges or quoted on NASDAQ during the pay-in period. In addition, the Rule will also not be applicable to securities that will otherwise be actively traded during the pay-in period as a result of the direct or indirect efforts of the issuer, underwriter, or other participants in the initial distribution to facilitate a trading market in the securities. Should active trading markets develop for direct participation program securities, generally, the Commission may re-evaluate the continued appropriateness of the Rule.

C. Deferred Payments Required Pursuant to a Business Development Plan

The proposed Rule contained a requirement that mandatory installment payments bear a direct relationship to the capital needs and program objectives as described in a business development plan disclosed in a registration statement filed with the Commission under the 1933 Act. A business development plan was defined as a specific plan of the program's anticipated economic development and the amount of future capital contributions to be requried at specified times or upon the occurrence of certain events during the life of the program. The Commission received a number of comments concerning the necessity of requiring a business development plan. Several commentators argued that the provision was unnecessary in light of current disclosure requirements for registered securities. In addition, members of the oil and gas industry were divided over whether their programs would be able to provide sufficient information about upcoming capital expenditures to fulfill such a requirement. Along the same lines, commentators questioned whether non-specified property programs, in general, would be able to meet such a standard.

In the Commission's view, disclosure of a business development plan will be a useful supplement to existing disclosure requirements for registered offerings. Since the fundamental purpose of the Rule is to allow sponsors to coordinate payments by investors with the capital needs of the program, the Commission believes that development of such a plan is necessary to establish the business reasons for offering securities with deferred payments. Although the Commission requested comment on the merits of imposing specific disclosure requirements, it has determined not to dictate the content of such disclosure, aside from the general description in the definition of a business development plan.[20]

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[19] To the extent that other financing vehicles fall within the spirit of the Rule, but may not come directly within the definition of a direct participation program, the staff of the Commission's Division of Market Regulation will consider, on a case by case basis, requests for relief in the form of no-action or interpretive letters.

[20] One commentator suggested that the following information should be disclosed in the business development plan: (1) The investment and business objectives of the program; (2) the proposed investments and operations of the program; (3) the amount and timing of the financing for such investments and operations; (4) the relationship of such financing to the investment and business objectives of the program; (5) the relationship of installment payment provisions of the program, to the financing for the program, to the cash needs of the program, to the proposed investments and operations of the program; (6) any alternative or supplementary financing arranged by or available to the program to provide for future uncertainties (including possible inaccuracies in forecasts of financial needs and possible investor defaults); (7) the financial, contractual and tax consequences to the investor and to the program of defaults by investors in making mandatory installment payments. The Commission believes that this type of disclosure may be appropriate in connection with offerings of programs with staged payments.

The Commission has also decided to permit non-specified property programs to take advantage of the Rule's exemptive provisions.[21] Although such programs may not have determined specific property to be purchased with investor funds, it may be possible to reasonably fix the type, timing and necessity of future cash needs. Accordingly, the Commission believes that uniformly excluding non-specified programs from the Rule would not be appropriate.

As proposed, the Rule required that mandatory deferred payments bear a "direct" relationship to the capital needs of the program. Many commentators expressed concern that this requirement may prove difficult to apply. In light of these concerns, the Commission is modifying the requirement to state that installment payments from investors need only be "reasonably" related to the capital needs and business objectives of the program. Nevertheless, the Commission wishes to make clear that programs relying on the Rule must coordinate payments so that they bear a reasonable relationship to substantive program events or capital needs. Programs which intend at the outset of the offering to factor or otherwise assign investor notes in order to raise capital to purchase property or meet program objectives prior to receipt of the deferred payments, will not meet this test and cannot rely on the Rule. The Commission recognizes, however, that investor notes are program assets and it does not intend to unreasonably encumber their use by programs relying on this Rule. Accordingly, investor notes may be used as collateral to secure program debt.

D. Registration of Securities

The proposed Rule would have required that program securities be registered pursuant to the 1933 Act and that the securities remain registered under section 12(g) of the Exchange Act until the total purchase price of the security was paid. Since public intrastate offerings of securities need not be registered with the Commission by virtue of section 3(a)(11) of the 1933 Act,[22] the Commission requested comment on the merits of exempting intrastate offerings from these requirements. As adopted, the Rule continues to require registration under the 1933 Act, with the exception of programs making unregistered public offerings in reliance upon section 3(a)(11) of the 1933 Act. Those programs offered in reliance on section 3(a)(11) will also be able to utilize the Rule provided they meet its other requirements and disclosure of the business development plan is made in the relevant state filing and provided to investors. In deciding to extend the Rule to public intrastate offerings, the Commission weighed heavily the fact that many states' securities regulations require substantially the same disclosure as required on Form S–1 under the 1933 Act and that public intrastate offerings would remain subject to NASD and state guidelines as well as relevant provisions of the federal securities laws.[23]

As a result of comments received, the Commission is eliminating the requirement that all programs utilizing the exemption remain subject to the reporting requirements of section 12(g) of the Exchange Act until the total purchase price of the securities is paid. Commentators suggested that compelling issuers to register under section 12(g), who might not otherwise be required to do so, would increase expenses on the part of some smaller programs and be of little or no additional benefit to investors. They also noted that those offerings registered with the Commission would generally be subject to the annual reporting requirements under section 15(d) of the Exchange Act during the first year of operation. In light of these arguments, as well as the imposition of maximum pay-in periods, and the understanding that annual or periodic disclosure is currently required of publicly offered programs under many states' securities laws, the Commission has decided to remove the provision that programs remain subject to the reporting requirements under Section 12(g) as a prerequisite for qualification under the Rule. Nevertheless, issuers relying on the Rules should be aware that they are not relieved of the responsibility for complying with reporting obligations that may otherwise exist.

E. Maximum Pay-In Period; Required Down Payment

In the proposing release, the Commission requested comment on whether the Rule should specify an outside time limit by which installation payments must be made. In addition, the Commission inquired whether different maximum pay-in periods should be imposed on specified and non-specified property programs. The proposing release noted that the NASD had previously suggested that the total purchase price of a program interest might be required to be discharged in a period of three years from the date the investor is admitted as a limited partner in a non-specified property program or five years in a specified property program.

The Commission believes that investor protection will be increased, while continuing to provide issuers and investors with substantial flexibility, by limiting the amount of time over which the deferred payments must be made. As adopted, the Rule provides that the maximum period over which deferred payments may be made is two years for non-specified property programs and three years for specified property programs. Although commentators suggested a variety of maximum pay-in periods, the Commission anticipates that the time periods incorporated in the Rule should satisfy the business needs of most programs and at the same time reduce the possibility that either the investor or program will experience financial adversities during the pay-in period. A distinction has also been drawn between specified and non-specified programs, in part, to reflect the greater economic risks inherent in non-specified programs. Further, time periods will be measured from the earlier of the completion of the offering or one year from the effective date of the offering, rather than the date the investor is included in the program as suggested in the proposing release.[24] This latter modification was made to avoid administrative problems associated with multiple admission dates for investors which might have

[21] For purposes of the Rule, a specified property program is defined as a program in which at the time of securities registration, 75 percent of the amount of money available for investment is committed to specific program expenditures. A non-specified property program would be one in which less than 75 percent of the money available for investment has been so committed. Examples of specifically identifiable program expenditures would include the purchase of a particular parcel of real property or type of computer equipment. Specifically identifiable program expenditures would not include expenditures committed to a broad category of equipment such as "transportation equipment," or to other than specific parcels of real property.

[22] Rule 147 under the 1933 Act (17 CFR 230.147) provides a non-exclusive "safe harbor" from securities registration for intrastate offerings that meet its requirements.

[23] Outside of the context of the Rule, the Commission continues to believe that section 11(d)(1) prohibits a person who is both a broker and a dealer from extending or arranging for the extension of credit in the distribution of a new issue of securities offered on an intrastate basis.

[24] The effective date of the offering for purposes of the Rule will generally be the date the registration statement is declared effective by the Commission. Where offerings are conducted in reliance upon the intrastate exemption under section 3(a)(11) of the 1933 Act, the effective date will be the date upon which the offering is approved by state securities administrators.

existed under the proposed method for calculating time periods.

In addition to imposing maximum time periods over which installment payments must be made, the Rule requires a minimum down payment of 50 percent of the purchase price of the program security. By requiring a substantial down payment, the Commission expects to alleviate many of the concerns raised by commentators that excessive leveraging of program securities might result in customer sales practice abuses and substantial defaults.[25] It should be noted, however, that the Rule now requires payment of the initial portion of the purchase price to be made at the time of sale, rather than over the course of twelve months as suggested by the NASD.

The Commission recognizes that the availability of staged payments for public offerings of direct participation programs may have a substantial impact on the structure and investor population of those markets. Therefore, the Commission believes that initially a cautious approach including limited pay-in periods and minimum down payments is advisable. After the Commission has had an opportunity to monitor the effects of the Rule, it anticipates reevaluating, in conjunction with state securities regulators, the limitations presently contained in the Rule.

V. Contingency Offerings

Since securities of direct participation programs are frequently offered on an "all or none" or "part or none" basis, the Commission solicited comments on the application of Rules 10b–9 and 15c2–4 of the Exchange Act [26] to public offerings made in reliance on rule 3a12–9. Rule 10b–9 requires specificity in the terms of contingency offerings. In other words, a specified amount of securities ("specified sales level") must be sold at a specified price within a specified time, and the total amount due to the seller (*i.e.*, the issuer) must be received by it by a specified date. Moreover, Rule 10b–9 also requires that, if the contingencies are not satisfied fully by the specified date, "all or a specified amount" of the consideration paid must be promptly refunded to the purchaser. Rule 15c2–4 addresses the handling of investor funds by broker-dealers in contingency offerings and provides that, prior to the satisfaction of all contingencies, any consideration received by broker-dealers from investors must either be promptly deposited by the broker-dealer in a separate bank account as agent or trustee for the persons who have the beneficial interests therein, or promptly transmitted to a bank which has agreed in writing to hold all such consideration in escrow for the persons who have the beneficial interests therein.

After considering the views of the commentators, the Commission believes that a security offered on an "all or none" or "part or none" basis pursuant to Rule 3a12–9 is "sold" for purposes of Rule 10b–9 when the issure or a broker-dealer participating in the offering receives the consideration specified by the terms of the offering. The specified consideration would consist of the 50 percent down payment and the documentation reflecting the contractual obligation of the investor to make mandatory installment payments. Rule 10b–9 would be satisfied, and the consideration may be released to the issuer, only where: (1) The specified sales level is achieved; (2) with respect to the sale of each security counted towards the specified sales level, the 50 percent down payment is fully paid; [27] and (3) the required documentation reflecting the installment payment obligation comports with the requirements of the offering material. Any consideration received by a broker-dealer in a Rule 3a12–9 offering prior to satisfaction of the contingencies must be deposited or transmitted in compliance with Rule 15c2–4.

VI. Coordination With State Securities Regulators

As noted earlier, the Commission's decision to adopt Rule 3a12–9 at this time is based, in part, upon the increased quality of state securities regulations which will be applicable to many of the offerings able to utilize the Rule. In drafting the final version of the Rule, the Commission has sought to minimize some of the conflicts between the Rule and the NASAA guidelines for certain direct participation programs which are applied by many states. However, the Commission recognizes that conflicts do exist.

The Commission wishes to emphasize that Rule 3a12–9 is an exemptive rule under the federal securities laws only and is not intended to pre-empt state securities laws. Accordingly, those securities which qualify under the Rule to be deemed exempted securities for purposes of the arranging for credit provisions of sections 7(c) and 11(d)(1) of the Exchange Act must also comply with applicable state securities laws. The Commission is hopeful that the additional investor safeguards which have been incorporated in the Rule will facilitate complementary amendments to present state securities regulations. Staff of the Commission's Division of Market Regulation will be working with members of NASAA in an effort to resolve conflicts.

VII. Certain Findings, Effective Date and Statutory Basis

Section 23(a)(2) of the Exchange Act [28] requires the Commission, in adopting rules under that Act, to consider the anticompetitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered proposed Rule 3a12–9 in light of the standards cited in section 23(a)(2) and believes that adoption of the Rule will not impose any burden on competition not necessary or appropriate in furtherance of the Act. Indeed, the Commission believes that the Rule will enhance competition by increasing issuers' flexibility in constructing and offering direct participation programs to suitable investors.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b) interested persons were given an opportunity to submit written views on proposed Rule 3a12–9. After consideration of the relevant matters, the Rule is being adopted substantially as proposed, but with certain changes made in response to suggestions of commentators. In response to comments received, the requirement in the proposed Rule that all securities issued in reliance on the Rule remain subject to the reporting requirements of section 12(g) of the Exchange Act has been eliminated. In addition, the Rule's coverage has been expanded to include securities offered on an intrastate basis which are registered with state securities administrators. Provisions have also been added to the Rule requiring a minimum down payment and limiting the amount of time over which deferred payments may be made.

Since Rule 3a12–9 is exemptive in nature, pursuant to section 553(d) of the Administrative Procedure Act, [5 U.S.C. 553(d)] it may become effective immediately upon publication in the **Federal Register.** However, in recognition of the fact that state securities administrators may wish

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[25] This portion of the Rule is intended to be in parity with the margin requirements under Regulation T. If those requirements change, the Commission may wish to reexamine the minimum down payment requirement of the Rule in light of those changes.

[26] 17 CFR 240.10b–9 and 240.15c2–4.

[27] It should be noted that the down payment would be considered to be fully paid only upon the receipt of cleared funds.

[28] 15 U.S.C. 78w(a)(2).

some time to study the Rule, the Commission decided to delay its effectiveness for 30 days following publication in the **Federal Register.**

VIII. Summary of Final Regulatory Flexibility Analysis

The Commission has prepared a Final Regulatory Flexibility Analysis for Rule 3a12–9 in accordance with 5 U.S.C. 603. The Analysis notes that Rule 3a12–9 is designed to allow programs, which do not need all investors funds at the outset, to match investor payments for program securities sold in public offerings with the actual capital needs of the program. Programs with staged payment features are currently permitted only in private offerings. The Analysis indicates that Rule 3a12–9 will provide promoters with alternative means of raising capital and will give investors new investment choices, without compromising investor protection. No commentators specifically referred to the Initial Regulatory Flexibility Analysis. However, the Analysis notes the Commission has deleted certain requirements in the proposed Rule which commentators believed would impose additional costs or uncertainty on the part of program sponsors without a corresponding increase in investor protection.

A copy of the Final Regulatory Flexibility Analysis may be obtained by contacting Edward L. Pittman, Esq., Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549 (202) 272–2848.

IX. Statutory Basis

The Securities and Exchange Commission, acting pursuant to the Exchange Act, 15 U.S.C. 78a *et. seq.*, and particularly sections 3(a)(12), 7(c), 11(d)(1) and 23 [15 U.S.C. 78c(a)(12), 78g, 78k and 78w], hereby amends Chapter II, Title 17 of the Code of Federal Regulations by adding § 240.3a12–9 thereto.

List of Subjects in 17 CFR Part 240

Brokers, Credit, Securities.

Text of Rule 3a12–9

Chapter II, Title 17 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 is amended by adding the following citation: (Citation before * * * indicates general rulemaking authority)

Authority: Sec. 23, 48 Stat. 901, as amended (15 U.S.C. 78w). * * * § 240.3a12–9 also issued under secs. 3(a)(12), 7(c), 11(d)(1), 15 U.S.C. 78c(a)(12), 78g(c), 78k(d)(1)).

2. Section 240.3a12–9 is added to read as follows:

§ 240.3a12–9 Exemption of certain direct participation program securities from the arranging provisions of sections 7(c) and 11(d)(1).

(a) Direct participation program securities sold on a basis whereby the purchase price is paid to the issuer in one or more mandatory deferred payments shall be deemed to be exempted securities for purposes of the arranging provisions of sections 7(c) and 11(d)(1) of the Act, provided that:

(1) The securities are registered under the Securities Act of 1933 or are sold or offered exclusively on an intrastate basis in reliance upon section 3(a)(11) of that Act;

(2) The mandatory deferred payments bear a reasonable relationship to the capital needs and program objectives described in a business development plan disclosed to investors in a registration statement filed with the Commission under the Securities Act of 1933 or, where no registration statement is required to be filed with the Commission, as part of a statement filed with the relevant state securities administrator;

(3) Not less than 50 percent of the purchase price of the direct participation program security is paid by the investor at the time of sale;

(4) The total purchase price of the direct participation program security is due within three years in specified property programs or two years in non-specified property programs. Such pay-in periods are to be measured from the earlier of the completion of the offering or one year following the effective date of the offering.

(b) For purposes of this Rule:

(1) "Direct participation program" shall mean a program financed through the sale of securities, other than securities that are listed on an exchange, quoted on NASDAQ, or will otherwise be actively traded during the pay-in period as a result of efforts by the issuer, underwriter, or other participants in the initial distribution of such securities, that provides for flow-through tax consequences to its investors; *Provided, however,* that the term "direct participation program" does not include real estate investment trusts, Subchapter S corporate offerings, tax qualified pension and profit sharing plans under sections 401 and 403(a) of the Internal Revenue Code ("Code"), tax shelter annuities under section 403(b) of the Code, individual retirement plans under section 408 of the Code, and any issuer, including a separate account, that is registered under the Investment Company Act of 1940.

(2) "Business development plan" shall mean a specific plan describing the program's anticipated economic development and the amounts of future capital contributions, in the form of mandatory deferred payments, to be required at specified times or upon the occurrence of certain events.

(3) "Specified property program" shall mean a direct participation program in which, at the date of effectiveness, more than 75 percent of the net proceeds from the sale of program securities are committed to specific purchases or expenditures. "Non-specified property program" shall mean any other direct participation program.

By the Commission.

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–5623 Filed 3–13–86; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 240

[Release No. 34–22975; File No. S7–40–85]

Short Sales of Securities

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rule amendments.

SUMMARY: In connection with extending unlisted trading privileges to certain over-the-counter stocks and permitting certain listed securities to be concurrently designated National Market System Securities, the Commission is adopting amendments to its short sale rule that exclude from application of the rule transactions in National Market System Designated Securities that are traded on an exchange on a listed or unlisted trading privileges basis.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Andrew E. Feldman, Esq., (202) 272–2414, Room 5205, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Summary

Rule 10a–1 ("short sale rule" or "Rule")[1] under the Securities Exchange

[1] 17 CFR 240.10a–1.

Act of 1934 ("Act")[2] prohibits execution of short sales under certain conditions. The Rule applies, among other things, to securities registered on, or admitted to unlisted trading privileges ("UTP") on, a national securities exchange for which last sale information is reported pursuant to an "effective transaction reporting plan."[3] As such, Rule 10a–1 applies to listed securities traded on an exchange or in the third market[4] and reported through the consolidated transaction reporting system, but not to purely over-the-counter ("OTC") securities.

On September 16, 1985, the Commission issued two releases that, without further action, would subject transactions in two groups of OTC securities designated as National Market System Securities ("NMS Securities" or "NMS Designated Securities")[5] to the Rule for the first time. First, the Commission announced the terms and conditions for exchanges to commence trading NMS Securities on a UTP basis.[6] Second, the Commission adopted amendments to the NMS Designated Securities Rule to allow listed securities that are not reported in the consolidated transaction reporting system to be designated as NMS Securities.[7] Because last sale information on NMS Securities is reported pursuant to an "effective transaction reporting plan," transactions in NMS Designated Securities that are traded on an exchange on the basis of either UTP or a concurrent listing automatically would be subject to short sale regulation, whether those transactions occur on an exchange or OTC.

The Commission, however, has not made a determination on the extent to which Rule 10a–1 should apply to NMS Designated Securities. On September 16, 1985, therefore, the Commission proposed amendments to Rule 10a–1 to exclude transactions in NMS Designated Securities from the Rule until the question of OTC short sale regulation is resolved.[8] The Commission today adopts the amendments to the short sale rule as proposed.

II. Background

Section 10(a) of the Act grants the Commission authority to regulate short sales in securities.[9] Consistent with that authority, the Commission in 1938 adopted Rule 10a–1 under the Act,[10] which is generally designed to prohibit short selling from accelerating a declining market.[11] It applies, among other things, to securities registered on or admitted to UTP on a national securities exchange for which last sale information is reported pursuant to an "effective transaction reporting plant."[12] The short sale rule uses a tick test that compares the price of a proposed short sale to immediately preceding transactions to determine its permissibility: short sales may be effected only on a plus tick (*i.e.*, at a price above the price at which the immediately preceding last sale was effected) or a zero-plus tick (*i.e.*, at a price equal to the last sale if the last preceding transaction at a different price was at a lower price). The base price is determined by reference to the last sale either in the consolidated transaction reporting system or in a particular marketplace.[13]

Prior to 1975, Rule 10a–1 covered short sales in reported listed securities effected only on exchanges. OTC trading in reported securities was not subject to any short selling restrictions, in part because last sale reports were not available for OTC transactions.[14] In connection with the implementation of the CTA Plan in 1974, the Commission extended Rule 10a–1 to third market transactions in listed securities included in the consolidated system.[15]

In adopting the NMS Securities Rule and thereby extending last sale reporting to those solely OTC-traded securities designated as NMS Securities, the Commission specifically sought comment on whether short sale limitations should be extended to NMS

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[2] 15 U.S.C. 78a *et seq.*

[3] The Commission's transaction reporting rule, Rule 11Aa3–1 under the Act, defines an "effective transaction reporting plan" as a plan approved by the Commission for collecting, processing, and disseminating transaction reports in reported securities. 17 CFR 240.11Aa3–1(a)(3). *See also* 17 CFR 240.11Aa3–1(a)(4)–(6). Transaction reports for listed securities from all markets are collected and disseminated in the "consolidated transaction reporting system" pursuant to such a plan administered by the Consolidated Tape Association ("CTA"). The CTA members are the New York ("NYSE"), American ("Amex"), Boston, Cincinnati, Midwest, Pacific, and Philadelphia Stock Exchanges, and the National Association of Securities Dealers ("NASD"). Transactions in securities either listed on the NYSE and Amex, or listed on a regional stock exchange that substantially meet the NYSE or Amex listing standards, are reported to the CTA.

[4] The third market is a term used to describe over-the-counter transactions in listed securities.

[5] Rule 11Aa2–1 under the Act ("NMS Securities Rule") sets forth the criteria and procedures by which certain OTC securities are designated as NMS Securities. 17 CFR 240.11Aa2–1. *See* Securities Exchange Act Release No. 21583 (December 18, 1984), 50 FR 730 ("NMS Amendments Release"); Securities Exchange Act Release No. 17549 (February 17, 1981), 46 FR 13992 ("NMS Adoption Release"). The primary effect of designation as an NMS Security is that the security is subject to last sale reporting requirements similar to those applicable to exchange traded securities. Transaction reports are collected and disseminated through the NASD's NASDAQ system pursuant to a transaction reporting plan administered by the NASD. These securities and listed securities included in the consolidated transaction reporting system are "reported securities". *See* 17 CFR 240.11Aa3–1(a)(4).

[6] Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640 ("OTC/UTP Release").

[7] Securities Exchange Act Release No. 22413 (September 16, 1985), 50 FR 38515 ("OTC/Listed NMS Securities Release").

[8] *See* Securities Exchange Act Release No. 22414 (September 16, 1985) 50 FR 38671 ("Rule 10a–1 Exclusion Proposal Release"). The Commission has published a release soliciting comment on whether to extend short sale regulation to NMS Securities. *See* Securities Exchange Act Release No. 22127 (June 21, 1985), 50 FR 26584 ("NMS Concept Release"). *See also* Securities Exchange Act Release No. 22507 (October 4, 1985), 50 FR 41907.

[9] 15 U.S.C. 78j.

[10] *See* Securities Exchange Act Release No. 1548 (January 24, 1938) ("Rule 10a–1 Adoption Release"). In addition to Rule 10a–1, the Commission adopted Rule 3b–3 under the Act, which defines the term "short sale" as any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. *See id.*

[11] The objectives of Rule 10a–1 were discussed in the *Special Study of Securities Markets*, which stated that short sale regulation should:

(1) Allow relatively unrestricted short selling in an advancing market;

(2) Prevent short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down;

(3) Prevent short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers.

Report of Special Study of Securities Markets of the Securities and Exchange Commission (1963), *reprinted in* H.R. Doc. No. 95, 88th Cong., 1st Sess. 251.

[12] *See supra* note 3.

[13] 17 CFR 240.10a–1(a)(1). The "equalizing exemption" to the Rule, however, allows a market maker (*i.e.*, an exchange specialist, registered exchange market maker, or third market maker) to effect short sales for his own account at a price equal to the last sale price reported in the consolidated system, or to the market makers' most recent published offer, if that offer when published equaled the last sale previously reported. Nonetheless, any exchange by rule may prohibit its registered specialists and registered exchange market makers from availing themselves of this exemption. *See* 17 CFR 240.10a–1(e)(5). NYSE rules, for example, prohibit NYSE specialists from selling short specialty stocks in reliance upon the equalizing exemption. *See* NYSE Rule 440B.

[14] *See* Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25442, 25443 ("1975 Rule 10a–1 Amendments Release"). In the absence of publicity concerning OTC short sales (such as that afforded by the consolidated transaction reporting system), there appeared to be little reasons to fear that such sales would have a manipulative or destabilizing impact on the markets. *Id.* at 25443.

[15] The Commission concluded that the publicity provided by the consolidated system for OTC transactions in reported listed securities justified the application of Rule 10a–1. *See* 1975 Rule 10a–1 Amendments Release, *supra* note 14, at 25443.

Designated Securities.[16] Recognizing that last sale reporting has become an established part of the OTC market, the Commission in a recent release [17] again solicited comment on whether and how short sales in OTC Securities designated as NMS Securities should be regulated.[18]

While that request for comment was still outstanding, the Commission announced the terms and conditions for exchanges to commence trading NMS Designated Securities on a UTP basis [19] and, at the same time, adopted amendments to the NMS Securities Rule to allow non-reported listed securities to be designated as NMS Securities.[20] Recognizing that exchange listing of or UTP in NMS Designated Securities could bring those NMS Designated Securities within the short sale rule for the first time, the Commission solicited comment on whether, in view of its ongoing consideration of NMS Designated Securities short sale regulation, it should suspend the application of Rule 10a–1 to the limited group of NMS Designated Securities subject to concurrent exchange trading.[21]

III. Comments

The Commission received three comments on the proposed amendments, two in favor and one opposed. The National Association of Securities Dealers, Inc. ("NASD") and PaineWebber Group Inc. ("PaineWebber") supported the proposed amendments to the Rule.[22] PaineWebber stated that the Commission should address short sale regulation of NMS Designated Securities on an omnibus basis and, together with the NASD, asserted that subjecting certain NMS Designated Securities to short sale regulation because an exchange sought UTP in those securities would be both inappropriate and create confusion in the market. The NASD also contended that NMS Designated Securities traded on an exchange on a listed or UTP basis apparently did not need short sale regulation because competition between multiple market makers and exchange specialists would insure deep and liquid markets that were not readily susceptible to manipulation. The NASD finally noted that trading in these securities without the application of the Rule would provide valuable empirical data on how the markets operate in a UTP environment without short sale constraints.

The Philadelphia Stock Exchange ("Phlx") opposed the proposed amendments to Rule 10a–1.[23] The Phlx said that the short sale rule should apply to all transactions in exchange-traded NMS Designated Securities whether such transactions occur on an exchange or in the OTC market.[24] The Phlx asserted that Rule 10a–1 has prevented manipulation in listed markets, and would be particularly valuable in an OTC/UTP context because of the lack of intermarket linkages. However, the Phlx stated that, if the Commission decided to adopt the amendments to Rule 10a–1 as proposed, both OTC market makers and exchange specialists in NMS Designated Securities traded on an exchange on a listed or a UTP basis should be exempted from short sale regulation.

IV. Discussion

The Commission has sought public comment on the appropriateness of extending Rule 10a–1 generally to NMS Designated Securities. The Commission has separately proposed these narrow amendments to the short sale rule in recognition that, unless Rule 10a–1 was amended, concurrent exchange trading and NMS designation would result in certain NMS Designated Securities falling under the Rule for the first time. Specifically, once trading in these securities begins in multiple markets pursuant to an "effective transaction reporting plan," persons engaging in transactions in such NMS Designated Securities either on an exchange or OTC would have to comply with short selling regulations.

After considering the comments, the Commission is adopting the amendments to Rule 10a–1 as proposed. The Commission believes that short sale regulation with respect to NMS Designated Securities should be addressed on a generalized basis and not through the automatic application of the Rule as a result of allowing exchanges to trade certain NMS Designated Securities. As discussed previously, the Commission is still studying the broader question whether short sale regulation should apply to some or all NMS Designated Securities. Applying the short sale rule to NMS Designated Securities traded by exchanges would potentially be confusing because, at least initially, only a small number of NMS Designated Securities would be subject to these restrictions.[25] Moreover, these securities would be subject to the Rule even if there was little or no actual exchange trading in these securities.[26]

The amendments to Rule 10a–1 are narrow in scope, and apply only to transactions by OTC market makers and exchange specialists in those NMS Designated Securities that are subject to either UTP or a concurrent exchange listing. The amendments apply to both the exchange and OTC markets so that the existing regulatory treatment of short sales in competing markets will be maintained.

V. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Act [27] requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has examined the

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[16] NMS Adoption Release, *supra* note 5, at 14001–02. In response to that solicitation, the NASD stated that "short selling regulations prior to and during a distribution of NMS Securities would be appropriate but that it is not necessary, at this time, to impose across-the-board short sale regulations on transactions in NMS Securities." Letter from S. William Broka, Secretary, NASD, to George A. Fitzsimmons, Secretary, SEC (July 31, 1981).

[17] *See* NMS Concept Release, supra note 8, at 26587. There were over 1900 NMS Securities as of June 1985, and 2182 as of December 31, 1985.

[18] The extended comment period on this release expired on December 30, 1985. *See* Securities Exchange Act Release No. 22507 (October 4, 1985), 50 FR 41907. The Commission is analyzing the views of commentators.

[19] *See* OTC/UTP Release, *supra* note 6.

[20] *See* OTC/Listed NMS Securities Release, *supra* note 7.

[21] *See* Rule 10a–1 Exculsion Proposal Release, *supra* note 8, at 38672–73.

[22] *See* Letter from Sam Scott Miller, Vice President, General Counsel, and Secretary, PaineWebber, to John Wheeler, Secretary, SEC (January 9, 1986); *See* Letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to John Wheeler, Secretary, SEC (October 31, 1985).

[23] *See* Letter from Michael A. Finnegan, Senior Vice President, Phlx, to John Wheeler, Secretary, SEC (November 8, 1985).

[24] The Phlx contended that OTC market makers in NMS Securities subject to UTP, like exchange specialists, should be permitted to avail themselves of the equalizing exemption of Rule 10a–1. For a discussion of the equalizing exemption, see *supra* note 13.

[25] Under the UTP pilot program that will last for one year following the commencement of OTC/UTP trading, each exchange will be able to trade up to 25 NMS Securities on a UTP basis. *See* OTC/UTP Release *supra* note 6, at 38646.

[26] The Commission notes that there are a small number of NMS Securities that currently are traded on an exchange on a listed or UTP basis. The vast preponderance of trading in these issues has occurred in the OTC market rather than on the exchanges. *See Id.*

[27] 15 U.S.C. 78w(a)(2).

proposed amendments to Rule 10a–1 in light of the standards set forth in section 23(a) and concludes that adoption of these amendments would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Commission notes that the proposed amendments would exempt both exchange and OTC market participants form the short sale prohibitions that would otherwise govern transactions in NMS Designated Securities that are traded on an exchange on a listed or UTP basis. The amendments would continue in effect the differing treatment of short sales currently in place for securities that are primarily exchange traded and those that are not listed on an exchange. The Commission does not believe, however, that the narrow amendments adopted here would impose any new or different burdens on competition on competing markets or market participants. The Commission, therefore, believes that the proposed amendments would not impose any significant competitive burdens, and that the amendments are consistent with the objectives of section 11A of the Act.[28]

The Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA"), pursuant to the requirements of the Regulatory Flexibility Act,[29] regarding the amendments to Rule 10a–1. The FRFA indicates that the amendments would exempt from Rule 10a–1 persons engaging in transactions in NMS Designated Securities subject to UTP or to a concurrent exchange listing. The FRFA notes that the principal effect of this exemption would be to relieve exchange specialists, OTC market makers, and other market participants from obligations governing short selling to which they otherwise would be subject. The FRFA states that, because the amendments would exempt persons from regulation, the proposal would not appear to impose significant costs upon those persons affected. The FRFA notes that no commentators specifically referred to the Initial Regulatory Flexibility Analysis in commenting on the amendments or indicated that the amendments might impose any other costs.

A copy of the FRFA may be obtained by contacting Andrew E. Feldman, Esq., (202) 272–2414, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

[28] *See, e.g.*, Sections 11A(1)(c)(ii) and 11A(c)(1)(F).

[29] 5 U.S.C. 601 et seq.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VI. Statutory Basis and Text of the Amendments

Pursuant to the Securities Exchange Act of 1934 and particularly sections 10(a) and 23(a) thereof, 15 U.S.C. 78j and 78w(a), the Commission is amending § 240.10a–1 in Chapter II to Title 17 of the Code of Federal Regulations.

Text of Amendments to Rule 10a–1

Chapter II, Title 17 of the Code of Federal Regulations is Amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read as follows:

Authority: Secs. 2, 3, 6, 9, 10, 15, 17 and 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897 and 901, as amended by secs. 2, 3, 4, 11, 14 and 18, Pub. L. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q, and 78w); sec. 15A, as added by sec. 1, Pub. L. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. 94–29, 89 Stat. 127 (15 U.S.C. 78o–3); sec. 11A as added by sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1); 15 U.S.C. 78a *et seq.*, and particularly secs. 2, 3, 10(a), 10(b), 15(c), and 23(a), 15 U.S.C. 78b, 78c, 78i(a)(6), 78j(a), 78j(b), 78o(c), and 78w(a).

2. Section 240.10a–1 is amended by redesignating (a)(1) as (a)(1)(i) and change the existing internal designations to (A) and (B), and adding new (a)(1)(ii) as follows:

§ 240.10a–1 Short sales.

(a) * * *

(1) * * *

(ii) The provisions of paragraph (a)(1)(i) hereof shall not apply to transactions by any person in National Market System Securities as defined in § 240.11Aa2–1 (Rule 11Aa2–1 under the Act).

By the Commission.

John Wheeler,

Secretary.

March 6, 1986.

[FR Doc. 86–5676 Filed 3–13–86–8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 389

[Docket No. RM86–6–000]

Construction Work in Progress; Anticompetitive Implications

Issued March 10, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; notice of OMB control number.

SUMMARY: On February 27, 1986, the Federal Energy Regulatory Commission issued an interim rule in Docket No. RM86–6–000, 51 FR 7774 (March 6, 1986) establishing interim procedures to be followed concerning requests for construction work in progress in rate base. This notice states the OMB control number for § 35.26 promulgated in this docket.

EFFECTIVE DATE: March 10, 1986.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357–8272.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and the Office of Management and Budget's (OMB) Regulations, 5 CFR Part 1320 (1985), require that OMB approve certain information collection requirements imposed by agency rule. On March 5, 1986, OMB approved the information collection requirements of § 35.26 which were adopted pursuant to Order No. 448, 51 FR 7774 (March 6, 1986) and issued Control Number 19020096 for that section.

Accordingly, Part 389, Chapter I, Title 18, *Code of Federal Regulations*, is amended as set forth below.

PART 389—[AMENDED]

1. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

2. The Table of OMB Control Numbers in § 389.101(b) is amended by inserting "35.26" in numerical order in the section column and "0096" in the corresponding

position in the OMB Control Number column.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5600 Filed 3-13-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income; Payment of Travel Expenses

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations reflect sections 201(j), 1631(h) and 1817(i) of the Social Security Act (the Act) as added by section 310 of Pub. L. 96-265 which became effective June 9, 1980. That law provides permanent authority for the payment by the Secretary of certain travel expenses to (1) individuals who attend medical examinations requested by a State disability determination agency or by the Social Security Administration (SSA) in connection with disability determinations, (2) parties, their representatives, and all reasonably necessary witnesses who attend certain reconsideration interviews in connection with disability claims, and (3) parties, their representatives, and all reasonably necessary witnesses who attend hearings held before an administrative law judge (ALJ).

These regulations also reflect the series of appropriation acts for the Department of Health and Human Services (HHS) which cover the period after September 30, 1981. These laws limit payment of travel expenses in title XVI to cases where travel is more than 75 miles.

EFFECTIVE DATE: These final regulations are effective March 14, 1986, except §§ 404.999(d) and 416.1499 of these regulations which contain information collection requirements that are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. We have submitted these requirements to OMB for approval and we will place a notice in the **Federal Register** informing the public of OMB's action. In the interim, these requirements are not effective.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7519.

SUPPLEMENTARY INFORMATION: We published these regulations as a Notice of Proposed Rulemaking (NPRM) on January 7, 1986 (51 FR 614), with a 30-day period for public comment. Comments received are discussed below.

The regulations describe the policies and procedures applicable to payment by SSA or the State disability determination agency of travel expenses to claimants, their representatives and reasonably necessary witnesses in certain proceedings. The regulations specify what we mean by "the most economical and expeditious means of transportation appropriate to such person's health condition" and "travel expenses, either on an actual cost or commuted basis." In addition, the regulations specify that travel expenses are payable for travel to undergo medical examinations requested by a State disability determination agency or SSA in connection with disability claims under title II or XVI of the Act, for attendance at title II or XVI disability hearings to reconsider determinations of cessation of disability based on medical factors, and for attendance at title II or XVI hearings on any subject held before an ALJ. Reimbursement for travel to hearings is limited to expenses for travel within the United States (U.S.).

The regulations provide that travel expenses payments made by SSA will be determined by the same rates and conditions that govern travel expenses for Federal employees as authorized by 41 CFR 101-7. The regulations also provide that travel payments made by a State agency will be determined according to the applicable State reimbursement rates and procedures. This follows our established policy under which the States determine rates of payment for medical and other services necessary to make determinations of disability, as well as travel expenses.

Who May Be Reimbursed

In §§ 404.999b and 416.1496 we specify who may be eligible for reimbursement:

(1) We explain that individuals may be reimbursed for travel expenses incurred when we or the State agency request a medical examination (consultative examination, see §§ 404.1517 and 416.917) in connection with a claim for disability benefits.

(2) Section 310 of Pub. L. 96-265 provides for payment of travel expenses for "reconsideration interviews." We interpret the statements of congressional intent in the House of Representatives Conference Report on Pub. L. 96-265 as meaning that these payments are for travel expenses for face-to-face reconsideration interviews before a decisionmaker on medical issues, in the event such a reconsideration procedure should be adopted. H.R. Rep. 944, 96th Cong., 2d Sess., 60 (1980).

Subsequently, sections 4 and 5 of Pub. L. 97-455, enacted on January 12, 1983, established a face-to-face hearing before a decisionmaker at the reconsideration level in title II cases in which the issue is cessation of the disability based on medical factors. Accordingly, we indicated in our regulations on these hearings (which we call disability hearings) that disability beneficiaries, their representatives and all reasonably necessary unsubpoenaed witnesses will be reimbursed for travel to disability hearings. Those regulations were published on January 3, 1986 (51 FR 288). These final regulations remove the provision on travel expenses from the disability hearing regulations, since it is in these regulations and would be merely repetitive.

(3) Claimants, their representatives, and all reasonably necessary unsubpoenaed witnesses may be reimbursed for travel expenses to attend hearings on any title II or XVI issue before an ALJ.

These regulations do not apply to subpoenaed witnesses in either kind of hearing. They are paid the same fees and allowances they would receive if they had been subpoenaed by a Federal district court (§§ 404.916(b)(1), 404.950(d), 416.1416(b)(1), and 416.1450(d)).

Travel Distance

Prior to the enactment of section 310 of Pub. L. 96-265, we limited payment of the claimant's, representative's, or unsubpoenaed witness's travel expenses for title II and title XVI hearings to cases where the distance from the person's residence or office (whichever he or she travels from) to the hearing site was more than 75 miles. This remains our policy for travel expenses for both disability hearings and ALJ hearings. (There is no 75-mile requirement for reimbursement for travel for medical examinations.)

The intent of this policy is to reconcile, as best as possible, the conflicting goals of preventing more than minimal financial hardship to claimants in exercising their appeal rights and of conserving available funds. It is also to avoid handling reimbursement claims that are small in

comparison to the cost to us of handling them.

The original authority for reimbursing travel expenses was provided each year in the appropriation act for HHS. Upon enactment of section 310 of Pub. L. 96–265 which added sections 201(j), 1631(h), and 1817(i) to the Act, we received permanent authority for payment of these travel expenses.

This law, by itself, provides that in title XVI cases, the Secretary shall pay for travel expenses regardless of the distance traveled. However, the law still gives the Secretary discretionary authority with respect to payment of title II travel costs.

From June 9, 1980 (the effective date of Pub. L. 96–265) to September 30, 1981, our policy was to pay title XVI travel expenses without a distance limitation as directed by this permanent authority. Then, however, Congress limited the requirement in Pub. L. 96–265 by specifying, in a series of appropriation acts effective after September 30, 1981, that travel in title XVI cases must be more than 75 miles before reimbursement can be made.

Our policy, therefore, has been to apply the 75-mile limit in title XVI cases for the time periods specified in these appropriation acts.

The Committee on Ways and Means of the House of Representatives has urged SSA to "re-examine the current requirement that a beneficiary must travel at least 75 miles in order to qualify for travel reimbursement as this standard may be inappropriate in many locations in this country." H.R. Rep. 618, 98th Cong. 2d Sess. 19 (1984). We have examined the policy and continue to believe the requirement is appropriate. Moreover, we are required by the current appropriation act for HHS to continue to apply it in title XVI cases.

In title II cases, on the other hand, since section 201(j) authorizes but does not mandate payment of travel expenses, such payment and any limitation on it is a matter of policy. We think it would be clearly inappropriate to apply a more liberal reimbursement rule in title II cases, in which there is less reason to presume the financial need that can be presumed in title XVI cases.

What Travel Expenses Are Reimbursable

Reimbursement may be made for ordinary as well as unusual costs of travel. In §§ 404.999c and 416.1498, we explain what constitutes ordinary travel expenses and what constitutes unusual travel expenses. We also list the order in which the available modes of transportation will be considered in determining the most economical and expeditious means appropriate to the person's condition of health. These sections also explain (1) when first-class air travel is permitted, (2) that reimbursement rates may vary not only for different modes of transportation, but also depending upon whether we or the State agency makes reimbursement, and (3) what is meant by the individual's condition of health.

If a change in the location of a disability or ALJ hearing is made at the claimant's request from the location SSA or the State agency selected to one farther from the claimant's residence, any additional travel expenses will not be reimbursed. This is because the claimant has had the opportunity to incur lower travel expenses and has chosen the different site presumably for his or her own convenience.

The regulations (§§ 404.903 and 416.1403) also explain that determinations of payment (and amount) or nonpayment of travel expenses incurred are not initial determinations. Therefore, these determinations are not subject to the administrative review process and they are not subject to judicial review.

When and How To Claim Reimbursement

Usually reimbursement is made, upon the traveler's request, by the State agency or by us after the trip. Sections 404.999d and 416.1499 explain the circumstances under which advance payments may be made.

Public Comments

We received 10 letters of comments on the NPRM. The letters generally contained very similar comments, and in summarizing the comments below we combine closely related comments and then give our response.

Comment: Do these regulations apply to travel to ALJ hearings by ALJs, medical advisors, and vocational experts?

Response: No. ALJs are HHS employees, and medical advisors and vocational experts are professionals under contract with SSA to provide expert testimony. They are reimbursed for their travel to hearings under separate existing rules.

Comment: The regulations should provide for notice to claimants (either not later than a month before their travel or when they receive notice of their hearing) of the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts. The rules on unusual travel costs should be spelled out so claimants can tell when they would be reimbursable and how much, in the case of meal and lodging costs.

Response: We or the State agency will give every claimant scheduled for a consultative examination, disability hearing, or ALJ hearing information about the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts. We have revised the regulations to say so. Claimants will receive the information no later than when they are notified of the examination or hearing.

We will also tell the claimant in the notice we send to call us or the State agency right away if the claimant needs advance payment or more information about what is reimbursable. This gives us or the State agency the opportunity to give each claimant exactly the information he or she needs.

Comment: The regulations should state how long before the trip we will notify the claimant about the availability of advance payment for travel, how long before the trip the claimant must request advance payment in order to get it, and how long we may take after the request to make the advance payment. If a claimant who needs an advance payment in order to travel does not learn of its availability early enough or does not know how early he or she needs to request it, the examination or hearing may have to be postponed until the advance can be paid.

Response: We agree it is important for the claimant to have sufficient notice of the availability of advance payment and to know how early he or she needs to request it, but we do not agree that the three suggested time periods should be stated in the regulation, since conditions and circumstances may change over time. Thus, we think the best way to make sure the claimant and we or the State agency both have enough time is to provide administrative flexibility, so that we or the State agency has sufficient time to process the request with due regard for the time the claimant needs in order to ensure attendance at the examination or hearing.

As mentioned above, the notice sent to the claimant will tell the claimant to call us or the State agency right away if an advance payment is needed. If warranted, of course, rescheduling the examination or hearing is permitted under existing regulations if the claimant needs advance payment and it

cannot be provided before the examination or hearing.

Comment: The regulations and the information we give claimants discourage requests for advance payment; they should not, because many claimants cannot afford to make the trip without advance payment.

Response: We have reviewed and revised the regulations to make sure they do not discourage requests for advance payment, and will do the same to our notices to claimants.

Comment: The regulations make it appear that travel by privately owned vehicle (POV) (instead of common carrier) without prior approval could result in denial of any reimbursement at all, and that approval of use of a POV is unlikely. The regulations should be much more liberal or flexible about travel by POV, and should not require prior approval for it, particularly since the regulations say reimbursement for POV travel is limited, in any case, to the cost of the most economical public transportation for the same trip. Specifically, we should make common carriers and POV's equal in the priority listing.

The commenters describe several circumstances in which they believe use of a POV is appropriate. The claimant's physical condition may make use of a common carrier difficult or painful. Common carrier transportation for the trip required may simply be unavailable, may be very roundabout in route, or may be scheduled so infrequently as to compel an overnight stay before the traveler's round trip is completed. Travel by two or more persons (such as claimant, representative, and/or witness) in one POV may well cost less than common carrier.

Response: We have revised the regulations to clarify that—

(a) All of the circumstances identified by the commenters are taken into consideration when we or the State agency determines whether travel by POV is appropriate;

(b) For POV versus common carrier, the listing means only that we or the State agency assumes that common carrier transportation is appropriate until there is some indication otherwise;

(c) When use of a POV is appropriate, advance approval is not required;

(d) When use of a POV is appropriate, reimbursement is not limited to the cost of public transportation; and

(e) When use of a POV is not appropriate, reimbursement is limited to the cost of public transportation; the limit is the total cost of public transportation for however many authorized travelers traveled in the same POV.

Comment: The regulations should provide for reimbursement for use of a taxicab in some circumstances even though the use was neither authorized in advance nor unexpected. For example, a local bus to or from a bus or train depot may be unavailable.

Response: We have revised the regulations to provide for reimbursement of taxicab use (and other unusual travel costs not authorized in advance) if the cost is "unexpected or unavoidable." For a taxicab, what we mean by "unavoidable" would generally be limited to a short ride within a city or town, such as the example in the comment.

Comment: The regulations should provide for reimbursement (as an unusual travel cost, meaning normally subject to prior approval) of a fee the traveler may have to pay someone to drive the traveler to the examination or hearing. For example, common carrier transportation may be unavailable, but the traveler may not own a car or may be unable to drive it, and there may be no family member or friend available to drive the traveler. Paying a driver would cost less than a taxicab or ambulance.

Response: When warranted, reimbursement for a driver's fee would be permissible under the provision for the services of an attendant as an unusual travel cost.

Comment: The requirement to submit receipts for the travel costs for which reimbursement is sought should be waived liberally, because carriers often do not provide receipts. For example, we or the State agency could reimburse at the common carrier rate if the traveler provides no receipt for the more expensive means of travel that was used.

Response: We have not changed the regulations in this regard, because it is important to be able to insist on evidence whenever it seems warranted. However, we or the State agency will enforce the receipt requirement with some flexibility in light of such things as the reasonableness of the amounts claimed and the difficulty of getting receipts.

Comment: The 20 days we allow the traveler (to whom we made an advance payment) for giving us receipts and a list of itemized costs and then for repaying any excess over the approved actual expenses, should be a minimum; that is, the regulations should require State agencies to allow at least 20 days. Otherwise, State agencies may impose unreasonably short time limits.

Response: We believe administrative efficiency for State agencies warrants allowing them, as far as is reasonably practicable, to use the same administrative practices in functions they carry out for us as they use in their other functions. We do not believe that States will impose unreasonably short time limits on their citizens.

Comment: We should reconsider the rule that travel to a hearing is reimbursable only if the one-way distance exceeds 75 miles. The rule imposes hardships on many claimants. We should conduct a study of the cost of modifying the rule. We should ask Congress to omit the distance requirement from our future appropriations acts or to shorten the distance required; if Congress does so, we should change our policy accordingly.

We should interpret the requirement of "travel of more than seventy-five miles" in our current appropriations act as meaning a round trip of 75 miles, or 37½ miles one-way.

Response: The discussion headed "Travel Distance" in the NPRM and repeated earlier in this preamble gives our reasons for believing the 75-mile minimum is appropriate. We estimate the annual cost of eliminating the requirement as approximately $9 million.

The 75-mile minimum as 75 miles one-way has been our policy in title II cases since 1966. When Congress mandated the 75-mile minimum in title XVI cases in each of our appropriations acts effective after September 30, 1981, we believe Congress endorsed the policy as we had been applying it in title II cases for the previous 15 years.

Comment: The regulations should require State agencies to reimburse travel costs at the same rates we use, because there is no assurance that the State rates will be adequate and equitable and because we reimburse the State agencies for what they spend on our behalf.

Response: It has been our consistent policy for many years, reflected in regulations §§ 404.1624 and 416.1024, that "The State will determine the rates of payment to be used for purchasing medical or other services necessary to make determinations of disability." This policy helps to avoid discrepancies in State payment practices which might cause disruptions in other State operations. We do not believe it is necessary to make an exception for travel reimbursement.

Comment: The regulations should provide some mechanism for appeal of a denial of advance payment, a denial of reimbursement, or the amount of reimbursement. These decisions are important to claimants. An appeals

mechanism would assure some consistency in the decisions.

Response: We agree that these decisions are important to claimants, but we do not believe an appeals mechanism is warranted. The cases are too few and usually too small to warrant the administrative expense.

Other Changes

The only changes we have made from the NPRM that are not mentioned above are a few minor clarifications.

Effect on Medicare

These rules on travel reimbursement, like Subpart J of Part 404 generally, also apply to persons claiming certain benefits under title XVIII of the Act (Medicare), as provided by 42 CFR 405.701(c). We are adding a reminder of that fact to § 404.900(a). This regulation does not apply to provider reimbursement determinations and appeals procedures.

Executive Order 12291

These regulations do not meet any of the criteria for a major regulation as defined in Executive Order 12291. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

Sections 404.999(d) and 416.1499 of these regulations contain information collection requirements that are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. We have submitted these requirements to OMB for approval and we will place a notice in the **Federal Register** informing the public of OMB's action. In the interim, these requirements are not effective.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. The regulations apply directly only to individuals. Any indirect impact on small entities that provide transportation services will be too small and diffuse to be significant. Therefore, a regulatory flexibility analysis as required in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not necessary.

(Catalog of Federal Domestic Assistance Program Nos. 13.802—Social Security Disability Insurance; 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors' Insurance; 13.807—Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors and disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: February 27, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 6, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Part 404 and Part 416 of Chapter III of Title 20 of the Code of Federal Regulations are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Part 404, Subpart J is revised to read as follows:

Authority: Secs. 201, 205, and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 401, 405, and 1302), unless otherwise noted.

2. Section 404.900 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 404.900 Introduction.

(a) *Explanation of the administrative review process.* This subpart explains the procedures we follow in determining your rights under title II of the Social Security Act. The regulations describe the process of administrative review and explain your right to judicial review after you have taken all the necessary administrative steps. These procedures apply also to persons claiming certain benefits under title XVIII of the Act (Medicare); see 42 CFR 405.701(c). The administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

* * * * *

3. Section 404.903 is amended by adding a new paragraph (n) to read as follows:

§ 404.903 Administrative actions that are not initial determinations.

* * * * *

(n) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us.

§ 404.914 [Amended]

4. Section 404.914(c)(1) is amended by removing the last three sentences and adding in their place a new sentence to read as follows: "(See §§ 404.999a–404.999d regarding reimbursement for travel expenses.)"

5. An undesignated center heading and new §§ 404.999a through 404.999d are added to Subpart J of Part 404 to read as follows:

Payment of Certain Travel Expenses

§ 404.999a Payment of certain travel expenses—general.

When you file a claim for Social Security benefits, you may incur certain travel expenses in pursuing your claim. Sections 404.999b–404.999d explain who may be reimbursed for travel expenses, the types of travel expenses that are reimbursable, and when and how to claim reimbursement. Generally, the agency that requests you to travel will be the agency that reimburses you. No later than when it notifies you of the examination or hearing described in § 404.999b(a), that agency will give you information about the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts.

§ 404.999b Who may be reimbursed.

(a) The following individuals may be reimbursed for certain travel expenses—

(1) You, when you attend medical examinations upon request in connection with disability determinations; these are medical examinations requested by the State agency or by us when additional medical evidence is necessary to make a disability determination (also referred to as consultative examinations, see § 404.1517);

(2) You, your representative (see § 404.1705 (a) and (b)), and all unsubpoenaed witnesses we or the State agency determines to be reasonably necessary who attend disability hearings; and

(3) You, your representative, and all unsubpoenaed witnesses we determine to be reasonably necessary who attend hearings on any claim for benefits before an administrative law judge.

(b) Sections 404.999a–404.999d do not apply to subpoenaed witnesses. They are reimbursed under §§ 404.950(d) and 404.916(b)(1).

§ 404.999c What travel expenses are reimbursable.

Reimbursable travel expenses include the ordinary expenses of public or private transportation as well as unusual costs due to special circumstances.

(a) Reimbursement for ordinary travel expenses is limited—

(1) To the cost of travel by the most economical and expeditious means of transportation available and appropriate to the individual's condition of health as determined by the State agency or by us, considering the available means in the following order—

(i) Common carrier (air, rail, or bus);

(ii) Privately owned vehicles;

(iii) Commercially rented vehicles and other special conveyances;

(2) If air travel is necessary, to the coach fare for air travel between the specified travel points involved unless first-class air travel is authorized in advance by the State agency or by the Secretary in instances when—

(i) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the travel;

(ii) First-class accommodations are necessary because you, your representative, or reasonably necessary witness is so handicapped or otherwise impaired that other accommodations are not practical and the impairment is substantiated by competent medical authority;

(iii) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(iv) The use of first-class accommodations would result in an overall savings to the government based on economic considerations, such as the avoidance of additional subsistence costs that would be incurred while awaiting availability of less-than-first-class accommodations.

(b) Unusual travel costs may be reimbursed but must be authorized in advance and in writing by us or the appropriate State official, as applicable, unless they are unexpected or unavoidable; we or the State agency must determine their reasonableness and necessity and must approve them before payment can be made. Unusual expenses that may be covered in connection with travel include, but are not limited to—

(1) Ambulance services;

(2) Attendant services;

(3) Meals;

(4) Lodging; and

(5) Taxicabs.

(c) If we reimburse you for travel, we apply the rules in §§ 404.999b through 404.999d and the same rates and conditions of payment that govern travel expenses for Federal employees as authorized under 41 CFR 101–7. If a State agency reimburses you, the reimbursement rates shall be determined by the rules in §§ 404.999b through 404.999d and that agency's rules and regulations may differ from one agency to another and also may differ from the Federal reimbursement rates.

(1) When public transportation is used, reimbursement will be made for the actual costs incurred, subject to the restrictions in paragraph (a)(2) of this section on reimbursement for first-class air travel.

(2) When travel is by a privately owned vehicle, reimbursement will be made at the current Federal or State mileage rate specified for that geographic location plus the actual costs of tolls and parking, if travel by a privately owned vehicle is determined appropriate under paragraph (a)(1) of this section. Otherwise, the amount of reimbursement for travel by privately owned vehicle cannot exceed the total cost of the most economical public transportation available for travel between the same two points. "Total cost" includes the cost for all the authorized travelers who travel in the same privately owned vehicle. Advance approval of travel by privately owned vehicle is not required (but could give you assurance of its approval).

(3) Sometimes your health condition dictates a mode of transportation different from the most economical and expeditious. In order for your health to require a mode of transportation other than common carrier or passenger car, you must be so handicapped or otherwise impaired as to require special transportation arrangements and the conditions must be substantiated by competent medical authority.

(d) For travel to a hearing—

(1) Reimbursement is limited to travel within the U.S. For this purpose, the U.S. includes the U.S. as defined in § 404.2(c)(6) and the Northern Mariana Islands.

(2) We or the State agency will reimburse you, your representative, or an unsubpoenaed witness only if the distance from the person's residence or office (whichever he or she travels from) to the hearing site exceeds 75 miles.

(3) If a change in the location of the hearing is made at your request from the location we or the State agency selected to one farther from your residence or office, neither your additional travel expenses nor the additional travel expenses of your representative and witnesses will be reimbursed.

§ 404.999d When and how to claim reimbursement.

(a)(1) Generally, you will be reimbursed for your expenses after your trip. However, travel advances may be authorized if you request prepayment and show that the requested advance is reasonable and necessary.

(2) You must submit to us or the State agency, as appropriate, an itemized list of what you spent and supporting receipts to be reimbursed.

(3) Arrangements for special means of transportation and related unusual costs may be made only if we or the State agency authorizes the costs in writing in advance of travel, unless the costs are unexpected or unavoidable. If they are unexpected or unavoidable we or the State agency must determine their reasonableness and necessity and must approve them before payment may be made.

(4) If you receive prepayment, you must, within 20 days after your trip, provide to us or the State agency, as appropriate, an itemized list of your actual travel costs and submit supporting receipts. We or the State agency will require you to pay back any balance of the advanced amount that exceeds any approved travel expenses within 20 days after you are notified of the amount of that balance. (State agencies may have their own time limits in place of the 20-day periods in the preceding two sentences.)

(b) You may claim reimbursable travel expenses incurred by your representative for which you have been billed by your representative, except that if your representative makes a claim for them to us or the State, he or she will be reimbursed directly.

(Information collection requirements in paragraph (b) approved by OMB under control number 0960——

PART 416—[AMENDED]

6. The authority citation for Part 416, Subpart N is revised to read as follows:

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act, 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1478 (42 U.S.C. 1302, 1383, and 1383b).

7. Section 416.1403 is amended by adding a new paragraph (a)(9) to read as follows:

§ 416.1403 Administrative actions that are not initial determinations.

(a) * * *

(9) Determining whether (and the amount of) travel expenses incurred are reimbursable in connection with proceedings before us.

* * * * *

§ 416.1414 [Amended]

8. Section 416.1414 (c)(1) is amended by removing the last three sentences and adding in their place a new sentence to read as follows: "(See

§§ 416.1495–416.1499 regarding reimbursement for travel expenses.)"

9. An undesignated center heading and new §§ 416.1495 through 416.1499 are added to subpart N of Part 416 to read as follows:

Payment of Certain Travel Expenses

§ 416.1495 Payment of certain travel expenses—general.

When you file a claim for supplemental security income (SSI) benefits, you may incur certain travel expenses in pursuing your claim. Sections 416.1496 through 416.1499 explain who may be reimbursed for travel expenses, the types of travel expenses that are reimbursable, and when and how to claim reimbursement. Generally, the agency that requests you to travel will be the agency that reimburses you. No later than when it notifies you of the examination or hearing described in § 416.1496(a), that agency will give you information about the right to travel reimbursement, the right to advance payment and how to request it, the rules on means of travel and unusual travel costs, and the need to submit receipts.

§ 416.1496 Who may be reimbursed.

(a) The following individuals may be reimbursed for certain travel expenses—

(1) You, when you attend medical examinations upon request in connection with disability determinations; these are medical examinations requested by the State agency or by us when additional medical evidence is necessary to make a disability determination (also referred to as consultative examinations, see § 416.917);

(2) You, your representative (see § 416.1505 (a) and (b)), and all unsubpoenaed witnesses we or the State agency determines to be reasonably necessary who attend disability hearings; and

(3) You, your representative, and all unsubpoenaed witnesses we determine to be reasonably necessary who attend hearings on any claim for SSI benefits before an administrative law judge.

(b) Sections 416.1495 through 416.1499 do not apply to subpoenaed witnesses. They are reimbursed under §§ 416.1450(d) and 416.1416(b)(1).

§ 416.1498 What travel expenses are reimbursable.

Reimbursable travel expenses include the ordinary expenses of public or private transportation as well as unusual costs due to special circumstances.

(a) Reimbursement for ordinary travel expenses is limited—

(1) To the cost of travel by the most economical and expeditious means of transportation available and appropriate to the individual's condition of health as determined by the State agency or by us, considering the available means in the following order—

(i) Common carrier (air, rail, or bus);

(ii) Privately owned vehicles;

(iii) Commercially rented vehicles and other special conveyances;

(2) If air travel is necessary, to the coach fare for air travel between the specified travel points involved unless first-class air travel is authorized in advance by the State agency or by the Secretary in instances when—

(i) Space is not available in less-than-first-class accommodations on any scheduled flights in time to accomplish the purpose of the travel;

(ii) First-class accommodations are necessary because you, your representative, or reasonably necessary witness is so handicapped or otherwise impaired that other accommodations are not practical and the impairment is substantiated by competent medical authority;

(iii) Less-than-first-class accommodations on foreign carriers do not provide adequate sanitation or health standards; or

(vi) The use of first-class accommodations would result in an overall savings to the government based on economic considerations, such as the avoidance of additional subsistence costs that would be incurred while awaiting availability of less-than-first-class accommodations.

(b) Unusual travel costs may be reimbursed but must be authorized in advance and in writing by us or the appropriate State official, as applicable, unless they are unexpected or unavoidable; we or the State agency must determine their reasonableness and necessity and must approve them before payment can be made. Unusual expenses that may be covered in connection with travel include, but are not limited to—

(1) Ambulance services;

(2) Attendant services;

(3) Meals;

(4) Lodging; and

(5) Taxicabs.

(c) If we reimburse you for travel, we apply the rules in §§ 416.1496 through 416.1499 and the same rates and conditions of payment that govern travel expenses for Federal employees as authorized under 41 CFR 101–7. If a State agency reimburses you, the reimbursement rates shall be determined by the rules in §§ 416.1496 through 416.1499 and that agency's rules and regulations and may differ from one agency to another and also may differ from the Federal reimbursement rates.

(1) When public transportation is used, reimbursement will be made for the actual costs incurred, subject to the restrictions in paragraph (a)(2) of this section on reimbursement for first-class air travel.

(2) When travel is by a privately owned vehicle, reimbursement will be made at the current Federal or State mileage rate specified for that geographic location plus the actual costs of tolls and parking, if travel by a privately owned vehicle is determined appropriate under paragraph (a)(1) of this section. Otherwise, the amount of reimbursement for travel by privately owned vehicle cannot exceed the total cost of the most economical public transportation for travel between the same two points. "Total cost" includes the cost for all the authorized travelers who travel in the same privately owned vehicle. Advance approval of travel by privately owned vehicle is not required (but could give you assurance of its approval).

(3) Sometimes your health condition dictates a mode of transportation different from most economical and expeditious. In order for your health to require a mode of transportation other than common carrier or passenger car, you must be so handicapped or otherwise impaired as to require special transportation arrangements and the condition must be substantiated by competent medical authority.

(d) For travel to a hearing—

(1) Reimbursement is limited to travel within the U.S. For this purpose, the U.S. includes the U.S. as defined in § 416.120(c)(10).

(2) When the travel is performed after September 30, 1981, we or the State agency will reimburse you, your representative, or an unsubpoenaed witness only if the distance from the person's residence or office (whichever he or she travels from) to the hearing site exceeds 75 miles.

(3) If a change in the location of the hearing is made at your request from the location we or the State agency selected to one farther from your residence or office, neither your additional travel expenses nor the additional travel expenses of your representative and witnesses will be reimbursed.

§ 416.1499 When and how to claim reimbursement.

(a)(1) Generally, you will be reimbursed for your expenses after your trip. However, travel advances may be authorized if you request prepayment

and show that the requested advance is reasonable and necessary.

(2) You must submit to us or the State agency, as appropriate, an itemized list of what you spent and supporting receipts to be reimbursed.

(3) Arrangements for special means of transportation and related unusual costs may be made only if we or the State agency authorizes the costs in writing in advance of travel, unless the costs are unexpected or unavoidable. If they are unexpected or unavoidable we or the State agency must determine their reasonableness and necessity and must approve them before payment may be made.

(4) If you receive prepayment, you must, within 20 days after your trip, provide to us or the State agency, as appropriate, an itemized list of your actual travel costs and submit supporting receipts. We or the State agency will require you to pay back any balance of the advanced amount that exceeds any approved travel expenses within 20 days after you are notified of the amount of that balance. (State agencies may have their own time limits in place of the 20-day periods in the preceding two sentences.)

(b) You may claim reimbursable travel expenses incurred by your representative for which you have been billed by your representative, except that if your representative makes a claim for them to us or the State, he or she will be reimbursed directly.

(Information collection requirements in paragraph (b) approved by OMB under control number 0960———)

[FR Doc. 86-5657 Filed 3-13-86; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 558

Antibiotic, Nitrofuran, and Sulfonamide Drugs in the Feed of Animals; Republication of Regulation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revising the animal drug regulation concerning antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals (21 CFR 558.15) to correct typographical errors, update certain information contained in the regulation, and provide a more readable format. The changes are nonsubstantive.

EFFECTIVE DATE: April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: FDA established 21 CFR 558.15 by publication in the **Federal Register** of February 25, 1976 (41 FR 8282). To clarify the tables in paragraph (g), FDA republished that portion in the **Federal Register** of March 11, 1977 (42 FR 13549). In this document, FDA is revising 21 CFR 558.15 to correct certain erroneous entries, to reflect the current names of several drug sponsors, to reflect changes in sponsorship, to update certain FDA office designations, and to further clarify the tables. The specific changes are as follows:

1. "Bureau of Veterinary Medicine" is replaced by "Center for Veterinary Medicine" and the proper designation of the office to which reports were required to be sent is inserted.

2. The correct names for several new animal drug application (NADA) sponsors are inserted. The regulation substitutes "Solvay Veterinary Inc." for "E. R. Squibb & Sons, Inc.," "Purina Mills, Inc." for "Ralston Purina," "CEVA Laboratories, Inc." for "Abbott Laboratories," "Hoechst-Roussel Agri-Vet Co." for "American Hoechst Corp," and "VPO, Inc.," for "Vitamin Premixers of Omaha."

3. "Pfizer, Inc., oxytetracycline, sheep * * *" replaces "Pfizer, Inc., penicillin, sheep * * *" to correct an error in paragraph (g)(1).

4. For Pfizer's oxytetracycline/neomycin milk replacer for calves at the higher dose of 40 to 200 and 200 to 400 milligrams per gallon, the indications for use should read "an aid in the treatment of bacterial diarrhea (scours)." This corrects the error in paragraph (g)(2) indicating the "prevention" claim for both lower and higher dose levels.

5. The format in paragraph (g)(2) has been simplified.

6. Several typographical errors have been eliminated in the tables.

The changes are editorial in nature and do not provide substantive revisions to the section. The changes do not in any way alter the status of any of the listed drugs.

Because this revision of 21 CFR 558.15 does not result in any substantive changes in the regulation, the Commissioner of Food and Drugs finds good cause that notice and public comment under the provisions of 5 U.S.C. 553 are unnecessary. The effective date of the revised regulation will be 30 days after the date of publication.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.15 is revised to read as follows:

§ 558.15 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.

(a) The Commissioner of Food and Drugs will propose to revoke currently approved subtherapeutic (increased rate of gain, disease prevention, etc.) uses in animal feed of antibiotic and sulfonamide drugs whether granted by approval of new animal drug applications, master files and/or antibiotic or food additive regulations, by no later than April 20, 1975, or the nitrofuran drugs by no later than September 5, 1975, unless data are submitted which resolve conclusively the issues concerning their safety to man and animals and their effectiveness under specific criteria established by the Food and Drug Administration based on the guidelines included in the report of the FDA task force on the use of antibiotics in animal feeds. All persons or firms previously marketing identical, related, or similar products except the nitrofuran drugs not the subject of an approved new animal drug application must submit a new animal drug application by July 19, 1973, or by December 4, 1973, in the case of nitrofuran drugs, if marketing is to continue during the interim. New animal drug entities with antibacterial activity not previously marketed, now pending approval or submitted for approval prior to, on, or following the effective date of this publication, shall satisfy such criteria prior to approval.

(b) Any person interested in developing data which will support retaining approval for such uses of such antibiotic, nitrofuran, and sulfonamide drugs pursuant to section 512(l) of the Federal Food, Drug, and Cosmetic Act shall submit to the Commissioner the following:

(1) By July 19, 1973, records and reports of completed, ongoing, or planned studies, including protocols, on the tetracyclines, streptomycin, dihydrostreptomycin, penicillin, and the sulfonamides; for all other antibiotics by

October 17, 1973; and for the nitrofuran drugs by March 4, 1974. The Food and Drug Administration encourages sponsors to consult with the Center for Veterinary Medicine on protocol design and plans for future studies.

(2) By April 20, 1974, data from completed studies on the tetracyclines, streptomycin, dihydrostreptomycin, the sulfonamides, and penicillin assessing the effect of the subtherapeutic use of the drug in feed on the salmonella reservoir in the target animal as compared to that in nonmedicated controls. Failure to complete the salmonella studies for any of these drugs by that time will be grounds for proceeding to immediately withdraw approval.

(3) By April 20, 1975, data satisfying all other specified criteria for safety and effectiveness, including the effect on the salmonella reservoir for any antibiotic or sulfonamide drugs and by September 5, 1975, for the nitrofuran drugs, approved for subtherapeutic use in animal feeds. Drug efficacy data shall be submitted for any feed-use combination product containing such drug and any feed-use single ingredient antibiotic, nitrofuran, or sulfonamide not reviewed by the National Academy of Sciences—National Research Council, Drug Efficacy Study covering drugs marketed between 1938 and 1962.

(4) Progress reports on studies underway every January 1 and July 1 until completion.

(c) Failure on the part of any sponsor to comply with any of the provisions of paragraph (b) of this section for any of the antibacterial drugs included in paragraph (b)(1) of this section, or interim results indicating a health hazard, will be considered as grounds for immediately proceeding to withdraw approval of that drug for use in animal feeds under section 512(l) of the act in the case of failure to submit required records and reports and under section 512(e) where new information shows that such drug is not shown to be safe.

(d) Criteria based upon the guidelines laid down by the task force may be obtained from the Food and Drug Administration, Center for Veterinary Medicine, 5600 Fishers Lane, Rockville, MD 20857.

(e) Reports as specified in this section shall be submitted to: Food and Drug Administration, Center for Veterinary Medicine, Office of New Animal Drug Evaluation (HFV–100), 5600 Fishers Lane, Rockville, MD 20857.

(f) Following the completion of the requirements of paragraphs (a) and (b) of this section and the studies provided for therein:

(1) Those antibiotic, nitrofuran, and sulfonamide drugs which fail to meet the prescribed criteria for subtherapeutic uses but which are found to be effective for the therapeutic purposes will be permitted in feed only for high-level, short-term therapeutic use and only by or on the order of a licensed veterinarian.

(2) Animal feeds containing antibacterial drugs permitted to remain in use for subtherapeutic purposes shall be labeled to include a statement of the quantity of such drugs.

(g) The submission of applications and data required by paragraphs (a) and (b) of this section is not required for the continued manufacture of any Type B feed which is produced solely from a Type A article that is in compliance with the requirements of this section: *Provided,* That the Type B feed contains no drug ingredient whose use in or on animal feed requires an approved application pursuant to section 512(m) of the act and/or where the Type A article is approved by regulation in this part.

(1) The following antibacterial Type A articles manufactured by the designated sponsors are eligible for interim marketing based on their compliance with the requirements of this section:

Drug sponsor	Type A article	Species	Use levels	Indications for use
International Minerals & Chemicals Corp	Bacitracin zinc	Chickens, turkeys, swine, pheasants, quail, and cattle.	Sec. 558.78	Sec. 558.78.
A. L. Laboratories Inc	do	Chickens, turkeys, pheasants, and quail.	do	Do.
A.L. Laboratories, Inc., SDS Biotech Corp	Bacitracin methylene disalicylate.	Chicken turkeys, swine, and cattle.	Sec. 558.76	Sec. 558.76.
Elanco Products Co	Hygromycin B	Chickens and swine	Sec. 558.274	Sec. 558.274.
Do	Tylosin	Chickens, swine, and beef cattle.	Sec. 558.625	Sec. 558.625.
CEVA Laboratories, Inc	Erythromycin	Chickens, turkeys, and swine.	Sec. 558.248	Sec. 558.248.
The Upjohn Co	Lincomycin	Chickens	Sec. 558.325	Sec. 558.325.
Pfizer, Inc	Oleandomycin	Chickens, turkeys, and swine.	Sec. 558.435	Sec. 558.435.
Hoechst-Roussel Agri-Vet, Inc	Bambermycins	Chickens	Sec. 558.95	Sec. 558.95.
Elanco Products Co	Tylosin and sulfamethazine.	Swine	Sec. 558.630	Sec. 558.630.
American Cyanamid Co., SDS Biotech Corp., Hess & Clark, Pfizer, Inc., and VPO, Inc.	Chlortetracycline	Chickens, turkeys, swine, and cattle.	Sec. 558.128	Sec. 558.128.
Merck Sharp & Dohme Research Labs., and Solvay Veterinary, Inc.	Procaine Penicillin	Chickens, turkeys, swine, pheasants, and quail.	Sec. 558.460	Sec. 558.460.
Pfizer, Inc., VPO, Inc., and Purina Mills, Inc.	Oxytetracycline	Chickens and turkeys	Sec. 558.450	Sec. 558.450.
Do	do	Swine (10 to 30 lb)	25 to 50 g/ton	To increase rate of gain and improve feed efficiency.
Do	do	Swine (30 to 200 lb)	7½ to 10 g/ton	Do.
Do	do	Swine	50 g/ton	As an aid in the prevention of bacterial enteritis, also known as scours, baby pig diarrhea, vibrio dysentery, bloody dysentery, and salmonelosis (necro or necrotic enteritis).
Do	do	do	100 g/ton	As an aid in the treatment of bacterial enteritis, also known as scours, baby pig diarrhea, vibrio dysentery, bloody dysentery, and salmoneliosis (necro or necrotic enteritis).
Do	do	do	50 to 150 g/ton	As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis.
Do	do	do	500 g/ton	In presence of porcine leptospirosis reduces instances of abortion, gives higher survival rate, heavier and healthier new born pigs, reduces urinary shedding of leptospirae and aids in maintenance of normal weight gains and feed consumption. Feed 7 to 14 days, approximately 1 month before farrowing.
Do	do	Calves	0.05 to 0.1 mg/lb of body weight daily or 25 to 75 mg per head daily.	To increase rate of gain and improve feed efficiency.

Drug sponsor	Type A article	Species	Use levels	Indications for use
Do	do	do	0.5 mg/lb of body weight daily or in complete feed at 50 g/ton.	As an aid in the prevention of bacterial diarrhea.
Do	do	do	0.5 to 5.0 mg/lb of body weight daily or complete feed at 50 g/ton.	As an aid in the treatment of bacterial diarrhea.
Do	do	Cattle	75 to 80 mg per head daily.	As an aid in reducing incidence and severity of bloat. As an aid in reducing incidence and severity of liver abscesses (for cattle weighing over 400 lb). To increase rate of gain and improve feed efficiency. As an aid in increasing milk production in lactating dairy cows.
Do	do	do	0.1 to 0.5 mg/lb of body weight daily.	As an aid in the prevention of bacterial diarrhea.
Do	do	do	0.5 to 5.0 mg/lb of body weight daily.	As an aid in the treatment of bacterial diarrhea, also known as scours.
Do	do	do	0.5 to 2.0 g per head daily.	For the prevention and treatment of the early stages of shipping fever complex. Oxytetracycline is effective prophylaxis when fed 3 to 5 days preceding shipment and/or 3 to 5 days following arrival in feed-lots. For treatment of shipping fever, these levels should be fed at onset of the disease symptoms until symptoms disappear.
Do	Oxytetracycline	Sheep	10 to 20 g/ton	To increase rate of gain and improve feed efficiency during finishing period.
Do	do	do	50 g/ton	As an aid in the prevention of bacterial diarrhea, also known as scours, lamb dysentery, and white scours of lambs.
Do	do	do	100 g/ton	As an aid in the treatment of bacterial diarrhea, also known as scours, lamb dysentery, and white scours of lambs.
Do	do	do	25 mg per head daily	As an aid in reduction of losses due to enterotoxemia, also known as overeating disease.
Do	Penicillin and streptomycin.	Chickens, turkeys, and swine.	Secs. 510.515 and 558.460.	Secs. 510.515 and 558.460.
American Cyanamid Co	Chlortetracycline and sulfamethazine.	Cattle	Sec. 558.128	Sec. 558.128.
Merck Sharp & Dohme Research Labs	Procaine penicillin and streptomycin sulfate.	Sec. 558.460	Sec. 558.460	Sec. 558.460.
CEVA Laboratories, Inc	Erythromycin	Cattle	37 mg per head per day	Sec. 558.248.
Hoffman-La Roche, Inc	Sulfadimethoxine and ormetoprim.	Chickens and turkeys	Sec. 558.575	Sec. 558.575.
Pfizer, Inc	Oxytetracycline	Chickens	10 to 50 g/ton	As an aid in increasing egg production.
Pfizer, Inc	do	do	50 to 100 g/ton	To extend period of high egg production, to improve feed efficiency, to improve fertility, and to improve egg production and feed efficiency in presence of disease and at time of stress; as an aid in maintaining and improving hatchability where birds are suffering stress from moving, vaccination, culling, extreme temperature change, and worming; to improve livability of progeny when losses are due to oxytetracycline-susceptible organisms; to improve egg shell quality.
Do	Oxytetracycline and neomycin.	Chickens, turkeys, swine, and calves.	As provided in paragraph (g)(2) of this section.	As provided in paragraph (g)(2) of this section.
American Cyanamid Co. and Pfizer, Inc	Chlortetracycline, sulfamethazine, and penicillin.	Swine	do	Do.
SDS Biotech Corp	Chlortetracycline, sulfathiazole, and penicillin.	do	do	Do.
Hess & Clark and SmithKline Animal Health Products.	Furazolidone	Chickens and turkeys	0.00083 to 0.0011 percent (7½ to 10 g/ton).	To stimulate growth and improve feed efficiency of chickens and turkeys when fed continuously.
Do	do	do	0.0055 percent (50 g/ton)	For prevention of fowl typhoid, paratyphoid, and pullorum in chickens and turkeys when fed continuously in birds older than 2 weeks of age. For aid in prevention of coccidiosis in chickens caused by *E. tenella, E. necatrix*, or *E. acervulina* when fed continuously.
Do	do	do	0.0055–0.011 percent (50–100 g/ton).	Aid in maintenance of feed consumption and growth and reduction of morbidity and mortality due to stress and the following nonspecific conditions. Chronic respiratory disease (air-sac), infectious sinusitis, synovitis (arthritis due to a filterable agent), nonspecific enteritis (bluecomb, mud fever) and quail disease (ulcerative enteritis) when fed continuously prior to or throughout the danger period and during times of stress.
Do	do	do	0.011 percent (100 g/ton)	For prevention of fowl typhoid, paratyphoid and pullorum in chickens and turkeys when fed for the first 2 weeks of the birds' life and followed continuously thereafter by ½ this level (i.e., 0.0055 percent). For treatment of fowl typhoid, paratyphoid, and pullorum in chickens and turkeys when fed for at least 2 weeks except when paratyphoid is due to *S. typhimurium*.
Hess & Clark and SmithKline Animal Health Product.	do	do	do	For reduction of condemnations due to chronic respiratory disease air-sac complex associated with vaccination stress, feed continuously beginning at least 1 week before vaccination. For prevention of infectious hepatitis when fed continuously during the danger period. For control of coccidiosis in chickens caused by *E. tenella, E. necatrix* or *E. acervulina* when fed for 5 to 7 days or longer and followed by ½ this level (i.e., 0.0055 percent) for 2 weeks to aid in preventing recurrence.

Drug sponsor	Type A article	Species	Use levels	Indications for use
Do	do	do	do	For prevention of blackhead (histomoniasis, enterohepatitis) in chickens and turkeys when fed continuously. For prevention of paracolon in chickens and turkeys and hexamitiasis in turkeys when fed throughout the danger period. For control of chronic respiratory disease (air-sac), infectious sinusitis, synovitis (arthritis due to a filterable agent), nonspecific enteritis (bluecomb, mud fever) and quail disease (ulcerative enteritis) when fed for 5 to 10 days and followed with ½ this level (i.e., 0.0055 percent) to aid in preventing recurrence. (NOTE.—Severe outbreaks may require twice the level specified; i.e., 0.022 percent).
Do	do	do	0.011 to 0.022 percent (100 to 200 g/ton)	Aid in maintenance of feed consumption and growth, and reduction of mortality and morbidity due to stress; for the control of the following nonspecific conditions: Chronic respiratory disease (air-sac), infectious sinusitis, synovitis (arthritis due to a filterable agent), nonspecific enteritis (bluecomb, mud fever), and quail disease (ulcerative enteritis) when fed 5 to 10 days. Follow with preventive level to prevent recurrence.
Hess & Clark and SmithKline Animal Health Products.	do	do	0.022 percent (200 g/ton)	For treatment of paratyphoid due to *S. typhimurium* when fed for 2 weeks. For treatment of blackhead (histomoniasis enterohepatitis) in chickens and turkeys when fed for 2 to 3 weeks (following diagnosis). For treatment of paracolon in chickens and turkeys and hexamitiasis in turkeys when fed for 2 weeks or longer (following diagnosis). For control of chronic respiratory disease (air-sac), infectious sinusitis, synovitis (arthritis due to a filterable agent), nonspecific enteritis (bluecomb, mud fever), and quail disease (ulcerative enteritis) when fed for 5 to 10 days and followed with ¼ this level (i.e., 0.0055 percent) to aid in preventing recurrences. For treatment of infectious hepatitis in chickens when fed for 14 days and repeated as necessary.
Do	do	Swine	Sec. 558.262	Sec. 558.262.
Do	Nitrofurazone	Chickens	0.0055 percent (50 g/ton)	Aid in prevention of coccidiosis when fed continuously.
Do	do	Turkeys	do	As an aid in controlling losses due to secondary bacterial invasions concurrent with coccidiosis outbreaks when fed continuously throughout the danger period.
Do	do	Swine	0.055 percent (500 g/ton)	Treatment of necrotic enteritis caused by *S. choleraesuis*.

(2) The following is a list of drug combinations permitted when prepared from antibacterial type A articles listed in paragraph (g)(1) of this section. Drug combinations listed in Subpart B of this part name their sponsors and are incorporated herein by reference since they are safe and effective by contemporary standards, or such sponsors have been notified of any additional safety or efficacy data required on an individual basis:

Drug sponsor	Type A article	Species	Use levels	Indications for use
SDS Biotech Corp	Chlortetracycline and arsanilic acid.	Swine	10 to 50 g/ton and 0.005 to 0.01 percent.	Enhancement of growth and feed efficiency.
American Cyanamid Co	Chlortetracycline and sulfamethazine.	Cattle	Sec. 558.128	Sec. 558.128.
Pfizer, Inc., and VPO, Inc	Oxytetracycline and neomycin base.	Chickens	50 g/ton and 35 to 140 g/ton.	Prevention of diseases from oxytetracycline susceptible organisms during periods of stress. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Pfizer, Inc., and VPO, Inc	do	Chickens (first 2 weeks)	50 to 100 g/ton and 35 to 140 g/ton.	Prevention of early chick mortality due to oxytetracycline-susceptible organisms. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Do	do	Chickens	do	To extend period of high egg production, to improve feed efficiency, to improve egg production and feed efficiency in presence of disease and at time of stress. As an aid in maintaining and improving hatchability where birds are suffering stress from moving, vaccinations, culling, extreme temperature changes, and worming; to improve livability of progeny when losses are due to oxytetracycline-susceptible organisms, to improve egg shell quality, prevention of bluecomb (mud fever or nonspecific enteritis). As an aid in the prevention of bacterial enteritis and in the control of nermycon-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Do	do	do	100 to 200 g/ton and 35 to 140 g/ton.	Prevention of complicated chronic respiratory disease (air-sac infection) and control of complicated chronic respiratory disease by lowering mortality and severity during outbreaks. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Pfizer, Inc	do	Turkeys	50 g/ton and 35 to 140 g/ton.	As an aid in the prevention of disease from oxytetracycline susceptible organisms during periods of stress. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).

Drug sponsor	Type A article	Species	Use levels	Indications for use
Pfizer, Inc.	do	do	50 to 100 g/ton and 35 to 140 g/ton.	To extend period of high egg production, to improve egg production, to improve feed efficiency, to improve fertility, to improve egg production and feed efficiency in presence of disease and time of stress; as an aid in maintaining and improving hatchability where birds are suffering from stress, exposure, moving, vaccination, culling, extreme losses due to oxytetracycline-susceptible organisms, and to improve egg shell quality prevention of hexamitiasis. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Do	do	Turkeys (first 4 weeks)	do	As an aid in the prevention of early poult mortality due to oxytetracycline-susceptible organisms. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Do	do	do	100 to 150 g/ton and 35 to 100 g/ton.	As an aid in reducing mortality in birds which have suffered an attack of air-sacculitis (it is recommended, wherever possible, to feed from time of attack to marketing).
Do	do	Turkeys	do	As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Do	do	do	100 to 200 g/ton and 35 to 140 g/ton.	Control of bluecomb (mud fever or nonspecific enteritis), infectious sinusitis and hexamitiasis, prevention of infectious synovitis. As an aid in the prevention of bacterial enteritis and in the control of neomycin-sensitive organisms associated with bluecomb (mud fever or nonspecific enteritis).
Do	do	do	200 g/ton and 70 to 140 g/ton.	Control of infectious synovitis. For the treatment of bacterial enteritis and bluecomb (mud fever or nonspecific enteritis).
Pfizer, Inc., and VPO, Inc.	do	Swine	50 g/ton and 35 to 140 g/ton.	As an aid in the prevention of bacterial enteritis (scours), baby pig diarrhea (in baby pigs only), vibrionic dysentery, bloody dysentery, and salmonellosis (necro or necrotic enteritis).
Do	do	do	50 to 150 g/ton and 70 to 140 g/ton.	As an aid in the maintenance of weight gains and feed consumption in the presence of atrophic rhinitis. As an aid in the treatment of bacterial enteritis.
Pfizer, Inc.	do	Calves	50 g/ton and 35 to 140 g/ton.	As an aid in the prevention of bacterial enteritis (scours).
Pfizer, Inc.	do	do	100 g/ton and 70 to 140 g/ton.	As an aid in the treatment of bacterial enteritis (scours).
Do	do	do	8 to 100 mg/gal and 100 to 200 mg/gal reconstituted milk replacer.	As an aid in the prevention of bacterial diarrhea (scours).
Do	do	do	40 to 200 mg/gal and 200 to 400 mg/gal reconstituted milk replacer.	As an aid in the treatment of bacterial diarrhea (scours).
The Upjohn Co.	Lincomycin, amprolium, and ethopabate.	Chickens	Secs. 558.58 and 558.325.	Secs. 558.58 and 558.325.
Do	Lincomycin and zoalene	do	Secs. 558.325 and 558.680.	Secs. 558.325 and 558.680.
Do	Lincomycin, amprolium, ethopabate, and roxarsone.	do	Secs. 558.58, 558.325, and 558.530.	Secs. 558.58, 558.325, and 558.530.
Do	Lincomycin, monensin, and roxarsone.	do	Secs. 558.325, 558.355, and 558.530.	Secs. 558.325, 558.355, and 558.530.
Merck Sharp & Dohme Research Labs, and Pfizer, Inc.	Procaine penicillin and streptomycin.	Chickens and turkeys	2.4 to 7.5 g/ton and 12.0 to 37.5 g/ton.	Sec. 558.460.
Merck Sharp & Dohme Research Labs, and Pfizer, Inc.	do	do	3.75 to 7.5 g/ton and 18.75 to 37.5 g/ton.	Do
Do	do	Chickens	3.75 to 30 g/ton and 18.75 to 150 g/ton.	Do.
Do	do	Turkeys	15 to 30 g/ton and 75 to 150 g/ton.	Do.
Do	do	Chickens	2.4 to 25 g/ton and 15 to 75 g/ton.	Sec. 510.515.
Do	do	Swine	1.5 to 7.5 g/ton and 7.5 to 37.5 g/ton.	Sec. 558.460.
Merck Sharp & Dohme Research Labs., and Pfizer, Inc.	do	do	7.5 to 45 g/ton and 37.5 to 225 g/ton.	Do.
Do	do	do	5 to 25 g/ton and 15 to 75 g/ton.	Sec. 510.515.
Merck Sharp & Dohme Research Labs	Procaine penicillin, streptomycin, and arsanilic acid.	do	1.5 to 7.5 g/ton, 7.5 to 37.5 g/ton, and 45 to 90 g/ton.	Do.
Do	Nicarbazin and procaine penicillin.	Chickens	0.01 to 0.02 percent and 2.4 to 50 g/ton.	Do.
Do	Nicarbazin and bacitracin methylene disalicylate.	do	0.01 to 0.02 percent and 4 to 50 g/ton.	Do.
Do	Nicarbazin, bacitracin methylene disalicylate, and roxarsone.	do	0.01 to 0.02 percent, 4 to 50 g/ton, and 0.0025 to 0.005 percent.	Do.
Do	Nicarbazin, procaine penicillin, and roxarsone.	do	0.01 to 0.02 percent, 2.4 to 50 g/ton, and 0.0025 to 0.025 percent.	Do.
Do	Amprolium and bacitracin methylene disalicylate.	Chickens and turkeys	0.0125 to 0.025 percent and 4 to 50 g/ton.	Secs. 558.55 and 558.76.
Do	Amprolium, ethopabate, and bacitracin methylene disalicylate.	Chickens	0.0125 to 0.025 percent, 0.0004 percent, and 4 to 50 g/ton.	Secs. 558.58 and 558.76.

Drug sponsor	Type A article	Species	Use levels	Indications for use
Do	Amprolium, ethopabate, bacitracin methylene disalicylate, and roxarsone..	do	0.0125 to 0.025 percent, 0.0004 percent, 4 to 50 g/ton, and 0.0025 to 0.005 percent.	Secs. 558.58, 558.76, and 558.530.
Do	Amprolium and procaine penicillin.	Chickens and turkeys	0.004 to 0.025 percent and 2.4 to 50 g/ton.	Secs. 558.55 and 558.460.
Do	Amprolium, procaine penicillin, and roxarsone.	Chickens	0.004 to 0.025 percent, 2.4 to 50 g/ton, and 0.0025 to 0.005 percent.	Secs. 558.55, 558.460, and 558.530.
Do	Amprolium, ethopabate, procaine penicillin, and erythromycin.	do	0.0125 to 0.025 percent, 0.0004 percent, 2.4 to 50 g/ton, and 4.6 to 18.5 g/ton.	Secs. 558.58 and 558.460.
Do	Amprolium and erythromycin.	do	0.0125 to 0.025 percent and 4.6 to 18.5 g/ton.	Sec. 558.55.
Do	Amprolium and ethopabate.	do	0.0125 to 0.025 percent and 0.0004 percent.	Sec. 558-58.
Do	Amprolium, arsanilic acid, and erythromycin.	do	0.0125 to 0.025 percent 0.01 percent, and 4.6 to 18.5 g/ton.	Sec. 558.55.
Do	Amprolium, arsanilic acid, and ethopabate.	do	0.0125 to 0.025 percent, 0.01 percent, and 0.0004 percent.	Sec. 558.58.
Do	Amprolium, ethopabate, and bacitracin methylene disalicylate.	do	0.0125 percent, 0.004 percent, and 4 to 50 g/ton.	Do.
Do	Amprolium, ethopabate, bacitracin methylene disalicylate, and roxarsone.	do	0.0125 percent, 0.004 percent, 5 to 35 g/ton, and 0.00375 percent.	Do.
International Minerals & Chemicals Corp	Bacitracin zinc, amprolium, and ethopabate.	do	4 to 50 g/ton, 0.0125 to 0.025 percent, and 0.0004 percent.	Prevention of coccidiosis. Growth promotion and feed efficiency. Sec.558.78.
Do	Bacitracin zinc, amprolium, ethopabate, and roxarsone.	do	4 to 50 g/ton, 0.0125 to 0.025 percent, 0.0004 percent, and 0.0025 to 0.005 percent.	Prevention of coccidiosis. Growth promotion and feed efficiency. Improving pigmentation. Sec. 558.78.
International Minerals & Chemicals Corp	Bacitracin zinc and arsanilic acid.	Swine	10 to 50 g/ton and 0.005 to 0.01 percent.	Increased rate of weight gain and improved feed efficiency.
Merck Sharp & Dohme Research Labs	Amprolium, ethopabate, procaine penicillin, and roxarsone.	Chickens	0.125 to 0.025 percent, 0.0004 percent, 2.4 to 50 g/ton, and 0.0025 to 0.005 percent.	Secs. 558.58, 558.460 and 558.530.
Pfizer, Inc.	Penicillin and streptomycin.	Chickens and turkeys	2.4 to 25 g/ton and 15 to 75 g/ton.	Sec. 510.515.
Do	Penicillin and streptomycin.	Swine	5 to 25 g/ton and 15 to 75 g/ton.	Do.
Dow Chemical Co	Zoalene and bacitracin methylene disalicylate.	Chickens	0.0125 percent and 4 to 50 g/ton.	Sec. 558.680.
Do	Zoalene, roxarsone, and bacitracin methylene disalicylate.	do	0.0125 percent, 0.005 percent, and 4 to 50 g/ton.	Do.
Do	Zoalene and bacitracin zinc.	do	0.0125 percent and 4 to 50 g/ton.	Do.
Do	Zoalene, roxarsone, and bacitracin zinc.	do	0.0125 percent, 0.0025 to 0.005 percent, and 4 to 50 g/ton.	
Do	Zoalene and penicillin	do	0.0125 percent and 2.4 to 50 g/ton.	Do.
Do	Zoalene, roxarsone, and penicillin.	do	0.0125 percent, 0.0025 to 0.005 percent, and 2.4 to 50 g/ton.	Do.
Do	Zoalene, arsanilic acid, and bacitracin methylene disalicylate or bacitracin zinc.	do	0.0125 percent, 0.01 percent, and 4 to 50 g/ton.	
Dow Chemical Co.	Zoalene, arsanilic acid, and penicillin.	do	0.0125 percent, 0.01 percent, and 2.4 to 50 g/ton.	Do.
Do	Zoalene, and bacitracin methylene disalicylate.	do	0.004 to 0.0125 percent and 4 to 50 g/ton.	Do.
Do	Zoalene, roxarsone, and bacitracin methylene disalicylate.	do	0.004 to 0.0125 percent, 0.0025 to 0.005 percent, and 4 to 50 g/ton.	Do.
Hess & Clark and SmithKline Animal Health Products.	Furazolidone and oxytetracycline.	Swine	0.022 percent (200 g/ton) and 50 to 150 g/ton.	Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication when fed in prestarters, starters, and growing rations to baby pigs and growing swine for 2 weeks. As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis.
Do	Furazolidone, oxytetracycline, and arsanilic acid.	do	0.011 percent (100 g/ton), 50 to 100 g/ton, and 0.005 to 0.01 percent.	Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication and when fed in prestarters, starters, and growing rations to baby pigs and growing swine for 5 weeks. As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis. Growth promotion and feed efficiency.
Hess & Clark and SmithKline Animal Health Products.	Furazolidone and bacitracin methylene disalicylate, bacitracin zinc, or procaine penicillin.	Chickens and turkeys	0.011 to 0.022 percent (100 to 200 g/ton) and 4 to 50 g/ton, 4 to 50 g/ton, or 2.4 to 50 g/ton.	Sec. 510.515.

Drug sponsor	Type A article	Species	Use levels	Indications for use
Do	Furazolidone and oxytetracycline.	Swine	0.011 percent (100 g/ton) and 50 to 150 g/ton.	Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication and when fed in prestarters, starters, and growing swine for 5 weeks. As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis.
Do	do	do	0.0165 percent (150 g/ton) and 50 to 150 g/ton.	Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication and when fed in prestarters, starters, and growing swine for 3 weeks. As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis.
Do	Furazolidone, oxytetracycline, and arsanilic acid.	do	0.0165 percent (150 g/ton), 50 to 100 g/ton, and 0.005 to 0.01 percent.	Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication when fed in prestarters, starters, and growing rations to baby pigs and growing swine for 3 weeks. As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis. Growth promotion and feed efficiency.
Do	do	do	0.022 percent, 50 to 100 g/ton, and 0.005 to 0.01 percent.	Prevention of bacterial enteritis (necrotic enteritis, necro) and vibrionic (bloody) dysentery; growth promotion while on medication when fed in prestarters, starters, and growing rations to baby pigs and growing swine for 2 weeks. As an aid in the maintenance of weight gains and feed consumption in presence of atrophic rhinitis. Growth promotion and feed efficiency.
Whitmoyer Labs, Inc	Carbarsone and bacitracin	Turkeys	Sec. 558.120	Sec. 558.120.
Elanco Products Co	Hygromycin B and tylosin	Chickens	8 to 12 g/ton and 4 to 50 g/ton.	Sec. 558.274.
Do	do	Swine	12 g/ton and 10 to 100 g/ton.	Do.
Salsbury Laboratories	Nitarsone and bacitracin zinc.	Turkeys	0.01875 percent, 4 to 50 g/ton.	As an aid in the prevention of blackhead. To increase rate of weight gain and improve feed efficiency.

Dated: March 7, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-5434 Filed 3-13-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

28 CFR Parts 3, 8, and 9a

[Order No. 1128-86]

Seizure for Forfeiture; Assignment of Functions to the Director, Federal Bureau of Investigation

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order reassigns the delegated responsibilities contained in Parts 3, 8 and 9a from the U.S. Marshals Service to the Federal Bureau of Investigation and revised Part 8 to include delegated authorities to the Federal Bureau of Investigation under the following statutes: Copyrights Act, Motor Vehicle Theft Law Enforcement Act of 1984, Child Protection Act of 1984, Child Protection Act of 1984, and statutes governing Transportation of Gambling Devices, Racketeering (Prohibition of Illegal Gambling Businesses), Prison-Made Goods, Wire Interception and Interception of Oral Communications and Foreign Wars, War Materials, and Neutrality (Illegal Exportation of War Materials). Functions include seizure, appraisement, providing notice of intent to forfeit and declaring that property forfeited.

EFFECTIVE DATE: February 28, 1986.

FOR FURTHER INFORMATION CONTACT: Brad Cates, Director, Asset Forfeiture Office, Department of Justice, P.O. Box 521, Benjamin Franklin Station, Washington, DC 20044, (202) 272-6420.

SUPPLEMENTARY INFORMATION: The existing provisions of Parts 3, 8 and 9a of 28 CFR provide for the FBI to seize property for forfeiture pursuant to Transportation of Gambling Devices, Wire Interception and Interception of Oral Communications and Prohibition of Illegal Gambling Businesses violations but do not provide for the FBI to handle the administrative forfeiture provisions. There are no provisions for the FBI to handle administrative forfeitures pursuant to Prison-Made Goods and Illegal Exportation of War Materials violations and the Copyrights Act, the Motor Vehicle Theft Law Enforcement Act of 1984 and the Child Protection Act of 1984.

This final rule amends the applicable regulations to create one Part, Part 8, which permits the FBI to handle administrative forfeitures regarding all eight identified statutes.

It has been determined that this is an internal management matter not requiring consultation with the Office of Management and Budget under E.O. 12291. Moreover, we hereby certify that this matter will have no impact upon small entities with the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq.

By virtue of the authority vested in me by 28 United States Code 509, 510 and 5 United States Code 301, Chapter I of Title 28, Code of Federal Regulations is amended as follows:

PART 3—[AMENDED]

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

Authority: 89 Stat. 379; 5 U.S.C., Sec. 2, Reorganization Plan No. 2 of 1950, 64 Stat. 1261; 3 CFR 1949-1953, unless otherwise noted.

1. Section 3.5 is revised to read as follows:

§ 3.5 Forfeiture of gambling devices.

For purposes of seizure and forfeiture of gambling devices see section 8 of this Chapter.

§ 3.6 [Removed]

2. Section 3.6 is removed in its entirety.

3. The table of contents entry for § 3.5 is revised to read as follows:

Sec.

* * * * *

3.5 Forfeiture of gambling devices

* * * * *

PART 9a—[REMOVED]

4. Part 9a is removed in its entirety.

5. Part 8 is revised to read as follows:

PART 8—FBI FORFEITURE AUTHORITY FOR CERTAIN STATUTES

Sec.
8.1 Definition.
8.2 Designation of officials having seizure authority.
8.3 Designation of the investigative bureau having administrative forfeiture authority, claims for awards, offers in compromise and matter relating to bonds.
8.4 Custody of seized property, inventory and receipt.
8.5 Appraisement of property subject to forfeiture.
8.6 Quick-release authority.
8.7 Judicial forfeiture.
8.8 Notice of seizure when value does not exceed $100,000; advertisement; Declaration of Forfeiture.
8.9 Disposition of Forfeited Property.
8.10 Remission or mitigation of forfeiture.

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510.

§ 8.1 Definition.

For the purpose of this part, the term "statutes" shall include the following statutes unless otherwise noted in this part: Interstate and Foreign Commerce—Gambling Devices—Transportation Prohibited, Jan. 2, 1951, ch. 1194 section 7, 64 Stat. 1135 (codified at 15 U.S.C. 1177, commonly referred to as Transportation of Gambling Devices); Organized Crime Control Act of 1970, Pub. L. 91–452, Title VIII, Part C, section 803(a), 84 Stat. 937 (1970) (codified at 18 U.S.C. 1955, commonly referred to as Illegal Gambling Businesses); Copyrights Act, Pub. L. 94–553, Title I, section 101, 90 Stat. 2768 (1976) (codified at 17 U.S.C. 509); Motor Vehicle Theft Law Enforcement Act of 1984, Pub. L. 98–547, Title II, section 201, 98 Stat. 2754 (1984) (codified at 18 U.S.C. 512); Crimes and Criminal Procedure, June 25, 1948, ch. 645, section 1, 62 Stat. 786 (codified at 18 U.S.C. 1762, commonly referred to as Prison-Made Goods); Child Protection Act of 1984, Pub. L. 98–292, section 6, 98 Stat. 205 (1984) (codified at 18 U.S.C. 2254); Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90–351, Title III, section 802, 82 Stat. 215 (1968) (codified at 18 U.S.C. 2513, commonly referred to as Wire Interception and Interception of Oral Communications); Seizure of Arms and Other Articles Intended for Export, June 15, 1917, ch. 30, Title VI section 1, 40 Stat. 223; June 17, 1930, ch. 497, Title IV, 523, 46 Stat. 740; Aug. 13, 1953, ch. 434, section 1, 67 Stat. 577 (codified at 22 U.S.C. 401, commonly referred to as Illegal Exportation of War Materials).

§ 8.2 Designation of officials having seizure authority.

The Director, Associate Director, Assistants to the Director, Assistant Directors, inspectors, and Agents of the Federal Bureau of Investigation are authorized to seize such property as may be subject to seizure pursuant to statutes identified in § 8.1.

§ 8.3 Designation of the investigative bureau having administrative forfeiture authority; claims for awards, offers in compromise and matters relating to bonds.

The Federal Bureau of Investigation is, in accordance with the statutes identified in § 8.1, authorized and designated as the investigative bureau to perform various duties with respect to forfeiture which are comparable to the duties performed by collectors of customs or other persons with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs' laws. The Director of the Federal Bureau of Investigation or his designee is designated as the officer authorized to take final action under these statutes on claims for award of compensation to informers, offers in compromise, and matters relating to bonds or other security.

§ 8.4 Custody of seized property, inventory, and receipt.

All property seized pursuant to the statutes identified in § 8.1 shall be turned over to the United States Marshals Service when not held as evidence or to be placed into official use following forfeiture. An inventory shall be prepared by the Federal Bureau of Investigation of the seized property and a receipt given for it to the person from whom it was seized at the time of seizure or as soon thereafter as practical.

§ 8.5 Appraisement of property subject to forfeiture.

Seized property shall be appraised. The appraisement shall be the function of the Special Agent in Charge, Federal Bureau of Investigation or his designee having custody of the property. The value of an article seized shall be the price at which it or a similar article is fairly offered for sale at the time and place of appraisement.

§ 8.6 Quick-release authority.

Where the forfeiture proceedings are administrative, the Special Agent in Charge, prior to forfeiture, is authorized to release property seized for forfeiture. The property can be quick-released when the Special Agent in Charge deems that there is an innocent owner having an immediate right to possession of the property or when the release would be in the best interest of justice and the Government.

§ 8.7 Judicial forfeiture.

If the appraised value is greater than $100,000 or a claim and satisfactory bond have been received for property appraised at $100,000 or less, the Special Agent in Charge of the FBI field office that seized the property shall transmit the claim and bond to the U.S. Attorney for the judicial district in which the seizure was made for the purpose of instituting judicial forfeiture proceedings. Also transmitted with the claim and bond will be description of the property and a complete statement of the facts and circumstances leading to the seizure of the property.

§ 8.8 Notice of seizure when value does not exceed $100,000; advertisement; Declaration of Forfeiture.

(a) The notice required by customs laws, section 607, Tariff Act of 1930, as amended (19 U.S.C. 1607), of seizure and intention to forfeit and sell or otherwise dispose of property not exceeding $100,000 in value seized pursuant to the statutes identified in 8.1, shall describe the property seized, state the date seized, cause, and place of seizure; and state that any person desiring to claim the property must file with the Special Agent in Charge, Federal Bureau of Investigation (FBI) within 20 days from the date of the first publication of the notice a claim to such property and a bond.

(b) The bond amount shall be $2,500 or ten percent of the value of the claimed property whichever is lower, but not less than $250. The bond posted to cover costs may be in cash, certified check, or satisfactory sureties. When the claim and bond are received by the Special Agent in Charge, he shall, after finding the documents in proper form and the sureties satisfactory, transmit the documents, together with a description of the property and a complete statement of the facts and circumstrances surrounding the seizure, to the United States Attorney for the judicial district in which the seizure was made for purpose of proceeding to forfeiture of the property in a manner prescribed by law. If the documents are not in satisfactory condition when first received, a reasonable time for correction may be allowed. If correction is not made within a reasonable time, the documents may be treated as nugatory, and the administrative forfeiture shall proceed as though they had not been tendered. The filing of the claim and the posting of the bond does not entitle the claimant to possession of the property, however, it does stop the administrative forfeiture proceeding.

(c) The notice for administrative forfeiture proceedings shall be published once each week for at least three successive weeks in a newspaper of general circulation in the judicial district in which the property was seized. If a claim is not made within the time period, the FBI Property Management Officer shall declare the property forfeited.

§ 8.9 Disposition of Forfeited Property.

(a) If the laws of a state in which an article of forfeited property is located prohibit the sale of such property or if the United States Marshals Service is of the opinion that it would be more advantageous to sell the forfeited property in another district, the property may be moved to and sold in such other district as the United States Marshals Service may direct.

(b) If, after the administrative forfeiture of property is completed, it appears that the proceeds of sale will not be sufficient to pay the costs of sale or the proceeds will be insignificant in relation to the expenses involved in the forfeiture, the United States Marshals Service may order the destruction of the property. Similarly, property forfeited under a decree of a court may be destroyed in accordance with section 611, Tariff Act of 1930 (19 U.S.C. 1611). Also, if the sale or use of any article is prohibited under any law of the United States or the state where it is stored, the United States Marshals Service may order it destroyed or cause alteration of the property into an article that is not prohibited.

(c) If arms and munitions are forfeited pursuant to 22 U.S.C. 401(c), the Secretary of Defense should be contacted to determine if he desires this property.

§ 8.10 Remission or mitigation of forfeiture

(a) Any person claiming a legal or equitable interest in any property which has been forfeited pursuant to statutes identified in 8.1, may file, in accordance with the provisions of 28 Code of Federal Regulations (CFR) Part 9, a petition for remission or mitigation of the forfeiture or a petition for restoration of the proceeds of sale or for value of the property placed in official use. If the foreiture proceedings are administrative, the petition shall be addressed to the Director of the FBI and shall be filed in triplicate with the Special Agent in Charge of the FBI field office that seized the property. It must be executed and sworn to by the person alleging interest in the property. If the forfeiture proceedings are judicial, the petition shall be addressed to the Attorney General of the United States and filed in triplicate with the Special Agent in Charge of the FBI field office that seized the property. The petition for a judicial forfeiture shall be sworn to by the petitioner, or by his or her counsel upon information and belief.

(b) The petition shall include the following: (1) A complete description of the property, including model and serial numbers, if any, and the date and place of seizure; (2) the petitioner's interest in the property, which shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and, (3) the facts and circumstances, established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation of the forfeiture. For further information regarding the content of a petition, see 28 CFR 9.5.

(c) Where the petition is for restoration of the proceeds of sale, or for value of the property placed in official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration of forfeiture and was in such circumstances as prevented petitioner from knowing of the same.

(d) A petition for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the notice of seizure. Once forfeited property is disposed of, a petition for remission or mitigation of forfeiture will no longer be accepted. A petition for restoration of proceeds of sale or for value of the property placed in official use must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

(e) Upon receipt of a petition, an appropriate investigation shall be conducted by the FBI. No hearing shall be held. For administrative forfeitures, the petition and the results of the petition investigation shall be forwarded to the Legal Counsel Division, FBI. Final decisions on petitions for property forfeited administratively shall be made by the Assistant Director, Legal Counsel, FBI or his designee within the Legal Counsel Division, FBI. For judicial forfeitures, the petition and the results of the petition investigation shall be forwarded to the United States Attorney who prosecuted the property. The United States Attorney shall forward the petition and the results of the investigation together with a recommendation as to allowance or denial of the petition to the Assistant Attorney General, Criminal Division. The matter shall be assigned to the Asset Forfeiture Office who shall either grant the petition by remission or mitigation of the forfeiture or shall deny it.

(f) A request for reconsideration of the denial of the petition for an administrative forfeiture must be submitted within 10 days from receipt of the letter denying the petition. Such request shall be addressed to the Director of the FBI for referral to the FBI Legal Counsel Division and shall be based on evidence recently developed or not previously considered. Only one request for reconsideration of a denial of a petition shall be considered. For further information regarding petitions see 28 CFR Part 9.

Dated: February 27, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86-5462 Filed 3-13-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

South Carolina State Plan; Approval of Revised Compliance Staffing Benchmarks; Corrections

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of revised compliance staffing benchmarks.

SUMMARY: In FR Doc. 86-867 published January 17, 1986, OSHA amended Subpart C of 29 CFR Part 1952 to reflect the Assistant Secretary's approval of revised compliance staffing requirements for the South Carolina State plan and to make related revisions. In redesignating §§ 1952.102, "Level of Federal Enforcement," and 1952.101, "Where the plan may be inspected," as §§ 1952.105 and 1952.106, respectively, the redesignated sections inadvertently duplicated sections already codified under Subpart D of 29 CFR Part 1952 related to the Oregon State plan. This notice will correct that error by redesignating §§ 1952.100, 1952.101, 1952.102, 1952.103, 1952.104, 1952.105 and 1952.106 under Subpart C as §§ 1952.90, 1952.91, 1952.92, 1952.93, 1952.94, 1952.95 and 1952.96, and by making minor editorial modifications to reflect these redesignations. For the purposes of clarity, the full text of "Subpart C—South Carolina" is contained in this notice.

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of

Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3637, 200 Constitution Avenue NW., Washington, DC 20210. Telephone (202) 523-8148.

List of Subjects in 29 CFR Part 1952

Intergovernmental relations, Law enforcement, Occupational safety and health.

(Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9-83 (48 FR 35736))

Signed at Washington, DC this 10th day of March 1986

Patrick R. Tyson,

Acting Assistant Secretary.

PART 1952—[AMENDED]

Accordingly, 29 CFR Part 1952 is hereby amended as follows:

1. The authority citation for Part 1952 continues to read:

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 90-83 (48 FR 35736).

2. The table of contents for Part 1952 Subpart C is revised to read as follows:

Subpart C—South Carolina

Sec
1952.90 Description of the plan as initially approved.
1952.91 Developmental schedule.
1952.92 Completion of developmental steps and certification.
1952.93 Compliance staffing benchmarks.
1952.94 [Reserved]
1952.95 Level of Federal enforcement.
1952.96 Where the plan may be inspected.

3. Section 1952.100 is revised and redesignated as new § 1952.90 to read as follows:

§ 1952.90 Description of the plan as initially approved.

(a) The plan identifies the South Carolina Department of Labor as the State agency designated to administer the plan. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c)(1) of this chapter. The plan states that the Department of Labor has been promulgating safety and health standards. The South Carolina Commissioner of Labor is promulgating all standards and amendments thereto which have been promulgated by the Secretary of Labor, except those found in §§ 1910.13; 1910.14; 1910.15; and 1910.16 of this chapter (ship repairing, shipbuilding, shipbreaking, and longshoring). The plan describes procedures for the development and promulgation of additional standards, enforcement of such standards, and the prompt restraint or elimination of imminent danger situations. The South Carolina Legislature passed enabling legislation in 1971, a copy of which was submitted with the original plan. Section 40-261 through 40-274 South Carolina Code of Laws, 1962. The amendments to the plan include proposed amendments to this legislation to more fully bring the plan into conformity with the requirements of Part 1902. Under the amended legislation, the South Carolina Department of Labor will have full authority to administer and enforce all laws, rules, and orders protecting employee safety and health in all places of employment in the State.

(b) The plan includes a statement of the Governor's support for the legislative amendments and a legal opinion that the amended act will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the constitution and laws of South Carolina. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902 upon enactment of the proposed legislative amendments.

4. Section 1952.101 is revised and redesignated as new § 1952.91 to read as follows:

§ 1952.91 Developmental schedule.

The South Carolina plan is developmental. The following is the schedule of the developmental steps provided by the plan:

(a) Introduction of the above-mentioned legislative amendments in the legislative session following approval of the plan.

(b) Public hearings and adoption of Federal standards to be completed by December 1972.

(c) A management information system to be completed by no later than June 30, 1974.

(d) A voluntary compliance program to be completed by no later than June 30, 1974.

(e) An occupational safety and health program for public employees to be completed by no later than June 30, 1974.

(f) A program for the coverage of agriculture workers to be completed no later than June 30, 1973.

(g) An approved merit system covering employees implementing the plan to be effective 90 days following approval of the plan.

(h) A revised compliance manual to be completed within 6 months following approval of the plan.

5. Section 1952.102 is revised and redesignated as new § 1952.92 to read as follows:

§ 1952.92 Completion of developmental steps and certification.

(a) In accordance with § 1952.91(a) legislative amendments were introduced into the 1973 South Carolina General Assembly and were enacted effective June 12, 1973. The amendments have been supplemented by State commitments to: (1) Take action on all employee discrimination complaints within 90 days, and (2) limit the duration of temporary variances to a maximum of two years, inclusive of any renewals.

(b) In accordance with § 1952.91(b) the South Carolina occupational safety and health standards, identical to Federal standards (through December 3, 1974), have been promulgated and were approved by the Assistant Regional Director for Occupational Safety and Health effective April 10, 1975 (40 FR 16257).

(c) In accordance with § 1952.91(d) a voluntary compliance program, to be known as the Taxpayers' Assistant Program, has been developed.

(d) In accordance with § 1952.91(f) coverage of agricultural workers began on July 1, 1973, and was initiated directly by the South Carolina Department of Labor. (The State plan has been amended to delete the proposal to delegate such responsibility to the State Department of Agriculture.)

(e) In accordance with § 1952.91(g) the State plan has been amended to show extensions of merit system coverage to the South Carolina Department of Labor, Division of Occupational Safety and Health. Agreement with the Department of Health and Environmental Control requires that all health personnel cooperating in the State occupational safety and health program be likewise covered by the State merit system.

(f) In accordance with the requirements of § 1952.10 the South Carolina Safety and Health Poster for private and public employees was approved by the Assistant Secretary on February 19, 1976.

(g) In accordance with § 1952.91(c) development of a management information system designed to provide the data required by the Assistant Secretary and information necessary for internal management of resources and evaluation of State program performance has been completed.

(h) The State plan has been amended to include the details of a public employee program. State and local government employees will be afforded protection identical to that of employees in the private sector.

(i) The South Carolina plan has been amended to include an expanded radiation health effort. The Division of

Radiological Health, South Carolina Department of Health and Environmental Control, under contract to the South Carolina Department of Labor will make inspections to provide coverage of radiation hazards not subject to regulation under the Atomic Energy Act of 1954.

(j) In accordance with plan commitments, South Carolina regulations for enforcement of standards and review of contested cases, Article IV, were revised and repromulgated on June 5, 1975. Further amendment to section 4.00K (September 26, 1975) and a January 15, 1976, letter of supplemental assurances from Commissioner Edgar L. McGowan are considered integral parts of the approved South Carolina review procedures. On March 11, 1976, the State of South Carolina promulgated the necessary changes to Article IV to fulfill the commitments contained in their January 15, 1976, letter of supplemental assurances.

(k) The State plan has been amended to include an Affirmative Action Plan in which the State outlines its policy of equal employment opportunity.

(l) In accordance with § 1952.91(h) the State has developed and amended a Compliance Manual which defines the procedures and guidelines to be used by the South Carolina compliance and consultation staff in carrying out the goals of the program.

(m) In accordance with § 1902.34 of this chapter, the South Carolina occupational safety and health plan was certified, effective August 3, 1976, as having completed all developmental steps specified in the plan as approved on November 30, 1972, on or before December 31, 1975.

6. Section 1952.103 is revised and redesignated as new § 1952.93 to read as follows:

§ 1952.93 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL–CIO* v. *Marshall* compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 South Carolina, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 17 safety and 12 health compliance officers. After opportunity for public comment and service on the AFL–CIO, the Assistant Secretary approved these revised staffing requirements on January 17, 1986.

7. Section 1952.104 which is presently reserved, is removed, and new § 1952.94 is added and reserved.

8. Section 1952.105 is revised and redesignated as new § 1952.95 to read as follows:

§ 1952.95 Level of Federal enforcement.

Pursuant to §§ 1902.20(b)(1)(iii) and 1954.3 of this chapter under which an agreement has been entered into with South Carolina, effective May 9, 1975, which agreement was subsequently amended effective April 26, 1979, and May 23, 1984, and based on a determination that South Carolina is operational in issues covered by the South Carolina Occupational Safety and Health Plan, discretionary Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Part 1910 and Part 1926. The U.S. Department of Labor will continue to exercise authority, among other things, with regard to: complaints filed with the U.S. Department of Labor alleging discrimination under section 11(c) of the Act (29 U.S.C. 660(c)); enforcement of new Federal standards until the State adopts a comparable standard; situations where the State is refused entry and is unable to obtain a warrant or enforce the right of entry; enforcement of unique and complex standards as determined by the Assistant Secretary; enforcement in situations where the State is temporarily unable to exercise its enforcement authority fully or effectively; enforcement on all active military reservations; enforcement over maritime and longshoring activities, which include the entire premises of any private sector establishment at least part of which is located upon navigable waters (such enforcement authority over maritime activities includes the enforcement of any applicable provision, standard, rule or order under the Act, including 29 CFR Parts 1910, 1915, 1917, 1918, 1919, and 1926); and investigations and inspections for the purpose of evaluation of the South Carolina Plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)). The State shall retain inspection and enforcement authority over any establishment which is engaged in the construction of vessels and which is not located upon the navigable waters. Such enforcement authority shall include the enforcement of the State's general industry standards (comparable to 29 CFR Part 1910) and the State's "general duty clause" (comparable to section 5(a)(1) of the Act). The State shall exercise enforcement authority over all on-shore maritime construction activities, except where they are regulated by the Coast Guard or Army Corps of Engineers. The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for the resumption of the exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in South Carolina. (Secs. 8(g), 18, Pub. L. 91–596, 84 Stat 1600, 1608; (29 U.S.C. 657(a), 667)); Secretary of Labor's Order No. 9–83 (48 FR 35736); 29 CFR 1953) [49 FR 30173, July 27, 1984].

9. Section 1952.106 is revised and redesignated as new § 1952.96 and to read as follows:

§ 1952.96 Where the plan may be inspected.

A copy of the principal documents comprising the plan may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3476, Washington, DC 20210; Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1375 Peachtree Street NE., Suite 587, Atlanta, Georgia 30309; and Office of the Commissioner, South Carolina Department of Labor, 3600 Forest Drive, P.O. Box 11329, Columbia, South Carolina 29211.

[FR Doc. 86–5687 Filed 3–13–86; 8:45 am]
BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefit in Single-Employer Plans; Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning April 1, 1986. The interest rates and factors are to be used to value benefits provided under terminating single-employer pension plans covered

by Title IV of the Employee Retirement Income Security Act of 1974.

The valuation of plan benefits is necessary because, under section 4041 of the Act, the Pension Benefit Guaranty Corporation ("PBGC") and the plan administrator must determine whether a terminating pension plan has sufficient assets to pay all benefits under the plan that are guaranteed by the PBGC under the Title IV plan termination insurance program.

The interest rates and factors set forth in Appendix B to Part 2619 are adjusted periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after April 1, 1986, and will enable the PBGC and plan administrators to value the benefits provided under those plans. These rates and factors will remain in effect until Appendix B of the regulations is again amended.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–956–5050 (202–956–5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On January 28, 1981, the PBGC published a final regulation on the valuation of plan benefits in single-employer plans (46 FR 9492). That regulation, codified at 29 CFR Part 2619 (1985), sets forth the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1982), *as amended.* The regulation contains formulas for valuing different types of benefits. Appendix B to the regulation sets forth the interest rates and factors that are to be used in the formulas. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

As published in the 1985 edition of 29 CFR, Appendix B of Part 2619 contains interest rates and factors for valuing benefits in plans that terminated during various periods from September 2, 1974 through at least July 31, 1985. The July 1985 rates and factors continued in effect until the PBGC published new rates and factors for plans terminating during the months of October 1985 through December 1985 (50 FR 37354), January 1986 (50 FR 50899), and February 1986 (51 FR 1788).

Changes in the financial and annuity markets now require a decrease in the rates used for valuing benefits. Although the PBGC usually changes its rates by an interval of ¼ percent, rapid changes in financial markets have indicated that a decrease of ½ percent is warranted at this time. Accordingly, this amendment adds to Appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after April 1, 1986, which set reflects a decrease of ½ percent in the interest rate to 8 percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment concerning them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This determination is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions. The PBGC has found that the public interest is best served by issuing the rates and factors on a prospective basis so that plans may be able to calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination.

Because of the need to provide immediate guidance for the valuation of benefits of plans that will terminate on or after April 1, 1986, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for Part 2619 continues to read as follows:

Authority: Secs. 4002(b)(3), 4041(b), 4044, 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029, as amended by secs. 403(1), 403(d), 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, 1299 (29 U.S.C. 1302, 1341, 1344, 1362).

2. Rate Set 61 of Appendix B is revised and Rate Set 62 of Appendix B is added to read as follows. The introductory text is shown for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used To Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "G_y" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate(%)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*	*	
61	2-1-86	4-1-86	8.50	1.0775	1.0650	1.0400	7	8
62	4-1-86		8.00	1.0725	1.0600	1.0400	7	8

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-5633 Filed 3-13-86; 8:45 am]
BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of Permanent Program Amendments From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of amendments to the Indiana Permanent Regulatory Program (hereinafter referred to as the Indiana program) received by OSMRE pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On December 10, 1985, Indiana submitted amendments to its program requirements regarding conduct of administrative adjudication act hearings. Indiana also submitted, on December 16, 1985, a non-substantive amendment to 310 IAC 12-5-148 regarding soil replacement standards for prime farmlands.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSMRE, has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving these amendments. The Federal rules at 30 CFR Part 914 which codify decisions concerning the Indiana program are being amended to implement this action.

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

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. Rieke, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32071-32108). Subsequent actions concerning the Indiana program are identified in 30 CFR 914.15 and 30 CFR 914.16.

II. Discussion of Proposed Amendment

On December 10, 1985, and December 16, 1985, the Indiana Department of Natural Resources submitted to OSMRE pursuant to 30 CFR 732.17, proposed State program amendments for approval (Administrative Record No. IND 447).

The amendments of December 10, 1985, modify requirements in Indiana's procedural rule for the conduct of administrative adjudication act hearings at 310 IAC 0.5 Rule 1. These amendments were submitted to satisfy requirements set forth under 30 CFR 914.16 (c)(2) and (c)(3) and also contain further revisions to the rule.

The amendment submitted on December 16, 1985, was inadvertently omitted from the State's December 7, 1984 amendment package that was approved by the Director on May 15, 1985 (50 FR 20206). This amendment contains non-substantive changes to 310 IAC 12-5-148, to delete part of the rule's title and to change cross-references in the rule to reflect other amendments.

OSMRE published a notice in the **Federal Register** on January 9, 1986, announcing receipt of the proposed program amendments submitted on December 10, 1985, and December 16, 1985, and procedures for the public comment period and for requesting a public hearing on the substantive adequacy of the proposed amendments (51 FR 989). The public comment period ended February 10, 1986. There was no request for a public hearing and the hearing scheduled for February 3, 1986, was not held.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the program amendments submitted by Indiana on December 10, 1985, and December 16, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII. Only those areas of particular interest are discussed below in the specific findings. Discussion of only those provisions for which findings are made does not imply any deficiency in any provision not discussed.

1. Indiana has deleted the definition of the term "hearing officer" from 310 IAC 0.5-1-1, consistent with its changes to other sections of 310 IAC 0.5-1 which delete the term "hearing officer" and replace it with "administrative law judge." The Director finds the deletion to be consistent with Indiana's deletion of the term "hearing officer" throughout 310 IAC 0.5 Rule 1.

2. Indiana has deleted the term "hearing officer" and substituted the term "administrative law judge" throughout 310 IAC 0.5 Rule 1. The Director finds the substitution to be consistent with the requirements in 43 CFR Part 4 corresponding to the Indiana rules.

3. Indiana has amended 310 IAC 0.5-1-9 to clarify that the provisions of 310 IAC 0.5-1-8(a) control the filing of a response to an amended claim.

The amendment clarifies the language of the rule to agree with the State's interpretation of the rule, as it was approved by the Director on May 16, 1985 (50 FR 20413).

4. Indiana has amended 310 IAC 0.5-1-16 to clarify requirements for awards for expenses and attorney fees and to add the requirement to pay the cost of a court reporter if the person requesting a hearing fails to appear at the hearing. Paragraph (a)(2) is amended to delete the phrase which allows consideration of whether the result would not have been obtained without participation of the person seeking the award, in determining whether to make an award for costs and expenses. The Director finds that the change to paragraph (a)(2) satisfies the required amendment at 30 CFR 914.16(c)(3). The other changes are consistent with the Federal requirements at 43 CFR Part 4.

5. Indiana has added 310 IAC 0.5-1-17 to establish requirements for employing a court reporter and for obtaining transcripts. The Director finds that these changes are not in conflict with Federal requirements and are consistent with the requirements of 43 CFR Part 4 for transcripts of hearings and for copies of transcripts.

6. Indiana has added 310 IAC 0.5-1-18 to provide that the administrative law judge shall govern the conduct of a hearing and shall provide for a separation of the witnesses upon a motion by a party before commencement of testimony. The Director finds the amendment consistent with the Federal requirements in 43 CFR Part 4.

7. Indiana has added 310 IAC 0.5-1-19 to provide that, upon a motion by a party, the administrative law judge may join a person as a claimant or respondent who was not previously a party, if the joinder is appropriate to a

full and fair determination. The Director finds the provision consistent with Federal requirements at 43 CFR Part 4.

8. Indiana has submitted an advisory letter from the Office of the Attorney General, dated April 23, 1985, which advises that IC 13–4.1–11–9 and 310 IAC 0.5–1–16 waive the government's immunity regarding an award of costs and expenses against the Indiana Department of Natural Resources arising pursuant to IC 13–4.1. The Director finds that this letter satisfies the requirements of 30 CFR 914.16(c)(2) that Indiana either submit an Attorney General opinion or amend its rule, to provide that awards may be made against the State.

9. Indiana has amended 310 IAC 12–5–148 to delete the title words "Prime Farmland, Soil Replacement" from the introductory paragraph of the rule and to change the rule sections cross-referenced in paragraph (b) to read "310 IAC 12–5–54.1 through 310 IAC 12–5–58 or 310 IAC 12–5–119.1 through 310 IAC 12–5–122" to reflect amended section numbers. The Director finds that the amendments simplify and clarify the rule and do not alter its effectiveness.

IV. Public Comments

No public comments were received on the amendments.

V. Director's Decision

The Director, based on the above findings, is approving the Indiana regulatory amendments as submitted on December 10, 1985 and December 16, 1985, including the letter from the Attorney General's Office dated April 23, 1985, under the provisions of 30 CFR 732.17. The Federal rules at 30 CFR Part 914 are being amended to implement this decision.

VI. Procedural Matters

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

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 914

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

Dated: March 7, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

PART 914—INDIANA

30 CFR Part 914 is amended as follows:

1. The authority citation for Part 914 continues to read as follows:

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

2. 30 CFR 914.15 is amended by adding new paragraphs (k) and (l) as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(k) The following amendments submitted by the Indiana Department of Natural Resources to OSMRE on December 10, 1985, are approved effective March 14, 1986: amendments to the Indiana regulations at 310 IAC 0.5–1–1, 310 IAC 0.5–1–2, 310 IAC 0.5–1–3, 310 IAC 0.5–1–4, 310 IAC 0.5–1–5, 310 IAC 0.5–1–8, 310 IAC 0.5–1–9, 310 IAC 0.5–1–10, 310 IAC 0.5–1–11, 310 IAC 0.5–1–12, 310 IAC 0.5–1–13, 310 IAC 0.5–1–15, 310 IAC 0.5–1–16, 310 IAC 0.5–1–17, 310 IAC 0.5–1–18, 310 IAC 0.5–1–19; and the advisory letter from the Indiana State Office of the Attorney General dated April 23, 1985.

(l) The following amendments submitted by the Indiana Department of Natural Resources to OSMRE on December 16, 1985, are approved effective March 14, 1986: amendments to the Indiana regulations at 310 IAC 12–5–148.

§ 914.16 [Amended]

3. 30 CFR 914.16 is amended by removing paragraphs (c)(2) and (c)(3) and reserving paragraph (c)(2) as follows:

* * * * *

(c) * * *

(2) [Reserved]

* * * * *

[FR Doc. 86–5444 Filed 3–13–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 513

[Army Regulation 600–15]

Indebtedness of Military Personnel; Claim Processing Policies

Correction

In FR Doc. 86–4290 beginning on page 7268 in the issue of Monday, March 3, 1986, make the following corrections:

1. On page 7269, in the first column, in § 513.1(d)(2)(iii), in the first line, "of the" should read "of this".

2. On page 7270, in the second column, in § 513.2(a)(3)(iii), in the third line, "the requirements" should read "these requirements"; and in the fifth line, "USACFC" should read "USACFSC".

3. On page 7273, in the third column, in § 513.5(c), in the fourth line, "discussed" should read "disclosed".

4. On page 7275, in the first column, in the third paragraph, headed "Debt" in the second line, "where" should read "which".

BILLING CODE 1505–01–M

POSTAL SERVICE

39 CFR Part 265

Disclosure of Change of Address and Post Office Boxholder Information; Conforming Regulations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to conform Postal Service regulations on the disclosure of change of address and post office boxholder information appearing in the Code of Federal Regulations with the disclosure policy reflected by recently changed Postal Service records systems containing change of address and boxholder information. This rule also modifies these regulations to eliminate reference to the $1.00 fee that was to be charged to Federal, State or local Government agency requesters as of January 1, 1985. The effective date for payment of this fee has been indefinitely postponed. The changes published here reflect no change in postal policy; they merely make one set of regulations consistent

with changes previously made to another set.

EFFECTIVE DATE: March 14, 1986.

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

SUPPLEMENTARY INFORMATION: On November 15, 1985, the Postal Service published in the **Federal Register** (50 FR 47311) final notice of changes to record systems USPS 010.010—Collection and Delivery Records—Address Change and Mail Forwarding Records, and USPS 010.020—Collection and Delivery Records—Boxholder Records. The background and rationale for these changes was published in the **Federal Register** on July 16, 1985 (50 FR 28862), and comments were requested from the public. No comments were received. Accordingly, the Postal Service published its final rule on November 15, 1985, as stated above. The changes being made here merely conform the following Postal Service regulations on the release of information published in the Code of Federal Regulations (in 39 CFR 265.6(d) and §§ 265.8 (d)(3) and (e)(8)) with the above described recently changed Postal Service record systems.

Further, on November 29, 1984, the Postal Service published in the **Federal Register** (49 FR 46895) notice of indefinite postponement of its intent to begin charging a $1.00 fee for providing information about a postal customer's address to Federal, State, or local Government agency requesters as of January 1, 1985. Sections 265.6(d)(8) and 265.8(e)(8) have been changed and § 265.8(d)(4) deleted to eliminate reference to this fee.

Accordingly, Part 265 of 39 CFR is amended as follows:

List of Subjects in 39 CFR Part 265

Release of information, Postal Service.

PART 265—RELEASE OF INFORMATION

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

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

2. Section 265.6(d) is revised to read as follows:

§ 265.6 Availability of records.

* * * * *

(d) *Disclosure of Names and Addresses of Customers.* Upon request, the addresses of specifically identified postal customers will be made available only as follows:

(1) *Permanent change of address.* The new address of any specific customer who has filed a permanent Change of Address Order (PS Form 3575) will be furnished to any person upon payment of the prescribed fee. See paragraphs (d)(3) and (e)(8) of § 265.8. Disclosure will be limited to the address of the specifically identified individual about whom the information is requested (*i.e.*, not other individuals or family members whose names may also appear on the change of address order). Other information on Form 3575 or copies of the form will not be furnished except in those circumstances stated at paragraphs (d)(6)(i), (d)(6)(iii), or (d)(6)(iv) of this section. The fee is waived for providing information under these latter circumstances. See paragraph (e)(8) of § 265.8.

(2) *Temporary change of address.* Information from temporary change of address orders will be furnished only in those circumstances stated at paragraphs (d)(6)(i) through (d)((6)(iv) of this section. Copies of the change of address order form will be furnished only in those circumstances stated at paragraphs (d)(6)(i), (d)(6)(iii), or (d)(6)(iv) of this section. The fee is waived for providing information under these latter circumstances. See paragraph (e)(8) of § 265.8.

(3) *Name and address of permit holder.* The name and address of the holder of a particular bulk mail permit, permit imprint or similar permit, or postage meter permit, and the name of any person applying for a permit in behalf of a holder, will be furnished to any person upon the payment of any fees authorized by paragraph (d)(2) of § 265.8. (Lists of permit holders may not be disclosed to members of the public. See paragraph (e)(1) of this section.)

(4) *Post office box address.* The recorded post office box address of a customer whose mail is redirected to a post office box will be furnished in accordance with paragraph (d)(1) of this section upon payment of the prescribed fee.

(5) *Fee office boxholder information.* Information *from* Form 1093, *Application for Post Office Box or Caller Number,* will be provided only as follows:

(i) *Business use*—The recorded name, address, and telephone number of the holder of a post office box being used for the purpose of doing or soliciting business with the public, and any person applying for a box in behalf of a holder, will be furnished to any person without charge. The postmaster may furnish this information from Form 1093 when he is satisfied from the entries appearing on it, or from evidence furnished by the requester (such as an advertising circular), that the box is being used for such a business purpose. When the postmaster is unable to determine whether a business use is involved, he shall refer the request to Regional Counsel for advice.

(ii) *Non-business use*—Information from Form 1093 about the holder of a post office box which is not being used for the purpose of doing or soliciting business with the public will not be furnished except in those circumstances stated at paragraphs (d)(6)(i) through (d)(6)(iv) of this section.

(iii) *Copies of Form 1093*—Copies of Form 1093 will not be furnished except in those circumstances stated at paragraphs (d)(6)(i), (d)(6)(iii), or (d)(6)(iv) of this section.

(6) *Exceptions.* Except as otherwise provided in these regulations, names or addresses of postal customers will be furnished only as follows:

(i) To a federal, state or local government agency upon prior written certification that the information is required for the performance of its duties.

(ii) To a person empowered by law to serve legal process, or the attorney for a party in whose behalf service will be made, or a party who is acting *pro se,* upon receipt of written information that specifically includes all of the following: (A) A certification that the name or address is needed and will be used solely for service of legal process in connection with actual or prospective litigation; (B) a citation to the statute or regulation which empowers the requester to serve process, if pertinent; (C) the names of all known parties to the litigation; (D) the court in which the case has been or will be commenced; (E) the docket or other identifying number, if one has been issued; (F) the capacity in which the boxholder is to be served, *e.g.*, defendant or witness; and (G) a brief description of the nature of the litigation, *e.g.*, domestic relations, personal injury, property damage, indebtedness. By submitting such information, the requester certifies that it is true.

Note.—The term *pro se* means that a party is not represented by an attorney, but is representing himself.

(iii) In compliance with a subpoena or other court order.

(iv) To a law enforcement agency, for oral requests made through the Inspection Service, but only after the Inspection Service has confirmed that the information is needed in the course of a criminal investigation. (All other requests from law enforcement agencies should be submitted in writing to the postmaster as in paragraph (d)(6)(i) of this section.)

(7) *Jury service.* The mailing address of any customer sought in connection

with jury service, if known, will be furnished without charge upon prior written request to a court official, such as a judge, court clerk or jury commissioner.

(8) *Address verification.* The address of a postal customer will be verified at the request of a Federal, State, or local government agency upon written certification that the information is required for the performance of the agency's duties. "Verification" means advising such an agency whether or not its address for a postal customer is one at which mail for that customer is currently being delivered. "Verification" neither means nor implies knowledge on the part of the Postal Service as to the actual residence of the customer or as to the actual receipt by the customer of mail delivered to that address. The Postal Service requires government agencies to use the following format when requesting the verification of a customer's current address or a customer's new mailing address. If the request lacks any of the required information or a proper signature, or if the request has been sent to the wrong post office, the postmaster will return the request to the agency, specifying the deficiency in the space marked "OTHER".

(AGENCY LETTERHEAD)

To: Postmaster

Agency Control No. _____

_____

Date: _____

ADDRESS INFORMATION REQUEST

Please furnish this agency with the new address, if available, for the following individual or verify whether or not the address given below is one at which mail for this individual is currently being delivered. If the following address is a post office box, please furnish the street address as recorded on the boxholder's application form.

Name: _____

Last Known Address: _____

I certify that the address information for this individual is required for the performance of this agency's official duties.

_____

(Signature of Agency Official)

_____

(Title)

FOR POST OFFICE USE ONLY

[ ] MAIL IS DELIVERED TO ADDRESS GIVEN

[ ] NOT KNOWN AT ADDRESS GIVEN

[ ] MOVED, LEFT NO FORWARDING ADDRESS

[ ] NO SUCH ADDRESS

[ ] OTHER (SPECIFY): _____

NEW ADDRESS

_____

_____

BOXHOLDER'S STREET ADDRESS

_____

_____

Agency return address

Postmark/Date Stamp

(9) *Business/Residence location.* If the location of a residence or a place of business is known to a Postal Service employee, whether as a result of official duties or otherwise, the employee may, but need not, disclose the location or give directions to it. No fee is charged for such information.

(10) *Form 1583, Application for Delivery of Mail Through Agent.* Information contained in Form 1583 will not be made available to the public.

3. In § 265.8, paragraph (d)(4) is deleted and paragraphs (d)(3) and (e)(8) are revised to read as follows:

§ 265.8 Schedule of fees.

* * * * *

(d) *Other costs* * * *

(3) *Change of address orders.* Although change of address information is not required by the Freedom of Information Act to be made available to the public, the fee for obtaining this information in accordance with paragraph (d)(1) of § 265.6 is included in this section as a matter of convenience. The fee for searching for a change of address order is $1.00. This fee is charged regardless of whether a permanent change of address is found on file. (See paragraph (e)(8) of this section.)

(e) *Payment and waiver of fees.* * * *

(8) *Waiver of fee for changes of address.*

The fee prescribed by paragraph (d)(3) of this section is waived when change of address information is provided:

(i) To a Federal, state or local government agency upon prior written certification that the information is required for the performance of its duties.

(ii) To persons requesting the information for the purpose of serving legal process in accordance with paragraph (d)(6)(ii) of § 265.6.

(iii) In compliance with a subpoena or other court order.

(iv) To a law enforcement agency, for oral requests made through the Inspection Service in accordance with paragraph (d)(6)(iv) of § 265.6.

(v) To postage meter manufacturers when they are attempting to locate a missing meter.

This waiver does not apply to fees for services performed in accordance with

section 122.5 of the *Domestic Mail Manual*.

* * * * *

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 86-5642 Filed 3-13-86; 8:45 am]

BILLING CODE 7710-12-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. C85-1; Order No. 677]

Amendment to Domestic Mail Classification Schedule; Complaint of Advo-System, Inc.

Issued: March 7, 1986.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: In accordance with March 3, 1986, adoption of the Postal Rate Commission's recommended Docket No. C85-1 decision by the Governors of the Postal Service, the Commission is publishing the corresponding changes for the Domestic Mail Classification Schedule (DMCS). The DMCS is found as Appendix A to Subpart C of the Commission's rules of practice and procedure (39 CFR 3001.61 through 3001.67). This change concerns the eligibility requirements for entry into second-class mail.

EFFECTIVE DATE: June 8, 1986.

ADDRESS: Correspondence should be sent to Charles L. Clapp, Secretary of the Commission, 1333 H Street, NW., Washington, DC 20268 (telephone: 202/789-6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 1333 H Street, NW., Washington, DC 20268 (telephone: 202/789-6820).

SUPPLEMENTARY INFORMATION: On December 27, 1984, Advo-Systems, Inc., pursuant to 39 U.S.C. 3662, filed a complaint concerning the use of second-class mail for "Plus" or "total market coverage" editions published by newspapers. The Commission invited interested persons to comment and participate in the proceeding. 50 FR 5703 (February 11, 1985) and 50 FR 11035 (March 19, 1985). The parties agreed upon factual components for the evidentiary record. Additionally, parties in the proceeding submitted a nonunanimous settlement agreement. The Commission gave the parties the opportunity to file briefs and reply briefs and to participate in oral argument. On January 24, 1986, the Commission issued a decision recommending the addition of § 200.0123 to the DMCS. The Board of Governors approved the recommended decision on March 3, 1986, and set June 8, 1986, as the effective date for the change. The addition to the DMCS which is published in this order reflects the Governors' decision. Consistent with the Commission's explanation in the rulemaking (Docket No. RM85-1) which led to the publication of the DMCS in the **Federal Register**, this addition is published as a final rule, since procedural safeguards and ample opportunities to have different viewpoints considered have already been afforded to all interested persons.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

PART 3001—RULES OF PRACTICE AND PROCEDURE

Subpart C—Rules Applicable To Requests for Establishing or Changing the Mail Classification Schedule

List of Changes

1. The authority citation for Part 3001 is revised to read as follows and the authority citations following all sections in Part 3001 are removed:

Authority: 39 U.S.C. 404(b), 3603, 3622-3624, 3661, 3662, 84 Stat. 759-762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

2. The following change in the Domestic Mail Classification Schedule published as Appendix A to Subpart C (39 CFR 3001.61 through 3001.67) of the Commission's rules of practice and procedure is adopted:

Add new 200.0123 to read as follows:

200.0123 For purposes of determining second-class eligibility and postage under Classification Schedule 200, an "issue" of a newspaper or other periodical shall be deemed to be a separate publication if:

a. It is published at a regular frequency on the same day as another regular issue of the same publication, and

b. It is distributed to more than (i) 10 percent nonsubscribers, or (ii) twice as many nonsubscribers as the other issue on that same day, whichever is greater.

Such separate publications must independently meet the qualifications in section 200.0101 through 200.0109, or 200.0110.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 86-5431 Filed 3-13-86; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA Action MO 1730; FRL-2976-3]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants of Missouri

AGENCY: Environmetal Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice advises the public that EPA today takes final action to approve the State of Missouri's section 111(d) plans. These plans are for the control of fluoride emissions from phosphate fertilizer plants and from primary aluminum reduction plants, and also a plan for the control of sulfuric acid mist from sulfuric acid production plants as required under section 111(d) of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on April 14, 1986.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at:

Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Missouri Department of Natural Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Deann K. Hecht at (913) 236-2893, or FTS 757-2893.

SUPPLEMENTARY INFORMATION: On January 3, 1985, the State of Missouri submitted Section 111(d) plans for the control of: (1) Fluoride emissions from phosphate fertilizer plants; (2) fluoride emissions from primary aluminum reduction plants; and (3) sulfuric acid mist emissions from sulfuric acid production plants.

Section 111(d) of the Clean Air Act and 40 CFR Part 60, Subpart B, require that each state adopt and submit a plan for the control of designated pollutants from existing facilities. Designated pollutants do not include those for which air quality criteria have been established or which are already listed under section 108(a), relating to development of air quality criteria for certain pollutants, or section 112(b)(1)(A), Hazardous Air Pollutants.

On July 31, 1985, EPA published a notice in the **Federal Register** (50 FR 30961), proposing to approve the State's 111(d) plans. The proposal contains EPA's review of the State 111(d) plans, therefore, it will not be reiterated herein.

No public comments were received on the proposal. EPA takes this final action for the reasons set forth in the proposal.

Final Action

In today's notice, EPA takes final action to approve the State of Missouri's section 111(d) plan for the control of: (1) Fluoride emissions from phosphate fertilizer plants; (2) fluoride emissions from primary aluminum reduction plants; and (3) sulfuric acid mist emissions for sulfuric acid production plants.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from today. This action may not be challenged later in proceedings to enforce its requirements.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Administrative practice and procedures, Intergovernmental relations, Reporting and recordkeeping requirements, Phosphate, Aluminum, Feterilizers, Paper and paper products industry, Sulfuric oxides, Sulfuric acid plants.

Dated: February 21, 1985.

Lee M. Thomas,

Administrator.

PART 62—[AMENDED]

Part 62 of Chapter I, Title 40 of the Code of Federal Regulations, is amended as follows:

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

Authority: 42 U.S.C. 7401–7642.

2. Subpart AA is revised to read as follows:

Subpart AA—Missouri

Plan for the Control of Designated Pollutants From Existing Facilities [Section 111(d) Plan]

Sec.

62.6350 Identification of plan.

Fluoride Emissions From Existing Phosphate Fertilizer Plants

62.6351 Identification of sources.

Fluoride Emissions From Existing Primary Aluminum Reduction Plants

62.6352 Identification of sources.

Sulfuric Acid Mist From Existing Sulfuric Acid Production Plants

62.6353 Identification of sources.

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

62.6354 Identification of plan—negative declaration.

Subpart AA—Missouri

Plan for the Control of Designated Pollutants From Existing Facilities [Section 111(d) Plan]

§ 62.6350 Identification of plan.

(a) Identification of plan: Missouri Plan for Control of Designated Pollutants from Existing Facilities [Section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of fluoride emissions from existing facilities at phosphate fertilizer plants, and fluoride emissions from existing facilities at primary aluminum reduction plants, submitted on September 22, 1981, having been adopted by the State on June 17 and June 21, 1981. A letter conveying additional information regarding this plan was submitted on January 3, 1985.

(2) Control of sulfuric acid mist from existing facilities at sulfuric acid production plants, submitted on March 12, 1979, having been adopted by the State in 1967 and 1971. A letter providing additional information regarding this plan was submitted on January 3, 1985.

(c) Designated facilities: The plan applies to existing facilities in the following categories of sources:

(1) Phosphate fertilizer plants.

(2) Primary aluminum reduction plants.

(3) Sulfuric acid production plants.

Fluoride Emissions From Existing Phosphate Fertilizer Plants

§ 62.6351 Identification of sources.

The plan applies to existing facilities at the following phosphate fertilizer plant:

Farmers Chemical Company, Joplin, Missouri

Flouride Emissions From Existing Primary Aluminum Reduction Plants

§ 62.6352 Identification of sources.

The plan applies to existing facilities at the following primary aluminum reduction plant:

Noranda Aluminum, Inc., New Madrid, Missouri

Sulfuric Acid Mist From Existing Sulfuric Acid Production Plants

§ 62.6353 Idenification of sources.

The plan applies to existing facilities at the following sulfuric acid production plant:

W.R. Grace and Company, Joplin, Missouri

Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

§ 62.6354 Identification of plan—negative declaration.

Letter from the Director of the Missouri Department of Natural Resources submitted on May 14, 1982, certifying that there are no kraft pulp mills in the State subject to Part 60, Subpart B of this chapter.

[FR Doc. 86–4475 Filed 3–13–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[GA-009; A-4-FRL-2983-7]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Ozone Nonattainment Areas in Alabama and Georgia

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is today granting requests by Alabama and Georgia that EPA redesignate two counties in the Columbus-Phenix City Interstate Air Quality Control Region (AQCR) attainment for ozone. The two counties involved are Russell County, Alabama and Muscogee County, Georgia. The redesignation of the Columbus-Phenix City area to attainment is based on three years of ambient monitoring data showing a calculated expected exceedance of less than 1.0 and implementation of an EPA-approved control strategy.

EFFECTIVE DATE: This action is effective April 14, 1986 for all items.

ADDRESSES: Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Management Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Air Protection Branch, Environmental Protection Division, Georgia Department of Natural Resources, 270 Washington Street, SW., Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Jill Thomas, Air Programs Branch, EPA Region IV, at the above address and telephone number 404/347–4253 or FTS 257–4253.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** [43 FR 8962), EPA designated Russell County,

Alabama (Phenix City) and Muscogee County, Georgia (Columbus) nonattainment for ozone. Alabama and Georgia were therefore required to revise their respective state implementation plans (SIP) for ozone. Both States drafted and adopted control strategies based on reduction of volatile organic compound (VOC) emissions from mobile and stationary sources. They showed that the area would achieve the ozone standard by early 1981 through the Federal Motor Vehicle Control Program and through implementation of Group I and Group II VOC Reasonably Available Control Technology (RACT) regulations. EPA approved Alabama's SIP on November 26, 1979, and Georgia's SIP on September 18, 1979.

Alabama and Georgia have requested that EPA change the attainment status of Russell County and Muscogee County, respectively, from nonattainment for ozone to attainment. In order to redesignate a nonattainment area, EPA policy requires that three years of ozone data show an expected exceedance calculation of less than or equal to 1.0. The most recent eight quarters of quality assured ambient air data may suffice provided that no exceedances have occurred. In addition, the data must be accompanied by a demonstration of implementation of an EPA-approved control strategy. Georgia has submitted ambient air quality data collected at three monitoring sites in Columbus. The most recent three years of air quality data (1982, 1983, and 1984) show the number of expected exceedances to be less than or equal to 1.0.

For a more detailed discussion, please refer to the November 6, 1985, **Federal Register** (50 FR 46089) and to the Technical Support Document. Both documents are available for inspection at the EPA Region IV office.

On November 6, 1985, EPA proposed to approve the requests to redesignate the Columbus-Phenix City area to attainment for ozone. At that time the public was invited to submit written comments on the proposed action. However, no comments were received. Therefore, on the basis of three years of air quality data showing attainment and evidence of an implemented EPA-approved control strategy, EPA is approving the redesignation of the two counties in the Columbus-Phenix City Interstate AQCR from ozone nonattainment to attainment.

Final Action

EPA is today granting the redesignation of the Russell County and Muscogee County ozone nonattainment areas on the basis of three years of air quality data and an EPA-approved control strategy.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 13, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: March 10, 1986.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart C—Section 107 Attainment Status Designations

§ 81.301 [Amended]

2. Section 81.301 is amended by removing from the "Alabama— O_3" table the entry for Russell County and the first footnote and redesignating footnote 2 as footnote 1.

§ 81.311 [Amended]

3. Section 81.311 is amended by removing from the "Georgia—Ozone (O_3)" table the entry for Muscogee County and the first footnote and redesignating footnote 2 as 1.

[FR Doc. 86–5613 Filed 3–13–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Parts 1414, 1433, and 1452

Bid Protest Regulations

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule implements revised procedures for filing protests with the General Accounting Office (GAO) and new procedures for filing automatic data processing protests with the General Services Administration Board of Contract Appeals (GSBCA) as required by the Competition in Contracting Act of 1984. This rule is based on revisions made to the Federal Acquisition Regulation (FAR) to implement the new protest procedures under Federal Acquisition Circular (FAC) 84–6 dated January 15, 1985. An interim rule and request for comments was published on September 24, 1985 (50 FR 38657–38659).

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. William Opdyke, Chief, Branch of Policy and Regulations, Office of Acquisition and Property Management, Department of the Interior, Washington, DC 20240, telephone (202) 343–3433.

SUPPLEMENTARY INFORMATION: The Department has determined that the regulations under this rule concern agency procedures required to implement the new protest procedures established by Pub. L. 98–369. In view of the need to implement these final rules in as timely a manner as possible, the Department has found good cause to make these regulations effective upon publication under 5 U.S.C. 553(d)(3).

Public Comment

Comments were requested by October 24, 1985. No comments were received. However, the final rule does contain an administrative change in section 1433.103 to require the contracting office to initially contact the local Office of the Solicitor before making the determination under FAR 33.103(a). The Assistant Solicitor for Procurement and Patents must also be notified before the determination is made. Minor editorial changes have also been made in the final rule.

Primary Author

The primary author of this rule is Mr. William Opdyke, Office of Acquisition and Property Management, telephone (202) 343–3433.

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

The Department has determined that this rule is not a major rule under Executive Order 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities. The only additional requirement imposed by this rule is the procedure for transmitting a copy of the protest to the Office of the Solicitor when the protest is served on the contracting officer. The information collection requirements referred to in this rule are prescribed by FAR 33.106(a) and are the responsibility of the FAR Secretariat, General Services

Administration. This rule does not contain any new information collection requirements.

List of Subjects in 48 CFR Parts 1414, 1433 and 1452

Government procurement.

For the reasons set out in the preamble, Chapter 14 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Dated: March 10, 1986.

Joseph E. Doddridge,

Deputy, Assistant Secretary of the Interior.

1. The authority citation for 48 CFR Parts 1414, 1433, and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c), and 5 U.S.C. 301.

PART 1414—FORMAL ADVERTISING

Subpart 1414.4—Opening of Bids and Award of Contract

§ 1414.407-8 [Amended]

2. Section 1414.407–8 is amended by removing paragraphs (a) through (d) and inserting in their place the statement "See Subpart 1433.1—Protests."

3. Part 1433 is amended by revising the title of the part; redesignating sections 1433.003 through 1433.014 as sections 1433.203 through 1433.214, respectively, in a new Subpart 1433.2; adding a new Subpart 1433.1; removing the citation "33.003(b)" in newly redesignated section 1433.203(a) and inserting in its place "33.203(b)"; removing the citations "33.011(a)(4)" and "33.011(a)(54)(v)" in the first sentence of newly redesignated section 1433.211 and inserting in their place "33.211(a)(4)" and "33.211(a)(4)(v)", respectively. The table of contents for the part and the text of the new Subpart 1433.1 are set forth below.

PART 1433—PROTESTS, DISPUTES, AND APPEALS

Subpart 1433.1—Protests

1433.102 General.
1433.103 Protests to the agency.
1433.104 Protests to GAO.
1433.105 Protests to GSBCA.
1433.106 Solicitation provision.

Subpart 1433.2—Disputes and Appeals

1433.203 Applicability.
1433.203–70 Interior Board of Contract Appeals.
1433.211 Contracting officer's decision.
1433.212 Contracting officer's duties upon appeal.
1433.214 Contract clause.

Subpart 1433.1—Protests

1433.102 General.

The Office of the Solicitor shall be responsible for handling bid protests filed with the General Accounting Office (GAO) or for bid protests concerning automatic data processing (ADP) acquisitions filed with the General Services Administration Board of Contract Appeals (GSBCA). All communications relative to protests filed with GAO or GSBCA shall be coordinated with the Assistant Solicitor for Procurement and Patents.

1433.103 Protests to the agency.

For protests filed with a bureau or office and received before award, the contracting office shall obtain the advice of the appropriate Regional or Field Solicitor and notify the Assistant Solicitor for Procurement and Patents before making the determination under FAR 33.103(a).

1433.104 Protests to the GAO.

(a) *General.* A protestor shall furnish a copy of its complete protest simultaneously to the officials designated in the provision at 1452.233–2, Service of Protest, as prescribed in 1433.106.

(b) *Notice of protest.* Upon being telephonically advised by the GAO of the receipt of a protest before or after award, the Office of the Solicitor shall inform the appropriate contracting activity which shall immediately notify the contracting officer and request preparation of the protest report required by FAR 33.104(a)(2). For protests concerning ADP acquisitions, the Office of the Solicitor shall also inform the Director, Office of Information Resources Management, who, in turn, shall notify the appropriate bureau Information Resources Management (IRM) contact and GSA official. As required by FAR 33.104(a)(3) and 4 CFR 21.3, the contracting officer shall promptly notify all interested parties, including offerors (or the contractor if the protest is after award) involved in or affected by the protest, that a protest has been filed with the GAO and the basis for the protest. A written record of such notification shall be placed in the contract file. After receiving a copy of the protest from GAO and its request for an administrative report, the Office of the Solicitor will promptly furnish the same to the contracting activity involved which shall, in turn, promptly transmit copies to the contracting officer. The contracting officer shall promptly transmit by letter a copy of the protest to all interested parties previously notified and include a statement requiring furnishing of views and information directly to the GAO. Copies of such cover letters shall be sent concurrently to the Assistant Solicitor for Procurement and Patents. Cover letters shall contain a specified period of time for submission of comments (see FAR 33.104(a)(3)) and include instructions that any comments submitted to the GAO should also be submitted simultaneously to the contracting officer and the Assistant Solicitor for Procurement and Patents. Materials submitted by the protester may be withheld from interested parties in accordance with 4 CFR 21.3(b).

(c) *Submission of report.* (1) All personnel shall handle protests on a priority basis. Within 25 work days after receipt by the Office of the Solicitor of the GAO's telephonic notice of the protest, or within 10 work days after receipt from GAO of a determination to use the express option, a complete report shall be submitted to the GAO (see FAR 33.104(a)(2)). If the specific circumstances of the protest require a longer period, the contracting activity shall immediately notify the Office of the Solicitor which shall request, in writing, an extension of the period in accordance with 4 CFR 21.3(d). The contracting activity shall have no more than 15 work days from the date of telephonic notification by the Office of the Solicitor to deliver the protest report to the Assistant Solicitor for Procurement and Patents. For reports involving use of the 10 work day express option, the Office of the Solicitor shall establish the report delivery date after consultation with the contracting activity.

(2) In addition to the requirements of FAR 33.104(a)(2), the report responsive to the protest shall be appropriately titled and dated; shall cite the GAO file number; and shall be signed by the contracting officer or representative. Reports shall be prepared with the assistance of the local attorney-advisor of the Office of the Solicitor. If appropriate, the report shall contain a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. If award is not urgent, a statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. The contracting activity shall submit an original and two complete copies of the contracting officer's report to the Assistant Solicitor for Procurement and Patents plus one

complete copy for each interested party who responded to GAO and the contracting officer and Assistant Solicitor for Procurement and Patents in response to the notification under paragraph (b) above. The Assistant Solicitor for Procurement and Patents shall be responsible for submitting the report to GAO and sending copies of the report to each interested party.

(d) *Protests before award.* If a protest before award has been filed with GAO and the contracting officer determines in writing that it is necessary to make award under the circumstances in FAR 33.104(b)(1), the contracting officer shall obtain advice from the Assistant Solicitor for Procurement and Patents and such determination shall be submitted for approval by the head of the contracting activity. The contracting officer shall notify GAO prior to award as required by FAR 33.104(b)(2). The written determination shall be included in the file and the contracting officer shall give notice of the decision as required by FAR 33.104(d).

(e) *Protests after award.* If notice of a protest has been received from GAO within 10 calendar days after award and the contracting officer determines in writing that contract performance should continue under the circumstances in FAR 33.104(c)(2), the contracting officer shall obtain advice from the Assistant Solicitor for Procurement and Patents and such determination shall be submitted for immediate approval by the head of the contracting activity. Pending approval of the determination, suspension of performance or termination of the contract shall not be initiated. The contracting officer shall notify GAO as required by FAR 33.104(c)(3). The written determination shall be included in the file and the contracting officer shall give notice of the decision as required by FAR 33.104(d).

(f) *Notice to GAO.* The head of the contracting activity is authorized to submit the report required by FAR 33.104(f). The report shall be submitted to the Comptroller General through the Assistant Solicitor for Procurement and Patents and the Director, Office of Acquisition and Property Management. For decisions concerning ADP acquisitions, the report shall also be submitted through the Director, Office of Information Resources Management.

1433.105 Protests to GSBCA.

(a) *General.* A protester filing a protest with GSBCA on a solicitation or contract for ADP shall comply with the requirements of the provision at 1452.233–2, Service of Protest, as prescribed in 1433.106 on the same day the protest is filed with the GSBCA.

(b) *Notice of protest.* Immediately upon receipt of a copy of a protest to GSBCA, the Office of the Solicitor shall inform the Office of Information Resources Management and the contracting activity which shall immediately inform the contracting officer. The Office of Information Resources Management shall immediately notify its bureau IRM contact and the appropriate GSA official responsible for the delegation of procurement authority. The contracting officer shall within 1 work day after receipt of a copy of the protest provide oral or written notice to all parties required to be notified by FAR 33.105(a)(2) and shall provide the GSBCA with a written list of all such parties to whom notice was provided within 5 work days after receipt of a copy of the protest. A copy of all notifications to interested parties and related correspondence with GSBCA shall be maintained in the contract file and a copy of the list of interested parties notified shall be provided to the Office of the Solicitor simultaneously with submission to the GSBCA.

(c) *Submission of protest file.* An original and two copies of a protest file (See FAR 33.105(b)) plus one copy for each interested party which has filed a notice of intervention or a motion to intervene in accordance with the requirements of Rule 5(a)(3) of the GSBCA Rules of Procedure (48 CFR Part 61) shall be submitted by the contracting officer to the Office of the Solicitor within 8 work days after the filing of a protest. The protest file shall be organized to comply with the requirements of Rule 4(b) of the GSBCA Rules of Procedure. The Office of the Solicitor shall then submit the file to the GSBCA within 10 work days after filing of the protest and shall also send copies to each interested party.

(d) *Hearings.* The Office of the Solicitor shall be responsible for representing the contracting officer at any hearing on suspension of the agency's delegation of procurement authority (see FAR 33.105(d)) or at any hearing on the merits of the protest (see FAR 33.105(e)). The head of the contracting activity shall be responsible for executing the determination required by FAR 33.105(d)(1). The Office of the Solicitor shall notify the contracting officer and the Office of Information Resources Management of the results of the hearing.

1433.106 Solicitation provision.

The provision at FAR 52.233–2, Service of Protest, as prescribed in FAR 33.106, shall be modified in accordance with the instructions in 1452.233–2.

PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1452.2—Texts of Provisions and Clauses

4. Subpart 1452.2 is amended by adding new section 1452.233–2 to read as follows:

1452.233–2 Service of Protest.

(a) As prescribed in 1433.106, the provision at FAR 52.233–2, Service of Protest, shall be modified before insertion into solicitations by—

(1) Changing the title of the provision to read "SERVICE OF PROTEST (JAN 1985) (DEVIATION)"; and

(2) Adding the following sentence to the end of the provision:

A copy of the protest served on the contracting officer shall be simultaneously furnished by the protester to the Assistant Solicitor for Procurement and Patents, Office of the Solicitor, Room 6511, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240.

(b) As prescribed in FAR 52.103(a) and 52.107(f), the clause at FAR 52.252–6, Authorized Deviations in Clauses, shall be inserted into solicitations and contracts containing the clause in (a) above.

[FR Doc. 86–5610 Filed 3–13–86; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. T84–01; Notice 9]

Vehicle Theft Prevention Standard and Selection of Covered Major Parts; Response to Petitions for Reconsideration

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

ACTION: Response to petitions for reconsideration.

SUMMARY: This denies eight petitions asking the agency to reconsider its final rule establishing a Federal motor vehicle theft prevention standard which requires the placing of an identifying number or symbol on selected major parts. The agency was asked to reconsider three major aspects of this

rule. Specifically, the petitions asked that the rule be amended to:

(1) Require manufacturers to stamp the identification number into certain parts in lieu of other means of compliance such as labeling. This request was denied because the theft prevention standard is required by law to be a performance standard, which is broadly drafted to allow vehicle manufacturers to choose the means they will use to comply with those performance requirements. At this time, the agency believes that affixed markings will effectively serve the needs of law enforcement organizations. Neither the law enforcement groups nor this agency have any empirical evidence indicating that markings affixed in compliance with this standard do not serve the needs of law enforcement. Hence, the agency concluded that it would be premature to consider imposing additional regulatory requirements on manufacturers, absent some evidence showing that the current requirements are inadequate to achieve their intended purpose.

(2) Allow manufacturers that currently stamp engines and transmissions with random numbers to use those random numbers as the identification required by the theft prevention standard. This request was denied because the random numbers do not meet the statutory requirement that they substantially comply with the standard's requirement that original equipment parts be identified with the full 17-character vehicle identification number.

(3) Rescind the provisions allowing direct importers to comply with the theft prevention standard. This request was denied because NHTSA believes that the specified procedures are consistent with the underlying law and needs of law enforcement officers, while imposing the least burden on direct importers and purchasers of cars from direct importers.

EFFECTIVE DATE: The vehicle theft prevention standard (49 CFR Part 541) becomes effective on April 24, 1986, as specified in the final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Brian McLaughlin, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–426–1740).

SUPPLEMENTARY INFORMATION: The Motor Vehicle Theft Law Enforcement Act of 1984 (Theft Act, Pub. L. 98–547) added Title VI to the Motor Vehicle Information and Cost Savings Act (Cost Savings Act, 15 U.S.C. 2021 *et seq.*). Among other things, Title VI requires NHTSA, by delegation from the Secretary of Transportation, to issue a motor vehicle theft prevention standard setting forth the performance criteria for affixing or inscribing covered major parts of passenger motor vehicles with identifying numbers or symbols (15 U.S.C. 2022). In response to this mandate, a final rule establishing a new vehicle theft prevention standard at 49 CFR Part 541 was published on October 24, 1985 (50 FR 43166).

Summary of Theft Prevention Standard

The most noteworthy feature of the theft prevention standard is its requirement that certain major parts of passenger cars be marked with a specified identification. The standard sets forth separate performance requirements for identification markings that are inscribed into a part and for markings that are affixed to a part. Manufacturers are free to choose either of these means for marking the parts. The final rule lists 14 major parts that are required to have identification markings if the parts are either original equipment parts or replacement parts for vehicles in lines selected as "high theft lines".

In the case of original equipment on new cars in high theft lines, the manufacturer is required to inscribe or affix the car's vehicle identification number (VIN) to each of the covered major parts present on the car. The only exception to this requirement is that manufacturers that were marking engines and transmissions with a VIN derivative consisting of at least the last eight characters of the VIN as of October 24, 1984, may continue to mark engines and/or transmissions with such a VIN derivative. This exception is permitted in response to the language of 15 U.S.C. 2024(b). The original manufacturer of the high theft line is required to designate a target area for the required markings for each of the 14 parts in that line, and that target area cannot exceed 50 percent of the surface area on the surface of the part on which the target area is located. The required markings must be located entirely within such target area. Vehicle manufacturers must certify compliance with the theft prevention standard by adding language to the certification label already required by 49 CFR Part 567.

In the case of replacement parts for any of the 14 parts on a high theft line, the part's manufacturer is required to inscribe or affix to the part the letter "R" and the manufacturer's trademark or some other unique identifier of the manufacturer. The original producer or assembler of the high theft line vehicles on which the part will be used is required to designate a target area for the replacement part marking (i.e., the "R", manfacturer's trademark or other identifier and the "DOT" certification symbol discussed below) that does not exceed 25 percent of the surface area of the surface on which the replacement part marking will appear. Additionally, the target area for replacement part marking must be at least 10 centimeters at all points from the target area for the original equipment part marking. The replacement part's marking must be entirely within the designated target area. The replacement part manufacturer certifies compliance by marking the symbol "DOT" within 5 centimeters of the "R" and manufacturer's identifier and entirely within the designated target area.

The final rule also specifies additional requirements for direct importers of vehicles and parts. These direct importers are individuals and commercial enterprises that obtain foreign cars not originally manufactured for sale in the United States, bring them into this country, and modify the vehicles so that they can be certified as complying with the applicable U.S. motor vehicle standards. This activity is commonly referred to as the automotive "grey market". Because of law enforcement concerns, the final rule imposed three specific limitations on grey market vehicles. Such vehicles must:

(1) Be marked with the original Euro-VIN, and not a homemade U.S. VIN;

(2) Have the required markings *inscribed* on their major parts instead of using other means of compliance such as labels affixed to those parts.

(3) Be marked before the vehicle is imported into the U.S.

Eight petitions for reconsideration of this final rule were submitted to NHTSA. These petitions raised a number of issues, which are discussed in detail below. For the sake of the readers' convenience, this discussion of the issues raised in the petitions for reconsideration follows the same organizational format as that used in the preamble to the final rule.

A. Original Equipment Parts

1. The full vehicle identification number (VIN) must be inscribed or affixed to all covered major original equipment parts, except the engine and transmission (50 FR 43167–43170).

The agency determined that the full 17-character should be marked on covered original equipment parts. The only exception to this requirement is one adopted in response to section 604(b) of the Cost Savings Act (15 U.S.C. 2024(b)), which specifies that "any manufacturer

engaged in identifying engines or transmissions in a manner which substantially complies with the requirements of the theft prevention standard" as of October 24, 1984, shall not be required to conform to any identification system which imposes greater costs on the manufacturer than those being incurred as of October 24, 1984.

Accordingly, NHTSA had to determine which methods of identification substantially comply with the requirement that original equipment covered major parts be marked with the full 17-character VIN; § 541.5(b)(1). NHTSA concluded that numbers which were random and did not consist of parts of the VIN do not substantially comply with the theft prevention standard, and that manufacturers could not use such non-VIN derived numbers to identify their engines and transmissions. Hence, such manufacturers are required to identify their engines and transmissions with a full 17-character VIN.

On the other hand, the agency concluded that manufacturers identifying their engines and transmissions with a shortened VIN, consisting of at least the last eight characters of the VIN were substantially complying with the theft prevention standard. This conclusion meant that those manufacturers could continue to identify their engines and transmissions by means of these shortened VIN's.

Both Toyota and BMW asked the agency to reconsider its determination that the random number markings on engines and transmissions do not substantially comply with the requirements of the theft prevention standard. Toyota asked that the standard be amended to allow the use of random numbers as the identification of those components for the theft prevention standard, provided that the random number system allows law enforcement groups to easily determine the VIN of the vehicle in which the engine or transmission was installed and provided that the means for making such a determination were provided to the National Crime Information Center (NCIC) by the manufacturer. Toyota stated its belief that it would not take longer for law enforcement officials to determine the VIN of an engine or transmission by means of these random numbers than it would to recreate the VIN from an 8-character VIN derivative.

BMW stated that NHTSA had misinterpreted the language of section 604(b) of the Cost Savings Act. Section 604(b) states that manufacturers using a marking system for engines and transmissions that "substantially complies with the requirements of the theft prevention standard promulgated under section 602" cannot be required to comply with a more costly identification system. BMW stated that section 602 does not mandate the use of the full 17-character VIN. BMW concluded that the random numbers on engines and transmissions substantially comply with requirements of the theft prevention standard because those random numbers fulfill the purposes of the theft prevention standard. That is, the random numbers were said by BMW to reduce the "incidence of motor vehicle thefts by facilitating the tracing and recovery of parts from stolen vehicles."

In response to these petitions, NHTSA has reconsidered its conclusion that random numbers do not substantially comply with the requirement of the theft prevention standard that covered major parts be marked with the full VIN. Several legal and policy considerations lead the agency to reaffirm its previous conclusion.

First, NHTSA believes that both Toyota and BMW have misinterpreted the language in section 604(b) of the Cost Savings Act. Contrary to the assertions of these manufacturers, that section does not permit the agency to consider whether a manufacturer's identification system for engines and transmissions "allows law enforcement officials to trace the VIN of the vehicle in which the part was installed" or whether the system "fulfills the purposes of the theft prevention standard." Instead, the Theft Act permits manufacturers to continue using their identification system for engines and transmissions only if that system *"substantially complies with the requirements of the theft prevention standard."* The theft prevention standard requires new vehicle covered major parts to be marked with the full 17-character VIN; § 541.5(b)(1). NHTSA cannot conclude that random numbers substantially comply with this requirement.

Second, the agency agrees with the petitioners' statements that random numbers can be used to determine the VIN of the vehicle in which the part was originally installed. However, law enforcement officials have noted that this process can take several days to complete when the markings are made with random numbers, as opposed to several hours when the markings are made with VIN derivatives. Such significant added delays for law enforcement officers would not serve the purposes of the Theft Act or this theft prevention standard.

Third, a random numbering system is useful for theft prevention only if every manufacturer takes steps to ensure that the random numbers assigned to the various parts remain unique for a substantial period of time. For instance, if a manufacturer were to assign the same random number to engines installed in consecutive model year vehicles, those random numbers would not allow law enforcement officials to determine in which vehicle the numbered engine was originally installed. VIN derivatives avoid this problem by having one digit representing the model year of the vehicle. This digit indicating the model year remains unique for 30 years. Additionally, nothing prevents two different manufacturers from assigning the same random number to an engine made by each of them.

Fourth, allowing the use of random numbers would impose a significant administrative and financial burden on the NCIC. Its computers would have to be reprogrammed to allow them to store and process random numbers entered for engines and transmissions, but to continue to reject such entries for other covered parts and vehicles. Further, NCIC would have to retrain its own personnel and the entry clerks from police departments around the country in the proper data entry techniques for this new program. Even if this retraining were feasible and economically practicable, NCIC believes that allowing the entry of random numbers would increase the number of erroneous entries into its system.

Random numbers are not derived from the VIN, the marking required by the theft prevention standard. Allowing random numbers to be used for compliance with the theft prevention standard would add potential uncertainty in positively identifying parts as stolen, potential erroneous reports of parts as stolen, and time and training burdens for law enforcement personnel. Accordingly, NHTSA again concludes that random numbers do not substantially comply with the requirements of the theft prevention standard.

BMW complained that the agency's reasoning "tends to bend over backwards for the domestic manufacturers." BMW stated that NHTSA prohibited the use of random numbers by foreign manufacturers to identify their engines and transmissions, but permitted the use of the VIN derivatives by domestic manufacturers, even though NHTSA admitted in the preamble to the final rule that those derivatives are not unique.

This result did not arise from NHTSA's desire to "bend over

backwards" for the domestic manufacturers. It is beyond dispute that VIN derivatives do not *comply* with the requirements of the theft prevention standard. However, section 604(b) of the Cost Savings Act does not require that pre-existing engine and transmission identification systems *comply* with the theft prevention standard in order to continue being used—instead it requires that such identification systems "substantially comply" with the theft prevention standard. The VIN derivatives consisting of at least the last 8 characters of the VIN substantially comply with the requirements of the theft prevention standard, because such a VIN derivative is derived from the VIN and, in most cases, the reconstruction of the full VIN can be made reasonably quickly from such a VIN derivative. As noted above, these reconstructions can be made in several hours with VIN derivatives, while such reconstructions can take several days with random numbers. It was the application of both the plain language and the intent of section 604(b), that led the agency to conclude that certain VIN derivatives could be said to substantially comply with the requirements of the theft prevention standard.

The Automobile Importers of America (AIA) asked that manufacturers that mark their engines and transmissions with random numbers be allowed to continue doing so, provided that they also mark the full VIN on those engines and transmissions. AIA acknowledged that the preamble to the final rule had explicitly stated that the theft prevention standard does not require manufacturers to obliterate random numbers from engines and transmissions, if those numbers were put on by a different manufacturer. However, AIA stated that it was not clear if manufacturers could put random numbers on themselves, and also mark the full VIN on the engines and transmissions. The theft prevention standard requires that the vehicle manufacturer mark the full VIN on engines and transmissions, unless the manufacturer was marking its engines and transmissions with an 8-character VIN derivative as of October 24, 1984. The theft prevention standard does not prohibit manufacturers from putting other numbers on those components for their internal purposes. Hence, there is no provision in the theft prevention standard that prohibits vehicle manufacturers from marking both random numbers and the VIN on its engines and transmissions.

2. The theft prevention standard must be a performance standard, which is practicable and which employs relevant objective criteria. (50 FR 43170).

The preamble to the final rule establishing the theft prevention standard stated that the legislative history on this point is very clear. It quoted the following language from the House Committee Report:

"The DOT will establish the tests or general criteria which the identification must meet, but not how it is to be inscribed or affixed. That is the choice of each manufacturer. For example, we understand that a tamper-resistant label exists. If it can meet the performance tests or general criteria prescribed by the standard, the manufacturer may choose to use it to comply with the standard." H.R. Rep. No. 1087, 98th Cong., 2d Sess., at 10 (1984) (hereinafter cited as "H. Rept.").

Because of this clearly expressed Congressional intent, the final rule did not adopt the suggestions in some of the comments on the proposal that the agency should mandate the use of a particular marking system, such as stamping. However, three law enforcement groups objected in their petitions for reconsideration to the absence of a requirement that some of the required markings be stamped into a part. The Federal Bureau of Investigation (FBI) asked the agency to amend its rule to require that the full VIN, or a derivative thereof, be stamped into a permanent metal part of each vehicle. The International Association of Auto Theft Investigators (IAATI) stated that the VIN stamped into the frame or its equivalent has been used repeatedly by law enforcement officials to identify and recover illegally altered stolen vehicles, stripped vehicles, and burned-out vehicles. Further, IAATI stated that it is possible, through chemical means, to restore an altered or obliterated number, if that number has been stamped into the part. Accordingly, IAATI asked the agency to amend the final rule to require that the markings be stamped into the frame, engine, and transmission. For the same reasons, the Criminal Division of the U.S. Department of Justice (DOJ) asked that the necessary markings be required to be stamped into the frame, engine, and transmission.

With respect to the request that the markings be required to be stamped into some covered major parts, NHTSA again concludes that the clearly-expressed Congressional intent would not allow the agency to require explicitly that markings be stamped into the parts. However, NHTSA acknowledges that it could indirectly require markings to be inscribed into some parts by setting higher performance standards for those parts. For instance, NHTSA could add a performance standard for some parts that the marking must be capable of being restored to its original form by chemical means, if the marking is altered for obliterated. Such a requirement would force manufacturers to inscribe the markings into those parts, by etching, sandblasting, stamping, and the like. However, NHTSA has concluded that it would be premature to impose such a requirement.

The House Committee Report accompanying the Theft Act identified the following three essential purposes for the legislation:

(1) To prevent thefts and reduce the ease with which certain stolen vehicles and their major parts can be fenced;

(2) To try to minimize regulation of the domestic and foreign motor vehicle manufacturing industry; and

(3) To give law enforcement officers at all levels of government the much-needed prosecutory tools to crack criminal theft rings and related racketeering activities. H. Rept. at 2.

NHTSA believes that the current requirements of the theft prevention standard will serve all of these purposes. Any markings affixed to a part must be permanent (§ 541.5(d)(1)(i)) and removal of the markings must discernibly alter the appearance of that area of the part where the label was affixed (§ 541.5(d)(1)(v)(B)). Additionally, the Theft Act makes it a crime to possess a part from which the identification number has been removed (18 U.S.C. 2320) and the part is subject to seizure and forfeiture (18 U.S.C. 512). These requirements should help to deter thefts and reduce the ease with which stolen vehicles and their parts can be fenced. Further, by allowing manufacturers to choose how they will meet the performance requirements, the standard minimizes regulation of the motor vehicle manufacturing industry. Finally, NHTSA believes that the evidence left by the removal of affixed markings gives law enforcement officials prosecutory tools to crack theft rings.

The concerns expressed by the law enforcement groups all assume that the affixed markings will not adequately serve the needs of law enforcement. The basis for this assumption, however, is not clear. Since the theft prevention standard has not yet become effective, there has not been any experience with a requirement that covered major parts of vehicles in high theft lines be marked. Hence, neither the law enforcement groups nor this agency have any

empirical evidence indicating that affixed markings which comply with the applicable performance standards do not satisfy the needs of law enforcement. On the other hand, there is clear direction in the Theft Act and its legislative history that the agency must issue a performance standard and consider allowing the use of labels as a means of compliance. NHTSA carefully structured this theft prevention standard so that it would serve the needs of law enforcement, while minimizing regulation of the motor vehicle manufacturing industry, as directed by the Theft Act and its legislative history. NHTSA believes that the performance requirements for affixed markings will satisfy both these needs. If it becomes clear that affixed markings are, in fact, not serving the legitimate needs of law enforcement, NHTSA will consider amending the performance requirements of this theft prevention standard. At present, however, NHTSA has no reason to believe such as amendment is necessary. Accordingly, the requests by the law enforcement groups to require stamping of some parts are denied.

c. Locations selected for labels must provide protection from damage as a result of normal maintenance and exposure. (50 FR 43171–43172).

The theft prevention standard requires that identification labels be placed in a location where it "will not be damaged or obscured during normal dealer preparation operation operations (including rustproofing and undercoating)"; § 541.5(d)(1)(ii)(C). In the preamble to the final rule, NHTSA discussed a comment by a manufacturer thusly:

"VW commented that the agency should allow the use of an integral paint mask, so that the labels can be put on the parts before the vehicle is painted or rustproofed. Such a procedure is permissible under this standard, provided that the paint mask is removed from the label. If the mask were not removed, the identification would not satisfy the requirement that it be visible without further disassembly once the vehicle part has been removed from the vehicle." 50 FR 43172.

In response to this language, AIA asked that the application of the undercoating and rustproofing *and the subsequent removal of the paint mask* be considered normal dealer preparation. AIA asked that the theft prevention standard be amended to ensure that manufacturers can use integral paint masks without risk of non-compliance or an improper certification of compliance with the theft prevention standard.

No such amendment has been made. Section 607(a)(1) of the Cost Savings Act prohibits any person from selling, offering for sale, or introducing or delivering for introduction into interstate commerce any vehicle or major replacement part subject to this standard, unless the vehicle or part complies with this standard. This standard requires that the identification on parts be visible without further disassembly once the part is removed from a vehicle; § 541.5(d)(1)(iii). If a manufacturer were to deliver a vehicle or a part to a dealer with a non-transparent paint mask covering the required marking, the manufacturer would violate section 607(a)(1) of the Cost Savings Act by introducing into interstate commerce a vehicle or replacement part that did not comply with this standard. The dealer's removal or non-removal of a non-transparent integral paint mask would be irrelevant in the case of such a violation, since the violation would have occurred before the car reached the dealer.

The manufacturer could avoid this situation by using transparent paint masks, assuming that the label is clearly visible through this paint mask. This would arise most frequently in the case of replacement parts, which are ordinarily delivered to the dealer unpainted. The dealer then paints the replacement part the proper color and installs it on a damaged vehicle. However, this painting by the dealer would presumably obscure the label, or there would be no reason to put a paint mask over the label. An obscured label would violate §541.5(d)(iii) of this standard, since it would not be visible without further disassembly.

A manufacturer is free under this standard and the Theft Act to use a transparent paint mask and to specify in its contracts with its dealers that the dealer must remove the mask before selling vehicles or parts. However, if the dealer does not remove the mask, both the manufacturer and the dealer could be liable for violating section 607(a) of the Cost Savings Act. The manufacturer and dealer might both be liable for selling a vehicle not in compliance with the theft prevention standard (prohibited by section 607(a)(1)) and the manufacturer might be liable for falsely certifying that the vehicle complies with the theft prevention standard (prohibited by section 607(a)(4)(B)). The manufacturer must assume its portion of this risk if it wishes to use a transparent integral paint mask that must be removed by its dealers.

Target areas. (50 FR 43172–43173).

The final rule requires original vehicle manufacturers to designate target areas within which the parts will be marked. In response to a comment on the NPRM, the preamble to the final rule stated that the engine and transmission each needed to be marked on only one of its subassemblies. The preamble went on to state that "the engine should be marked on the block and the transmission should be marked on the housing." 50 FR 43169. Both Toyota and AIA claimed that this statement is inconsistent with the target area requirement, in that it limits the target area that can be designated for the engine and transmission. Additionally, both these petitioners stated that other components of the engine, such as the cylinder head, may be as expensive as the block and as desirable to thieves.

Mazda raised a related concern in its petition for reconsideration. Mazda stated that an engine consists of at least nine subassemblies, a front door consists of at least six subassemblies, and the front bumper consists of at least five subassemblies. Mazda asked NHTSA to amend the theft prevention standard to specifically identify which subassembly should be marked on each covered major part.

NHTSA has reconsidered this portion of the preamble, and its relationship to the theft prevention standard. NHTSA explained that its intent in establishing the target area concept was to provide manufacturers with "maximum flexibility to avoid unnecessary production burdens and/or costs." 50 FR 43173. Moreover, no language in the theft prevention standard limits a manufacturer's flexibility to choose where it will place the necessary markings on major parts. NHTSA assumed that the absence of a regulatory prohibition on marking engines anywhere besides the block would make clear that manufacturers were, in fact, free to do so.

When NHTSA said in the preamble to the final rule that engines should be marked on the block and transmissions should be marked on the housing, it was indicating its preference for markings on the permanent subassemblies for those particular parts. However, that indication of agency preference was not intended to convey the impression that a manufacturer would violate the theft prevention standard unless it marked all its engines on the blocks and all its transmissions on the housing. Markings on any engine or transmission subassembly that is designed to remain attached to the engine or transmission over its useful life would satisfy the requirement that engines and

transmission be marked. Markings on engine parts that are intended to be replaced during the lifetime of the engine, such as filters or belts, would not satisfy this requirement. However, markings on subassemblies such as the cylinder head of the engine are fully consistent with this theft prevention standard. If some evidence develops to show that some further limitation of the target area concept is necessary, NHTSA will consider amending the theft prevention standard.

In a related comment, Mazda asked NHTSA to modify the final rule because of its concern that all replacement subassemblies for covered major parts would be required to be marked. NHTSA does not agree that such an amendment is necessary. This standard does *not* require all replacement subassemblies for covered majored parts to be marked. In fact, section 602(d) of the Cost Savings Act explicitly specifies that a major part cannot be required to have more than a single identification. In the case of major replacement parts that consist of more than one subassembly, the theft prevention standard requires only that the replacement marking appear on one of the replacement subassemblies that is designed to remain attached to the subject part over its entire useful life. Under the target area concept used in this standard, the manufacturer may choose to specify the subassembly on which the original equipment marking appears as the one on which the replacement part marking will appear, or may choose a different permanent subassembly as the one of which the replacement part marking will appear. Whichever subassembly is chosen for replacement part marking, the manufacturer must mark all of those replacement subassemblies in accordance with § 541.6 of this standard.

d. Removal of the identification number must cause that identification to self-destruct and alter the appearance of the vehicle part. (50 FR 43173–43174.)

Mercedes-Benz and BMW asked the agency to amend the standard's requirement that removal of an affixed identification marking must "discernibly alter the appearance of that area of the part where the label was affixed"; § 541.5(d)(1)(v)(B). These requests were based on the manufacturers' understanding that a representative of 3M, one of the largest manufacturers of identification labels, had said that current label technology was not capable of discernibly altering the appearance of the area of the part where it was affixed, if it were affixed on the paint applied to European and some other foreign vehicles.

In response to these concerns, NHTSA contacted the persons at 3M responsible for the adhesive label program. Those persons assured this agency that there had been a misunderstanding. 3M repeated its statement in its November 13, 1985 letter to this agency that its labels meet all the performance requirements incorporated in the final rule for Part 541. Further, the director of 3M's technical laboratory stated that 3M labels would meet those performance requirements over any paint used anywhere in the world. Based on these statements, NHTSA concludes that 3M believes its product will comply with the requirements of this standard when used on Mercedes-Benz, BMW, or any other manufacturer's vehicles.

Furthermore, as was explained above in response to the petitions for reconsideration filed by the law enforcement groups, the theft prevention standard is a performance standard. It sets forth performance criteria that identification markings must meet, and allows the manufacturers to choose the technology they will use to satisfy those performance criteria. The Theft Act does not require the theft prevention standard to guarantee every manufacturer that each marking technology will be available to use in marking every covered major part, nor does it require that a manufacturer be able to use the same marking technology on every covered major part on a vehicle. If a particular technology cannot be used for marking some parts, manufacturers will have to use a different technology for those parts. Hence, no change has been made to this requirement in response to the Mercedes-Benz and BMW petitions.

3. Parts To Be Covered by This Standard (50 FR 43175–43176)

Section 541.5(a)(1) through (14), inclusive, sets forth the 14 major parts which must be marked in compliance with the theft prevention standard if they are original equipment parts on a high theft line or if they are replacement parts for the original equipment parts on a high theft line. AIA raised the issue of parts that are imported into this country for use as original equipment parts on vehicles assembled in the United States. AIA stated that section 607(a) of the Cost Savings Act prohibits the importation into the United States of "any motor vehicle subject to the standard . . . or any major replacement part subject to such standard" which is not marked in accordance with the theft prevention standard. According to AIA, this prohibition would not require the marking of original equipment parts at the time they were imported, if the original equipment parts were not yet assembled into a vehicle. AIA stated that this was a proper result, because it is impossible for the manufacturer to mark the original equipment part with the VIN before the manufacturer knows which vehicle the part will ultimately be used on. Accordingly, AIA asked that the theft prevention standard be amended to make clear that these parts do not have to be marked at the time they are imported into the United States.

The theft prevention standard, as set forth in the final rule, already tracks the requirements of the Theft Act. It applies only to passenger cars (§ 541.5) and replacement parts (§ 541.6). The theft prevention standard does *not* require original equipment parts to be marked until they are assembled into a new vehicle. Unmarked parts to be used as original equipment parts can be shipped from one plant to another or imported into the United States without violating any provisions of the Theft Act or the theft prevention standard. There is, therefore, no need to amend the theft prevention standard in response to this petition for reconsideration.

As noted above, the law enforcement groups that filed petitions for reconsideration of this standard all asked the agency to amend the standard to delete one of the 14 parts now required to be marked. In the place of the deleted part, these petitions asked that the standard require the marking of the vehicle frame or its equivalent. The theft prevention standard did not specify the frame as one of the covered major parts required to be marked. As explained in the preamble to the final rule:

"The frame itself is almost never stolen or replaced on a vehicle. The only reason for making such a selection would be to ensure that the remains of a stripped vehicle can be identified. As noted by Ford, there will be few, if any, new passenger cars produced in the future using frame construction. In the case of cars using unitized body construction, the objective of ensuring that an identifiable part of the vehicle remains after the vehicle has been stripped can be achieved by requiring the marking of both rear quarter panels . . . . Accordingly, the agency does not believe there is any reason to select the frame as one of the covered major parts." 50 FR 43175.

NHTSA agrees with the law enforcement groups that it is important to be able to identify the remains of a stripped vehicle. However, the final rule recognized and addressed this need by requiring the marking of both rear

quarter panels. Accordingly, NHTSA concludes that there is no reason to amend the rule to require the marking of the vehicle's frame or its equivalent.

B. Performance Standards for Replacement Parts (50 FR 43177–43181)

The preamble to the final rule establishing the theft prevention standard explained that once a line is selected as a high theft line, each covered major replacement part designed for use on that line must be identified as a replacement part, in accordance with § 541.6. 50 FR 43179. Toyota asked the agency to modify this requirement so that replacement parts would only have to be marked for 10 years after the manufacturer has ceased production of the high theft line vehicles. Such a modification is not permitted by the Theft Act, as explained below.

Section 603(d) of the Cost Savings Act (15 U.S.C. 2023(d)) provides that NHTSA may not render the standard inapplicable to any line *which at any time has been subject to the standard,* except for granting an exemption from the marking requirements to the line if it has an original equipment anti-theft device. Section 602(a)(2) of the Cost Savings Act (15 U.S.C. 2022(a)(2)) requires that, if the theft prevention standard applies to a line, it *must* apply not only to the major original equipment parts for that line, but also to its major replacement parts. These provisions together make clear that the manufacturer's halting production of a high theft line does not affect its statutory obligation to mark the replacement parts for that line. Thus, NHTSA has not adopted Toyota's suggestion, since the Theft Act itself expressly prohibits the agency from including such a provision in the theft prevention standard.

Certification of Compliance With the Theft Prevention Standard (50 FR 43181–43185).

The final rule specified that direct importers could certify compliance of their vehicles, subject to three specific provisions. Such vehicles must:

(1) Be marked with the original Euro-VIN, and not a "homemade" U.S. VIN;

(2) Be marked by inscribing the required markings, and may not affix labels to the parts to satisfy the requirements of the standard; and

(3) Be marked before the vehicle is imported into the United States.

BMW petitioned the agency to either rescind these requirements for direct importers or rescind the entire theft prevention standard and repropose it with these requirements included. NHTSA believes there is no merit in this petition.

First, BMW contended that including these provisions in the final rule without first giving the public an opportunity to comment on the provisions was a violation of the informal rulemaking provisions of the Administrative Procedure Act. NHTSA strongly disagrees with the BMW assertion that its rulemaking procedures in connection with this theft prevention standard violated the requirements of 5 U.S.C. 553. That section of the law requires notices of proposed rulemaking to include either "the terms or substance of the proposed rule or a description of the subjects and issues involved". The courts have interpreted this language to mean that the notice must be sufficiently descriptive of the subjects and issues involved so that interested parties may offer informed criticism and comments. *See, e.g., Portland Cement Ass'n v. Ruckelshaus,* 486 F.2d 375, 392–394 (D.C. Cir. 1973), *cert. den.,* 417 U.S. 921 (1974). However, the publication of a proposed rule for comment does not of necessity bind an agency to undertake a new round of notice and comment before it adopts a rule which is different—even substantially different—from the proposed rule. *American Iron & Steel Institute v. Environmental Protection Agency,* 568 F.2d 284, 293 (3d Cir. 1977); *International Harvester Co. v. Ruckelshaus,* 478 F.2d 615, 632 n.51 (D.C. Cir. 1973). The adequacy of the notice is tested by determining whether it fairly apprised interested persons of the "subjects and issues" before the agency. *Trans-Pacific Freight v. Federal Maritime Commission,* 650 F.2d 1235, 1248–1249 (D.C. Cir. 1980); *Ethyl Corp. v. Environmental Protection Agency,* 541 F.2d 1, 48 (D.C. Cir.), *cert. den.,* 426 U.S. 941 (1976).

Judged by these criteria, NHTSA concludes that the NPRM was sufficient to apprise all interested persons of the issues involved in direct importers' certification of compliance with the theft prevention standard. In the section of the NPRM entitled "Who May Certify", the agency offered an extensive discussion of the legal and policy arguments for and against allowing direct importers to certify compliance with the theft prevention standards. 50 FR 19738–19740. In discussing the arguments favoring such certification, NHTSA noted that proponents had "argued that NHTSA could devise a workable system to achieve Congress' anti-theft goals without imposing harsh economic consequences on direct importers." Although the agency tentatively decided to limit certification to original manufacturers, the notice requested comments on "whether it would be consistent with the Theft Act to construe the term 'manufacturer' so as to permit entities other than the original manufacturer to certify compliance with the standard." The agency then went beyond the question of the legal permissibility of certification by direct importers to raise the issues of the means by which such certification could be accomplished and of the practical effects of those means. The notice of proposed rulemaking read as follows:

"Commenters should discuss whether any alternative scheme is consistent with the agency's authority under the Theft Act and the Congressional intent underlying that Act. Commenters are also invited to address the effects of both the agency's proposal and any alternative certification scheme on international trade and on U.S. purchasers of foreign-manufactured motor vehicles. In particular, the agency seeks comments and data on the costs and benefits of different certification proposals, as well as on the effects of the various proposals on the avenues through which foreign-manufactured automobiles may be sold in the United States. Are there other alternatives possible within the constraints of the Theft Act that would not adversely affect the gray market?

Commenters should also provide details as to how any proposed alternative certification schemes would be structured. In particular, *the agency seeks comments on whether separate certifications should be permitted for compliance with vehicle safety and theft standards,* and whether such certifications could be made by different entities. . . . The agency is particularly interested in receiving comments on the effects of any alternative certification scheme on law enforcement agencies, *including the use of Euro-VINs rather than U.S. VINs in theft markings,* the ability to trace persons other than original equipment manufacturers, and *whether inexpensive marking systems such as paper labeling could continue to be used for marking purposes.* The agency also seeks comments as to whether parties other than original manufacturers could comply with the standard for less than the $15 cost cap established by the Act, and whether an alternative certification scheme would require modifications to the performance standard for theft markings that would increase compliance costs for original manufacturers." 50 FR 19728, 19740 (Emphasis added).

In a further effort to explore ways in which direct importers could still be permitted to import vehicles, the notice invited comments on whether foreign

original manufacturers should be permitted to comply with the theft prevention standard "via use of the Euro-VIN initially assigned to their vehicles, and then to certify compliance through affixation of a certification plate or label comparable to the U.S. certification plate (as explained further below) but limited to certification of compliance with the theft prevention standard alone, rather than in conjunction with the safety and bumper standard compliance certification statements. Such a system would ensure that a vehicle retains its "signature" VIN, which all interested parties appear to consider essential for law enforcement purposes." 50 FR 19740.

NHTSA believes that these statements in the preamble to the notice clearly alerted interested persons both that the agency was seeking alternatives to its proposed certification scheme and to the terms under which such alternative certification might be permitted. The notice specifically raised the issue of certification by means of the Euro-VIN in place of a U.S. VIN, certification by some means other than labels, and separate certification for the vehicle safety and theft standards. By giving the public notice of the subjects and issues being considered, the agency concludes that it fully satisfied the requirements of the Admininstrative Procedure Act.

Second, BMW contended that it was impossible for direct importers to certify compliance with the theft prevention standard, because it was impossible for the direct importers to determine the model year. A determination of the model year is needed because only 1987 or subsequent model year vehicles in lines selected as high theft lines are subject to the marking requirements of this prevention standard. This BMW assertion is difficult to understand. No direct importer or law enforcement group has asserted to the agency that it will be unable to determine the model year of a vehicle. Absent some indication besides BMW's unsubstantiated contention that this requirement poses some problem for direct importers or the groups enforcing the theft prevention standard, NHTSA has no basis for amending this requirement.

BMW went on to request reconsideration of the requirement that direct importers mark their vehicles with the Euro-VIN. BMW's petition recites the many differnces between Euro-VIN's and U.S. VIN's and asserts that these differences make it inappropriate to use the Euro-VIN for the purposes of the theft prevention standard. NHTSA agrees that there are substantial differences between the U.S. and Euro-VIN. However, those differences are not relevant to the purposes for which the Euro-VIN's would be used under the theft prevention standard. As noted in the preamble to the final rule (50 FR 43183), the purpose of requiring direct imports to be marked with the Euro-VIN is to enable law enforcement officials to trace a vehicle to its original manufacturer, and verify its production. While this does entail additional effort and time delays for law enforcement, it allows them to conclusively establish if the vehicle is properly marked and if it has been stolen. Requiring direct importers to assign "homemade" U.S. VIN's would not allow law enforcement officials to trace a vehicle to its original manufacturer and verify its production. Finally, law enforcement groups have consistently expressed their preference that direct importers use Euro-VIN's to identify their vehicles, rather than use "homemade" U.S. VIN's. Hence, NHTSA denies BMW's request for reconsideration of this requirement.

DOJ also petitioned for reconsideration of the use of Euro-VIN's by direct importers. DOJ stated that they basically concurred in the idea of requiring direct importers to inscribe the Euro-VIN on the covered major parts of their high theft lines. However, DOJ stated that the direct importer should also be required to certify that the Euro-VIN being used is the VIN assigned by the original manufacturer, and that the Euro-VIN has not been altered, replaced, or so forth.

NHTSA has not adopted this DOJ suggestion. It would require direct importers to conduct a title search back to the original manufacturer for every vehicle the direct importer purchases. Such a title search would be necessary if the direct importer were required to certify that the Euro-VIN was that assigned by the original manufacturer, because the direct importer would not be required simply to state that he or she had not altered or replaced the Euro-VIN. The direct importer would also be required to state that no previous purchaser of the vehicle had altered or replaced the Euro-VIN. This tracing of the chain of title for a vehicle is a burdensome task, which is performed by law enforcement officials when they are suspicious of the validity of the current title, not by each purchaser buying a vehicle. NHTSA believes that a direct importer, and any other purchaser, that acts in good faith ought to be entitled to rely on the accuracy and validity of the title and other documents presented at the time of purchase. While there may be some instances in which a direct importer does not act in good faith when purchasing vehicles, the agency has no reason to believe that the overwhelming majority of purchases are not normal, good faith business transactions. In these circumstances, NHTSA concludes it would be inappropriate to impose a strict investigative burden on all direct importers' purchases of vehicles to address the possibility of knowing purchases of stolen vehicles by a direct importer.

The final request by BMW relating to direct imports was that the agency specify in the language of the theft prevention standard that direct importers cannot import vehicles in high theft lines until the original manufacturer of the vehicle reports the designated target areas to the agency. BMW stated that such language was necessary to ensure unique target areas for each covered major part.

No change to the theft prevention standard has been made in response to this comment. Section 541.5(e)(2) requires each manufacturer that is the original producer of any high theft line to inform NHTSA of the target areas or the covered major original equipment parts 30 days before the line is introduced into commerce. Since 541.6(e)(3) sets forth a similar requirement for the target areas for replacement parts. All parts are required to be marked in those target areas; see § 541.5(d)(2)(iii) and § 541.6(d). Since direct importers must mark covered major parts of high theft line vehicles before importing them and since they cannot be certain about the correct location for placing those markings until the original manufacturer designates the target area for the markings, the agency does not believe that there is any need to amend the standard in the way requested by BMW.

B. Manner of Certification. (50 FR 43185–43188)

Section 606(c)(1) of the Cost Savings Act requires vehicle manufacturers to certify that the vehicle complies with the theft prevention standard "at the time of delivery of such vehicle". The preamble to the final rule discusses the agency's conclusion that "delivery" refers to the delivery to a dealer or distributor, and that the delivery occurs when the goods are delivered by the seller to a carrier.

Several petitioners asked the agency to reconsider these conclusions. BMW stated that, under the requirements of the theft prevention standard, it would be legally impossible for a manufacturer of imported automobiles to replace a

damaged part subject to the standard. AIA stated that, if the language in the preamble were interpreted as requiring manufacturers to replace damaged parts before delivering vehicles to dealers, U.S. importers would be subjected to unnecessary time and expense to set aside such vehicles to wait for the arrival of a numbered part before shipping the vehicles to dealers. Both these commenters asked NHTSA to amend the theft prevention standard to allow manufacturers to replace damaged major parts with properly marked replacement parts before delivering vehicles to dealers or distributors. Both requests appear to reflect a misunderstanding of the Theft Act and the theft prevention standard.

Nothing in the Theft Act requires manufacturers to deliver a vehicle to dealers with all covered major parts undamaged. Similarly, the theft prevention standard does not include any provision requiring vehicles to be delivered to dealers without damage to any covered major parts. Hence, the AIA concern that manufacturers are required to deliver vehicles with all major parts undamaged is not based on any provisions contained in either the Theft Act or this theft prevention standard. However, section 606(c)(1) of the Cost Savings Act does require manufacturers to deliver to their dealers a vehicle certified as meeting the requirements applicable to high theft line vehicles, that is, with each of the covered major parts marked with the appropriate VIN. As explained in the final rule preamble, the dealer may replace damaged original equipment parts with replacement parts before selling the vehicle to a purchaser, without violating any requirements.

The requests by AIA and BMW that manufacturers be allowed to substitute a properly marked replacement part for a properly marked original equipment part *before delivering the vehicle to a dealer or distributor* are inconsistent with the requirement of section 606(c)(1). The Theft Act itself requires manufacturers to deliver to their dealers a vehicle with all parts marked in accordance with the theft prevention standard's requirements for vehicles, and to so certify. The agency is not free to alter or ignore a statutory requirement. Accordingly, NHTSA repeats that manufacturers must certify that all vehicles in high theft lines have all covered major parts marked with the VIN when the vehicle is delivered to a dealer or distributor.

BMW incorrectly stated that a U.S. importer for foreign-manufactured high theft lines could not legally import an original equipment part marked with a VIN and install that on the vehicle in place of a damaged part before delivering the vehicle to a dealer or distributor. While this would entail additional time and expense for the importer, as noted in the AIA comment, nothing in the Theft Act or theft prevention standard prevents an importer (considered a manufacturer for the purposes of the Theft Act) from importing a part marked with a VIN. Although this part would not be a properly marked replacement part, the prohibitions in section 607 of the Cost Savings Act apply only to vehicles and replacement parts, as explained above. Since the part in question is an original equipment part to be installed on a vehicle before delivery to a dealer or distributor (as evidenced by its VIN marking), it would not be subject to those prohibitions. Hence, an importer that wishes to follow this course of action may do so.

Effective Date of the Theft Prevention Standard (50 FR 43188–43189).

Toyota correctly stated that the final rule specified that the theft prevention standard applies to replacement parts manufactured on or after April 24, 1986, *and for use on 1987 or subsequent model year* vehicles subject to the theft prevention standard. Toyota asked the agency to reconsider this effective date, because of excessive administrative and recordkeeping burdens.

Toyota stated that this effective date meant that 1986 original equipment parts manufactured after that date and installed on 1986 vehicles would not be marked, but that replacement parts would have to be marked. This statement is correct, if Toyota was referring to 1986 major replacement parts that are interchangeable with 1987 major replacement parts in lines selected as high theft lines. Toyota further stated that replacement parts for 1986 vehicles that are not interchangeable with 1987 high theft line vehicles would not have to be marked, while those that are interchangeable would have to be marked. This is correct, but NHTSA does not see how it results in any significant administrative or recordkeeping burdens for the manufacturers.

Toyota did not allege, and NHTSA has no reason to believe, that manufacturers do not know well in advance of beginning production for a new model year which parts of vehicles will be carried forward unchanged from the preceding model year, and which parts will be changed so that the preceding model year's parts will not be interchangeable with them. Further, Toyota did not allege, and NHTSA has no reason to believe, that six months' leadtime is insufficient for manufacturers to implement the necessary procedures to affix or inscribe the replacement parts marking on parts. Section 602(b)(5) of the Cost Savings Act specifies that the theft prevention standard may apply only with respect to major replacement parts manufactured after such standard takes effect. The agency is simply implementing this statutory provision, and concludes that any burdens associated with it are well within the burdens foreseen by Congress when it passed the Theft Act. Accordingly, no change has been made to the effective date in response to Toyota's petition.

AIA stated its opinion that the language in the preamble on the effective date of the theft prevention standard for replacement parts meant that dealers could use unmarked replacement parts for repairs on 1986 model year cars, but not on 1987 or subsequent model year cars.

This is an incorrect reading of the preamble. If a dealer has some covered major parts that were not required to be marked, for whatever reason, in its inventory, the dealer may use such parts to repair any vehicle on which the parts will fit, without violating any requirements of the Theft Act or this standard.

Regulatory Impacts

Since this response to the petitions for reconsideration of the final rule establishing the theft prevention standard makes no changes to that standard, this notice does not affect the agency's assessment of the regulatory impacts associated with the theft prevention standard. A full regulatory evaluation was prepared in connection with that standard, and placed in Docket No. T84–01, Notice 7. Interested persons may obtain a copy of that regulatory evaluation by writing to: NHTSA Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling the Docket Section at (202) 426–2768.

A summary of that regulatory evaluation, together with the bases for the agency's conclusion that the theft prevention standard would not have a significant economic impact on a substantial number of small entities and would not significantly affect the human environment, was published at 50 FR 43189, October 24, 1985. Those conclusions are equally applicable to this denial of the petitions for reconsideration.

Authority: 15 U.S.C. 2021–2024, and 2026; delegation of authority at 49 CFR 1.50.

Issued on March 11, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–5607 Filed 3–13–86; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

[Docket No. 60227–6027]

Fishermen's Protective Act Procedures; Fee Adjustment

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

ACTION: Notice of fees for the agreement year from October 1, 1985, through September 30, 1986.

SUMMARY: Section 7 of the Fishermen's Protective Act of 1967 requires fees from participating vessel owners for deposit into the Fishermen's Guaranty Fund. These fees fund a program which compensates fishing vessel owners for certain losses they have incurred when vessels have been seized by foreign nations asserting jurisdictional claims not recognized by the United States. This notice establishes the fee for the present agreement year (October 1, 1985, through September 30, 1986) at $30 per gross vessel ton.

EFFECTIVE DATE: October 1, 1985–September 30, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, Washington, DC 20235, telephone number (202) 634–7496.

SUPPLEMENTARY INFORMATION: The Fishermen's Guaranty Fund under section 7 of the Fishermen's Protective Act (22 U.S.C. 1971–1980) compensates U.S. fishing vessel owners, who have entered into guaranty agreements, for certain losses caused by a foreign country's seizure or detention of a U.S. fishing vessel based on oceanic rights not recognized by the United States. Preexisting agreements are required. Although section 7 requires that fees pay the program's administrative costs and at least 25 percent of claims, Administration policy requires that fees pay 100 percent of all costs and claims. The fee of $30 per gross vessel ton established for the present agreement year (October 1, 1985, through September 30, 1986) is predicated on paying from fee revenues 100 percent of all administrative costs and all claims on hand. Annual fees and adjustments are established by publication of notices in the **Federal Register.**

Program fees for the present agreement year (October 1, 1985, through September 30, 1986) are hereby established at $30 per gross vessel ton. The fee is due on the date this amendment is published in the **Federal Register**, but is optionally payable in two deferred installments. The first installment is payable not later than March 31, 1986. The second installment is payable not later than June 2, 1986.

For those who did not previously pay the fee originally estimated for this agreement year ($16 per gross vessel ton), each installment of the two-installment option for the $30 fee must be in an amount equal to $15 per gross vessel ton. If the first installment is postmarked not later than March 31, 1986, program coverage will commence one day after the postmark date, and continue through June 2, 1986. No seizure whose first proximate event occurred on or before the postmark date will be eligible for payment. If the second installment is postmarked not later than June 2, 1986, program coverage will continue uninterrupted through the close of this agreement year. If the second installment is postmarked after June 2, 1986, program coverage will cease on June 2, 1986, and recommence one day after the postmark date of the second installment. In the latter event, no seizure whose first proximate event occurred after June 2, 1986, but before one day after the postmark date of the second installment, will be eligible for payment. For those in this category who do not wish to pursue the two-installment option, the full fee of $30 per gross vessel ton may be paid at any time during this agreement year. In the latter event, coverage will commence one day after the postmark date and continue uninterrupted through the balance of this agreement year. No seizure whose first proximate event occurred on or before the postmark date will be eligible for payment.

For those who did previously pay the fee originally estimated for this agreement year ($16 per gross vessel ton), each installment of the two-installment option for the $30 fee must be in an amount equal to $7 per gross vessel ton. If the first installment is postmarked not later than March 31, 1986, program coverage will continue uninterrupted through June 2, 1986. If the second installment is postmarked not later than June 2, 1986, program coverage will continue uninterrupted through the close of this agreement year. If the second installment is postmarked after June 2, 1986, program coverage will cease on June 2, 1986, and recommence one day after the postmark date of the second installment. In the latter event, no seizure whose first proximate event occurred after June 2, 1986, but before one day after the postmark date of the second installment will be eligible for payment. For those in this category who do not wish to pursue the two-installment option, the full $14 per gross vessel ton may be postmarked not later than March 31, 1986, to continue coverage uninterrupted through the close of this agreement year. For those in this category who are willing to have their coverage cease on March 31, 1986, the full additional fee of $14 per gross vessel ton may be postmarked at any time during this agreement year after March 31, 1986. In the latter event, coverage will cease on March 31, 1986, recommence one day after the postmark date, and continue through the close of this agreement year. No seizure whose first proximate event occurred before the postmark date will be eligible for payment.

For those who previously paid the fee originally estimated for this agreement year ($16 per gross vessel ton), but do not wish to continue program coverage after March 31, 1986, a refund of $8 per gross vessel ton is available. If a refund request is postmarked before March 31, 1986, the refund will be paid promptly.

Otherwise, refunds will be delayed pending adequate program resources to make such refunds after all claims on hand have first been paid.

For the purpose of this notice, postmark means the date and time at which the U.S. Postal Service cancels postage. Postage meters are not acceptable; certified mail is encouraged. If fees are delivered to us by any means other than the U.S. mail, the actual date and time of receipt by us will be substituted for what otherwise would have been the postmark date.

Classification

This action is taken under the authority of 22 U.S.C. 1977, complies with Executive Order 12291, and is not subject to the requirements of the Regulatory Flexibility Act. It does not contain any collection of information requirement, as defined in the Paperwork Reduction Act.

As a "matter relating to Agency * * * contracts," this rule is exempt from the notice, comment and delayed effectiveness provisions of the Administrative Procedure Act. This means analysis under the Regulatory Flexibility Act is not required.

List of Subjects in 50 CFR Part 258

Claims, Fisheries, Fishing vessels, Indemnity payments, Insurance, Loan programs-business, Business.

Dated: March 11, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries.

[FR Doc. 86-5641 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 50
Friday, March 14, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 32, 70, and 150

Exemption of Technetium-99 and Low-Enriched Uranium as Residual Contamination in Smelted Alloys; Withdrawal of Proposed Rule

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Nuclear Regulatory Commission is withdrawing a proposed rule, published in the **Federal Register** on October 27, 1980 (45 FR 70874), which would have established an exemption from licensing and other requirements for smelted alloys containing residual contamination in the form of low-enriched uranium and/or technetium-99. The proposed rule is being withdrawn in favor of developing an integrated federal policy which would establish consistent guidelines for dealing with the more general issues of decontamination and decommissioning of nuclear facilities as well as the recycling and reuse of decontaminated lands, facilities, materials, and equipment. The NRC is also denying, without prejudice, a Department of Energy request for an exemption from NRC regulations which would have allowed the Department to recycle contaminated smelted alloys salvaged from its uranium enrichment facilities.

DATE: Withdrawal effective March 14, 1986.

FOR FURTHER INFORMATION CONTACT: D.R. Hopkins, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 443–7878.

SUPPLEMENTARY INFORMATION: On October 27, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 70874) proposed amendments to 10 CFR Parts 30, 32, 70, and 150 of its regulations. Proposed new § 30.21 and § 70.15 would exempt any person to the extent that person received, possessed, used or transferred smelted alloys containing less than 5 parts per million (ppm) of technetium-99 and/or 17.5 ppm of low-enriched uranium from the requirements for a license set forth in section 81 of the Atomic Energy Act, as amended, and in 10 CFR Parts 30–35 and 70. Proposed new §§ 32.30 and 70.38 would establish requirements for a specific license for persons desiring to smelt scrap metals or to initially transfer for distribution or sale smelted alloys containing low-enriched uranium and/or technetium-99 to exempt persons. Proposed new § 150.15 would continue the Commission's licensing and regulatory requirements for those activities in Agreement States.

The NRC received an unusually large number of comments (more than 3700) in response to the proposed rule. Most comments opposed the changes because of their potential for allowing the introduction of radioactive material into consumer products. The NRC also received a number of comments concerning the Draft Environmental Statement (DES) made available with the proposed rule. These comments included a letter from the Environmental Protection Agency (EPA), stating that (1) calculated individual doses are below regulatory limits but are not justified in the DES on an as-low-as-reasonably-achievable basis; and (2) the analysis does not adequately consider potential impacts on industries, such as photographic products and radiation detection industries, whose processes, products or services could be adversely impacted by metals contaminated by radioactive materials.

The proposed rule is being withdrawn in favor of working with the Environmental Protection Agency in developing an integrated federal policy which would establish consistent guidelines or dealing with the more general issues of decontamination and decommissioning of nuclear facilities as well as the recycling and reuse of decontaminated lands, facilities, materials, and equipment. The development of these guidelines, for subsequent signature of the President, is within the mission of EPA. The NRC has suggested that, in view of the broad range of facilities and agencies involved and the need for a careful, deliberative development process, EPA should proceed with the development of this guidance.

The proposed rule published in 1980 was the result of a request from the Department of Energy (DOE) for rulemaking to allow it to recycle large quantities of waste metals generated from an upgrading of its uranium enrichment facilities. Associated with this action to withdraw the proposed rulemaking, NRC is denying the DOE request without prejudice to its resubmittal once Federal guidance has been issued. After the requested guidelines have been issued, the NRC will reconsider rulemaking to exempt low-radiation-level smelted alloys and other materials from licensing and other NRC requirements.

Dated at Washington, DC this 11th day of March, 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 86–5682 Filed 3–13–86; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85–NM–128–AD]

Airworthiness Directives; SAAB-Fairchild Corporation Model SF–340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to SAAB-Fairchild airplanes, that would require replacement of the pitch trim synchronizer with an elevator synchronizer in which loading resistors have been added. This action is necessary to prevent uncommanded motion of the right-hand actuator to its end-limit position. Such uncommanded action could result in sudden nose up attitude without warning.

DATES: Comments must be received on or before May 6, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional

Counsel, Attention: Airworthiness Rules Docket No. 85–NM–128–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB-Fairchild, Product Support, S.58188, Linkoping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT:
Mr. Harold N. Wantiez, Standardization Branch, ANM–113; telephone (206) 431–2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–128–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Swedish Board of Civil Aviation (BCA) has, in accordance with existing provisions of a bilateral agreement, notified the FAA of an unsafe condition which may exist in the elevator trim system on certain Model SF–340A airplanes. At total disconnect between the left-hand actuator and the trim control systems, the right-hand actuator could to to the end-limit position, resulting in aircraft nose up without warning. To prevent this from occurring, the BCA issued Swedish Airworthiness Directive (SAD) 1–008, dated August 15, 1985, which requires a modification to the elevator pitch trim synchronizer in accordance with SAAB-Fairchild Service Bulletin SF340–27–028, Revision 1, dated August 14, 1985.

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require modification of the pitch trim synchronizer is accordance with the previously mentioned service bulletin.

It is estimated that 15 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $600.

For the reasons discussed above, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a signficant economic impact because of the minimal cost of compliance per airplane ($40.). A copy of a draft regulatory evaluation prepared for this action is contained in tthe regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

SAAB-Fairchild: Applies to Model SF–340A airplanes listed in Service Bulletin SF340–27–028, Revision 1, dated August 14, 1985, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished. To prevent uncommanded pitch trim inputs, accomplish the following:

1. Modify the elevator pitch trim synchronizer in accordance with SAAB-Fairchild Service Bulletin SF340–27–028, Revision 1, dated August 14, 1985.

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

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

All persons affected by this proposed directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to SAAB-Fairchild, Product Support, S. 58188 Linkoping, Sweden. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on March 7, 1986.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 86–5573 Filed 3–13–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 83N–0193]

Medical Devices; Invitation for Offers To Submit or To Develop a Performance Standard for Breathing Frequency Monitor (Neonatal Apnea Monitor)

Correction

In FR Doc. 86–4082 beginning on page 6886 in the issue of Wednesday, February 26, 1986, make the following corrections:

1. On page 6888, in the third column, in the third complete paragraph, in the second line, "the FDA, to" should read "to FDA, the".

2. On page 6890, in the second column, in paragraph 1, the last three lines should read "are participating in its development, to the extent that such

information is available or reasonably obtainable;".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1915

[Docket No. S-020]

Health and Safety Standards; Recordkeeping Requirements for Tests, Inspections and Maintenance Checks

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of informal public hearing.

SUMMARY: This notice schedules an informal public hearing concerning the proposed revision of certain recordkeeping requirements in 29 CFR Parts 1910 and 1915 for tests, inspections, and maintenance checks. Under the proposal, compliance with the substantive requirements would be certified by the employer instead of being documented with written records (51 FR 312, January 3, 1986).

DATES: Notices of intention to appear at the informal public hearing much be postmarked by April 1, 1986. Testimony and all evidence which will be offered into the hearing record must be received by April 8, 1986. The hearing will begin at 9:30 a.m. on April 15, 1986, in Washington, DC, and may continue beyond that day as necessary.

ADDRESSES: Four copies of the notice of intention to appear, and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523–8615

The informal public hearing wil be held in Room N3437C of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Hearing: Mr. Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue, NW., Washington DC 20210, (202) 523–8615.

Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3637, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523–8148.

SUPPLEMENTARY INFORMATION: On January 3, 1986, OSHA published a Notice of Proposed Rulemaking on Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks [51 FR 312] which proposed to revise certain recordkeeping requirements found in 29 CFR Parts 1910, 1915, and 1926 of OSHA's safety and health regulations. The proposal provided that employers would certify compliance with certain requirement for tests, inspections, and maintenance checks instead of documenting compliance through the preparation and maintenance of detailed written records. OSHA determined that, regarding the 22 provisions whose revision was proposed, requiring employers to certify compliance would ease employers' regulatory burden without reducing the protection of employee safety and health. OSHA believes that its proposal is consistent with the purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), as implemented by 5 CFR Part 1320 and with section 8(d) of the OSHA Act (29 U.S.C. 657).

Two of the 22 provisions covered by this proposal were proposed for deletion. OSHA proposed to remove the recordkeeping requirements at 29 CFR 1910.106(g)(1)(i)(g), which requires service stations to maintain inventory records so they could be used to determine leakage of flammable and combustible liquids, because OSHA found that the interests served by that requirement were outside OSHA's jurisdiction. Also, OSHA proposed to delete 29 CFR 1910.440(a)(1), which referred employers of commercial divers to the injury and fatality recordkeeping requirements of 29 CFR Part 1904, because the cross reference was considered redundant. OSHA notes that the Agency is not proceeding with consideration of the proposed revisions to §§ 1926.550(b)(2), Cranes and derricks; 1926.552(c)(15), Material hoists, personnel hoists, and elevators; and 1926.903, Underground transportation of explosives, because OSHA did not formally consult with the Advisory Committee on Construction Safety and Health regarding those provisions. Therefore, OSHA is not seeking any testimony or other input regarding those recordkeeping requirements at this time. Written comments, objections, and requests for a hearing were to be postmarked by March 4, 1986.

The comments and objections focused on several concerns raised by the proposed revisions. In addition, OSHA has received four written requests for a public hearing. Accordingly, pursuant to Section 6(b)(3) of the OSH Act, OSHA has scheduled an informal public hearing to receive testimony and other information regarding the specific issues raised in the comments and other relevant issues.

OSHA seeks additional information and specifically invites comments and testimony on the issues presented below.

Hearing Issues

Issue 1. Several commenters have questioned the proposal's statement that the proposed changes from recordkeeping to certification would not lead to a reduction in employers' compliance efforts. They assert that the recordkeeping requirements in question enable employees to assure themselves that the necessary tests, inspections, and maintenance checks have been performed by providing them a written record to examine. The commenters express concern that employers will relax their compliance efforts if they do not have to document them. In addition, several commenters noted the likelihood that dishonest or irresponsible employers would take advantage of the certification requirement to short cut or avoid the required tests or inspections, confident that OSHA would not discover their false certifications.

OSHA is very concerned about the possibility that the proposed revisions will reduce the protection of employee safety and health. Therefore, OSHA strongly encourages interested parties to present testimony as to whether the recordkeeping requirements in question contribute substantively to worker protection. OSHA is particularly interested in receiving data and other information which substantiate the viewpoints expressed. For example, are there any cases where an employee's examination of a test, inspection, or maintenance record covered by this rulemaking led an employee to point out problems for the employer to correct, or triggered a state or Federal OSHA workplace inspection? Also, please submit reports of any experience with analogous recordkeeping or certification requirements imposed by other regulatory agencies. One commenter expressed doubts about the level of compliance with the existing OSHA requirements and suggested that if OSHA promulgates the proposed changes, OSHA should require employers to "specify the particular pieces of equipment they have and be required to comment as to its compliance with OSHA 29 CFR 1910."

That commenter also suggested that OSHA impose fines on an employer found to have falsified a certification. OSHA solicits comments and testimony, supported by documentary evidence if possible, regarding these suggestions.

Issue 2. Several commenters asserted that the deletion of 29 CFR 1910.106(g)(1)(i)(*g*) was unjustified because OSHA had not provided evidence to support a change from its earlier position that the records helped protect service station workers from fires and explosions. OSHA solicits testimony, with supporting documentation, regarding the need for this recordkeeping requirement and the appropriateness of OSHA's continuing to regulate in this area. Please submit information regarding any service station fires or explosions which have been related to this recordkeeping requirement.

Issue 3. Several commenters disputed OSHA's determination that the reference in 29 CFR 1910.440(a)(1) to 29 CFR Part 1904 is redundant, adding that the existing provision facilitates compliance efforts and that deletion would reduce compliance with 29 CFR Part 1904. They refer to OSHA's Final Rule promulgating regulations for Commercial Diving Operations [42 FR 37667, July 22, 1977] where OSHA states that the "Reference to 29 CFR Part 1904 is included in the final standard, as in the proposal, to remove any uncertainty as to its applicability." Further, the commenter asserts that the § 1910.440(a)(1) reference to 29 CFR Part 1904 overrides § 1904.16, insofar as the latter provision limits recordkeeping burdens, and that OSHA should disregard § 1904.16 when applying the requirements of Part 1904 to commercial diving operations. OSHA solicits testimony regarding the need for this recordkeeping requirement.

Issue 4. Several commenters have questioned OSHA's estimates of the cost and time savings that would be realized if these proposed changes from recordkeeping to certification were made. For example, they assert that most employers would continue to maintain records in order to document their certifications and to protect themselves from liability in the event of a workplace accident. In addition, they assert that 85 percent or more of the time ostensibly saved by these changes are attributable to the performance of the required tests, inspections or maintenance checks themselves, leaving only, perhaps 15 percent for the actual recordkeeping. OSHA solicits testimony regarding the extent to which the regulatory burden on employers would be reduced, increased or left the same by the proposed deletions and changes from recordkeeping to certification.

Issue 5. Several commenters have expressed concern that requiring employers to certify compliance "upon request" would unreasonably burden the memory of the person called upon to provide the certification. Indeed, some commenters noted that a number of years could elapse between inspections, for example. It was suggested that this difficulty could be overcome if OSHA required that the certification in question be made at the time that the particular test, inspection, or maintenance check was performed, by the person who had done the work. The commenter asserted that the contemporaneous certification by someone with first-hand knowledge of what had been done would provide the best assurance of compliance without the need to keep detailed, written reports or records of the inspection. OSHA is considering this suggestion and invites testimony, supported by documentary evidence, regarding the anticipated impact if OSHA decided to require contemporaneous certification.

Public Participation in Hearing

Notice of Intention to Appear: Persons desiring to participate at the hearing must submit a notice of intention to appear, postmarked by April 1, 1986. The notice of intention to appear must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addressed; and
6. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including all documentary evidence to be presented at the hearing. These materials must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3637, 200 Constitution Avenue, NW., Washington, DC 20210 (202) 523–8615, and must be received by OSHA no later than April 8, 1986.

Each submission will be reviewed in light of the amount of time requested in the Notice of Intention to Appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact prior to the hearing.

Any party who has not substantially complied with the above requirement may be limited to a 10 minute presentation, and may be requested to return for questioning at a later time.

Any party who has not filed a Notice of Intention to Appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge, but will not be allowed to question witnesses.

Notices of Intention to Appear, testimony and evidence will be available for inspection and copying at the Docket Office, Docket No. S–020, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3670, 200 Constitution Avenue, NW., Washington, DC 20210 (202) 523–7894.

The hearing will commence at 9:30 a.m. on April 15, 1986, in Room N3437C of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The hearing will begin with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary and appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the power:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. In the Judge's discretion, to question and permit questioning of any witness; and
6. In the Judge's discretion, to keep the record open for a reasonable time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The

notice of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and the proposed recordkeeping requirements will be modified or a determination will be made not to modify the recordkeeping requirements based on the entire record of the proceeding.

Authority

This document was prepared under the direction of Patrick R. Tyson, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

(Sec. 6, 29 U.S.C. 655; 29 CFR Part 1911, Secretary of Labor's Order No. 9–83 (48 FR 35736)

Signed at Washington, DC, this 11th day of March, 1986.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 86–5712 Filed 3–13–86; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

[Department of the Treasury Circular, Public Debt Series, No. 2–86]

Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of the Public Debt plans to issue Treasury bonds and Treasury notes only in book-entry form, beginning on or after July 1, 1986. This action will complete the Department's plan, initiated in 1976 with Treasury bills, to offer marketable Treasury securities only in the form of book entries.

The proposed rule, a portion of which is being published below, will, upon final adoption, govern dual book-entry systems covering generally all marketable Treasury securities. Nonmarketable Treasury securities, such as savings bonds, are governed by other regulations found in Subtitle B, Chapter II, Subchapter B of Title 31 of the Code of Federal Regulations.

The part of the rule set out here for comment applies only to securities to be held in the commercial book-entry system, referred to herein as the Treasury/Reserve Automated Debt Entry System ("TRADES"). A separate book-entry system, to be known as the TREASURY DIRECT Book-Entry Securities System ("TREASURY DIRECT"), will be implemented in mid-1986. The proposed rulemaking for TREASURY DIRECT (formerly referred to as T-DAB) was published separately for public comment on December 2, 1985, at 50 FR 49412.

DATE: Comments must be received on or before May 13, 1986.

ADDRESS: Send comments to the Office of the Chief Counsel, Bureau of the Public Debt, E Street Building, Washington, DC 20239–0001.

FOR FURTHER INFORMATION CONTACT: Virginia Rutledge, Attorney-Advisor, (202–535–4890) or Cynthia Reese, Attorney-Advisor, (202–376–4320).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written comments and suggestions. Those received before the expiration of the comment period will be considered in the preparation of the final rule. No pubic hearing is contemplated, but if written requests for a hearing are received, and if it is determined that the rulemaking process will be clearly enhanced by oral presentation, a hearing will be scheduled.

Discussion of Proposed Rules

Background

Under the authority of Chapter 31 of Title 31 of the United States Code, the Department of the Treasury (the "Department") issues marketable debt obligations of the United States in the form of bills, notes, and bonds ("Treasury securities" or "securities"). In 1967, the Department initiated a system for issuing and maintaining Treasury securities solely by means of entries on the records of a Federal Reserve Bank. The Department also provided that such book-entry securities could be converted into definitive form.[1] Initially, the book-entry system was limited to securities owned by institutions that maintained securities accounts directly on the books of a Federal Reserve Bank. In the early 1970s, the book-entry system was expanded to permit institutions dealing directly with the Federal Reserve to establish aggregate accounts for their customers' securities as well. In this expanded system, ownership of, or security interests in, Treasury book-entry securities could be reflected on the books of entities other than the Federal Reserve Banks; however, issuance and maintenance of the securities at the aggregate level still was handled through the Federal Reserve Banks in their capacity as fiscal agents of the United States.

As a result of the expansion of the book-entry system, Treasury book-entry securities now are held by investors of all types through a vast network of entities that maintain book-entry records of such securities (hereinafter referred to as "book-entry custodians"). Between each ultimate owner of a book-entry security and the Federal Reserve Bank that initially issued such security or currently maintains a record of such security, there may be several intervening book-entry custodians, beginning with a depository institution for whose account the securities are recorded on the books of the Federal Reserve Bank and ending with the book-entry custodian on whose books the interest of the beneficial owner is recorded.

An example will illustrate the tiered nature of the Treasury book-entry system. Assume that an individual ("Individual Investor") has invested in a Treasury 5-year note through a local government securities dealer ("Local Dealer"). Local Dealer will be maintaining one or more Treasury 5-year notes of the same issue through another book-entry custodian such as a larger government securities dealer ("National Dealer"). National Dealer would, most likely, be maintaining the 5-year notes through a bank ("Clearing Bank"). Clearing Bank would be maintaining the 5-year notes directly in an account at a Federal Reserve Bank, assuming that Clearing Bank is an entity that is otherwise authorized to maintain a securities account on the books of the Federal Reserve Bank. Each of the book-entry custodians will record on its books securities maintained for the account of the book-entry custodian below it in the chain, and local dealer will record on its books the interest of Individual Investor.

Because of the speed and efficiency with which transaction involving Treasury book-entry securities can be accomplished, the book-entry system has proven immensely successful. As of December 31, 1985, 97% of all outstanding marketable Treasury securities were held in book-entry form. Since 1978 Treasury bills have been issued in book-entry form only. Beginning in mid-1986, the Department will issue all marketable Treasury securities in book-entry form only. However, bonds and notes issued prior to that date will continue to be convertible to definitive form.

[1] If a security is converted to definitive form, the holder receives an engraved or printed certificate evidencing the debt obligation of the United States.

The book-entry system currently is used for a wide variety of transactions in book-entry securities, from holding Treasury securities solely as a fixed-income investment to the intensive daily trading of Treasury securities in the interdealer market. The Department recognizes that some investors, such as those who purchase Treasury securities for the income stream and who do not intend to trade in the interdealer market, may desire to have a direct relationship with the Department as issuer of the security. As a result, in conjunction with the planned shift to a pure book-entry system, the Department has designed the new book-entry system known as TREASURY DIRECT that will permit investors to hold their securities directly on records of the Bureau of the Public Debt. The existing commercial book-entry system, which can accommodate the intensive daily trading in Treasury book-entry securites of the secondary market, will be retained essentially in its present form.

In anticipation of the change to a pure book-entry system, Treasury has reviewed its existing regulations for book-entry securities (Subpart O of 31 CFR Part 306), which were initially adopted in 1967, and were last amended on June 17, 1974. See 32 FR 15672 (1967); 39 FR 20965 (1974). Particular attention has been given to the rules describing the methods for effectively transferring, and perfecting security interests in, Treasury book-entry securities. Over the past several years, a number of interpretative questions concerning the existing rules have been identified. Treasury believes that it is important that these questions be resolved to help ensure the continued efficiency of the market for government securities and to provide the commercial certainty required by market participants.

Although the current regulations provide a legally sufficient mechanism for transferring and pledging Treasury securities, they are based on a concept, as explanied below, that does not conform to the fact that most transactions involving Treasury securities take place solely by means of computerized book entries. The Department believes that revising its rule to reflect more nearly how transactions take place in the market will simplify transactions in Treasury securities. In addition, these proposed rules should give investors clearer guidelines on how to structure their transactions for maximum safety.

At the time of the adoption of the initial book-entry regulations, virtually every state's commercial law dealing with investment securities anticipated that securities would exist only in definitive form. That law was based upon Articles 8 and 9 of the Uniform Commercial Code. When the Department expanded the book-entry system to permit maintaining book-entry securities on the books of entities other than the Federal Reserve Banks, it concluded that state law should continue to govern, with only slight variations, transactions recorded at levels below the books of the Federal Reserve Banks. As a means of applying those rules, the book-entry regulations currently provide that Treasury book-entry securities be deemed to be maintained in bearer definitive form.

After careful consideration, the Department has concluded that continued use of the bearer definitive fiction in the book-entry regulations is not advisable. The methods of accomplishing transactions involving book-entry and definitive securities are operationally different. Rules for transferring ownership of definitive securities or for perfecting security interests therein are built around the concepts of possession and delivery. Possession is significant in that it is exclusive: only one entity or individual may be in actual possession of a definitive security at any given moment. As a general matter, delivery constitutes the transfer of possession. In contrast, ownership of a book-entry security, or a security interest in such a security, generally depends upon the records of at least one entity other than the beneficial owner. In the example described above, the Individual Investor's record of ownership depends upon entries on the books of the Federal Reserve Bank, the Clearing Bank, the National Dealer, and the Local Dealer.

Given all of the foregoing, the Department believes that the bearer definitive fiction may in some cases cloud the intended relationships between parties to a transaction involving book-entry securities, especially in a secured transaction where book-entry securities are the collateral. Under general legal principles, rights and duties of the secured party and the grantor of the security interest may depend to some extent on who is in possessionof the collateral. Because the concept of possession is not applicable to book-entry securities in quite the same sense as it is with definitive securities, what rights and duties are relevant may be unclear. In part because of these ambiguities, the Department proposes to eliminate use of the bearer definitive fiction. However, to do away with the fiction and leave book-entry securities subject to state law would result in a lack of uniformity in the rules that would govern transactions is such securities.

Since the initial adoption of the Treasury book-entry regulations, Article 8 of the Uniform Commercial Code has been amended to include rules for both certificated and uncertificated, *i.e.*, book-entry, securities. As of January 21, 1986, nineteen states had adopted some variation of the revised Article 8. Given this current state of flux in state commercial law governing uncertificated investment securities, reliance on state law would create a lack of uniformity that would be undesirable given the national scope of the government securities market. Recognizing the need for uniform rules at all levels of the book-entry system, the Department concluded that its own regultions should include all of the basic mechanical rules needed for effectively transferring Treasury book-entry securities and for perfecting security interests therein. In drafting the proposed rule set forth below, a major goal was to generate rules that provide needed clarity and uniformity, but that, to the extent possible, conform to current practice in recording transactions involving book-entry securities, so that the rules would not unnecessarily require operational changes for participants in the government securities market.

Section-by-Section Analysis

Section 357.0. This section establishes that, beginning with the earliest effective date to be specified in § 357.1(b), the Department will maintain two separate book-entry systems for holding securities. TRADES is in essence the same system that exists today (also referred to as the commercial book-entry system). That system is made up of a network of entities, including the Federal Reserve Banks, a variety of financial institutions, and dealers and brokers in government securities, through which investors may maintain or carry out transactions in securities. If a security is maintained in TRADES, as described in § 357.0(a), then there may be one or more tiers of book-entry custodians between a given Federal Reserve Bank and the ultimate owner, in addition to the depository institution in whose account the security is reflected on that Federal Reserve Bank's records. TREASURY DIRECT is a new system that will permit investors to hold securities directly on records of the Bureau of the Public Debt. Proposed rules governing TREASURY DIRECT (formerly referred to as T–DAB) were

published for public comment on December 2, 1985, at 50 FR 49412.

Section 357.1. Section 357.1(a) describes the applicability of the proposed rule both to new issues of securities and to securities already issued and outstanding. With two qualifications, the proposed rules will apply to all transactions in bonds, notes, and bills occurring on or after a specified date. Transactions occurring prior to the specified date will be governed by the existing regulations. The first qualification to the general rule of applicability is that securities will not be eligible to be transferred to or maintained in the new TREASURY DIRECT system unless the offering circular for such security specifies that it is eligible for TREASURY DIRECT or until such time as the Department subsequently may announce its eligibility. The Department plans to phase in applicability of the TREASURY DIRECT system to outstanding issues of bonds and notes at some time after the system has been implemented. Bills issued prior to the specified date for bills will not become eligible for TREASURY DIRECT, but may continue to be maintained either through TRADES or through the existing book-entry system maintained by the Department exclusively for bills. The Department intends to phase out the latter system as bills mature and the new bills that are offered are made eligible for TREASURY DIRECT.

The second qualification to the general applicability rule is that the new rules of Part 357 may not limit or restrict obligations of the United States with respect to any security issued and outstanding prior to the date such security becomes eligible for TREASURY DIRECT. In addition, rights in securities that were acquired under applicable law as in effect before the date specified herein [which is 60 days after the date of publication of this Part in final form] shall not be affected. Under this provision, for example, holders of outstanding securities that contained an option to convert to definitive form will continue to have this option. However, consistent with the Department's goal of shifting to a pure book-entry system, securities offered and issued after dates to be announced by the Secretary will not include such an option.

Section 357.2. This section describes the law which governs the rights and obligations arising out of interests in securities. The rights and obligations of the United States, the Department, and the Federal Reserve Banks in their capacity as fiscal agents of the United States, are governed solely by Federal law. Therefore, obligations of issuers of securities under state law, such as those set forth in Article 8 of the Uniform Commercial Code, will not apply.

The rights and obligations of others with respect to interests in securities shall also be governed by Federal law and any state or local law not inconsistent with such Federal law. For example, state law, such as laws on succession or inheritance, may still be applied, where relevent, in determining rights to specific securities so long as such law is not inconsistent with these regulations and other applicable Federal law. The operation of state law in a case of intestate succession would not be inconsistent with these regulations so long as the application of such law was based initially upon a recognition of ownership by the deceased as reflected on TREASURY DIRECT. Other examples of potentially applicable state law are given in the text of § 357.2.

The section on governing law does not explicity deal with the impact of the rules contained in this Part on transactions in book-entry securities that occur outside the United States. The Department intends these rules to be the exclusive means for voluntary transfers of interests in securities, but recognizes that the rules governing conflicts or choice of laws in other countries may dictate that such other country's own commercial law govern such transactions, especially if the parties to the transaction do not contractually select U.S. Federal law as the governing law. The Department specifically invites comments on the potential for conflict of the proposed rules and foreign law. To the extent that such comments recommend dealing with the issue explicity in § 357.2, the Department invites suggestions as to how such a provisions should be formulated.

Section 357.3. This section contains certain defined terms that are relevant to Subpart B. Additional defined terms were published in § 357.4 in connection with proposed rules relating to TREASURY DIRECT. In the final rule, § 357.4 as originally proposed will be renumbered as § 357.3 and will contain all of the definitions relevant to both Subpart B and Subpart C.

Note that the proposed definitions of "security", "security interest" and "pledge" contained in this proposed rulemaking supplement the proposed definitions initially published in § 357.4 as described above. All other proposed definitions are published for the first time in this proposed rulemaking or simply restate definitions previously proposed.

The only definition that requires some explanation is the definition of "book-entry custodian". As defined, the term includes ony persons that maintain securities accounts for others as part of their ordinary course of business. The rational is to permit only persons with a regularized system of records showing interests of customers in securities to act as book-entry custodians for purposes of these rules. It should be noted that a transaction involving securities will not be effective unless the transaction is reflected in accordance with these rules on the books of a book-entry custodian, as defined in § 357.3, or on the books of a Federal Reserve Bank, whichever is appropriate.

Section 357.10. This section specifies how payments of interest and principal on securities in TRADES will be made. The rule specifies that the payment obligation of the United States is discharged at the time a payment is credited to an account at a Federal Reserve Bank in accordance with the instructions of the holder of the securities. The rule further requires that book-entry custodians make payments received with respect to securities available for use by their customers by the close of business on the day on which the book-entry custodian receives such payment. Similar provisions exist with respect to securities held in TREASURY DIRECT. See 31 CFR 357.26.

Sections 357.11. The proposed rules on rights acquired by a transferee follow similar rules in Article 8 of the Uniform Commercial Code. In connection with this rule, the department has given careful consideration to whether it is feasible or appropriate to include a rule for setting competing claims to the same security where both claimants acquired their interest in the security in good faith and without knowledge of the conflicting claim. As is described in detail below, the inclusion of such a rule raises a number of issues all of which are significant and some of which are particularly important to the continued high level of efficiency of the government securities market.

Because of the complexity created by the various issues raised, the Department has chosen not to include a specific rule for competing claims this time but to leave settlement of such claims to state law. The Department specifically invites comments as to all of the issues raised and the various alternative approaches to competing claims that are discussed below. Furthermore, the Department welcomes suggestions of a specific rule for settlement of competing claims that might be adopted in these regulations in

place of applicable state law. Any such suggestions should, if possible, include both implementing language and detailed consideration of the effect of the suggested approach on all aspects of the government securities market.

The Department has considered three different approaches to the question of competing claims. Before discussing these approaches, it may be helpful to illustrate how conflicting claims to securities may arise in a tiered book-entry system. Essentially, competing claims may be categorized as either vertical or horizontal.

Vertical conflicting interests in securities are claims between two or more of the entities in a chain of accounts.[2] For example, a conflict could arise between a dealer's clearing bank and the dealer's customer when the clearing bank has extended credit to the dealer to finance the dealer's positions in securities and has taken a security interest in securities in the dealer's clearing account as collateral for the loan. Conflicts also can arise between entities further separated in the chain of accounts.

Under current practice, customer securities frequently are segregated [3] from dealer securities that may become subject to the clearing bank lein. If such segregation has not occurred, then the clearing bank's lien may conflict with the claims of the dealer's fully-paid customers.

A different set of competing claims are those that may be viewed as horizontal competing claims. These claims arise not from the interrelationships of entities in a chain of accounts but from some undisclosed defect in the right of a transferor to transfer a security. For example, a transferor ostensibly transferring full ownership of a security might have granted a security interest to a third party. Claims against the security between the secured party and the transferee would, in a sense, be linked horizontally through the transferor that transferred the security in violation of the security interest.

Although there are numerous hypothetical examples that might give rise to competing claims, the circumstances in which competing claims will require resolution probably are limited. Conflicts between vertical claims for the most part will arise only in the event of the insolvency of a book-entry custodian and even then only to the extent that customer securities have not been segregated from securities as to which another entity in the chain has a lien.

Conflicts between horizontal claims also appear to be limited. The probability of horizontal claims of the type described in the example above should be diminished once a security interest is perfected by a transfer of the security interest, as described in § 357.14(b).

In spite of the foregoing, it is clear that some cases will arise that require resolution of competing claims. The Department has considered three different approaches to the problem.

1. The first approach would be to provide a specific rule in these regulations that incorporates the theory of the traditional bona fide purchaser ("BFP") rule into the book-entry system. Under the traditional rule, as between two good faith purchasers of property that are without notice of the other's claim, the last in time to purchase wins by cutting off any prior adverse claim.

There are several problems with incorporating a traditional BFP rule. First, the theory of the BFP rule developed at a time when all securities were issued in physical form and purchasers took delivery of the certificates. As a result, the concept does not translate easily into a system where transfers of securities occur by book-entry. This is the case whether the system is a pure book-entry system, such as TRADES, or a system based on securities issued in physical form that are immobilized at some level in aggregate accounts so that transfers of smaller denominations occur by book-entry. As noted below, the drafters of revised Article 8 declined to adopt a broad BFP rule, and the Department is reluctant to proceed with such a significant deviation from Article 8 without the benefit of comments from market participants.

Second, a BFP rule may give investors at all levels an unwarranted sense of security. The utility of the BFP rule in a book-entry system may be limited by the fact that vertical competing claims of upper-tier book-entry custodians theoretically may attach after the interest of an entity further down the chain of ownership. Since BFP status protects only against prior adverse claims, this raises the question of what, if any, practical value follows from adoption from a BFP provision.

Third adoption of a BFP provision could advesely affect the liquidity of the government securities market. Clearing banks provide daily credit to dealers to assist them in financing their transactions. Such credit extensions are possible only if the regulators of the banks supplying credit are satisfied that such loans are consistent with safety and soundness concerns which in general requires that they be fully collateralized.

It is possible that alterations to the traditional BFP rule could addres some of these concerns. For example, a BFP rule could be fashioned to confer BFP status only with respect to horizontal claimants or vertical claimants.[4]

Although the Department has considered such alternatives, designing rules that conform to the current operational structure of the government securities market would appear to create unworkable levels of complexity. Commentors who favor either a BFP or modified BFP rule are requested to provide specific suggestions on how such a rule would operate.

2. A second alternative would be to establish a rule that favored a particular class of participants in the government securities market without regard for the order in time of the claims in question. Such a rule could be fashioned always to favor lower-tier claims over upper-tier claims or vice versa. Although such a rule would greatly simplify the resolution of competing claims, it appears to be unjustifiably arbitrary. Furthermore, a rule favoring the lower-tier claims could present safety and soundness problems for clearing banks and other upper-tier entities, and thus liquidity problems for dealers, to an even greater extent than was suggested

[2] The term "chain of accounts" includes the Federal Reserve Bank on whose books a security is maintained, the ultimate owner of the security, and the intermediate book-entry custodian or custodians between that Federal Reserve Bank and the ultimate owner. For instance, in the example used to illustrate the tiered nature of the book-entry system near the beginning of the background discussion above, the chain of accounts includes the appropriate Federal Reserve Bank, Clearing Bank, National Dealer, Local Dealer, and Individual Investor. A chain of accounts may include fewer tiers than the example or, in some cases, a greater number of tiers. In addition, a chain of accounts will not necessarily include clearing banks or dealers. It may be made up of financial institutions with other types of interrelationships, such as banks and their correspondent banks.

[3] Segregation, as used in this document, refers to the process of separating on the clearing bank's books securities that have been fully paid for by customers of the dealer from all other securities held by the dealer through the clearing bank. The segregation occurs when, upon instructions from the dealer, securities are moved by the clearing bank from the dealer's general clearing account to a separate account as to which the clearing bank disclaims any liens.

[4] Such a rule could further provide that a purchaser of a government security obtain BFP status after a specified period of time (*e.g.* 24 hours). Such an approach would be predicated on the assumption that after that period of time the securities could be segregated in a customer account as described in footnote 3. While the Department has considered such as alternative, it does not appear to deal satisfactorily with problems associated with the failure to segregate customer securities at all levels in the chain of accounts.

above because the lower tier claims would defeat all claims, not just claims that arose prior in time.

3. The third approach, and the one chosen by the Department, is to permit competing claims to be resolved under state law. The Department recognizes that, like the two alternatives already discussed, this approach has some disadvantages. As already mentioned in the background discussion, current state law on uncertificated securities is in a state of flux. Nineteen states have adopted the 1978 revisions to Article 8 of the Uniform Commercial Code. Because of the limited applicability of the Article 8 BFP rule to uncertificated securities generally, it appears that, where the law of any of these nineteen states is applicable, any vertical or horizontal claim to a security, as described above, always will be subject to prior adverse claims. The only thing that might cut off prior claims would be the purely practical problem, referred to above, that a prior claimant may not be able to trace the security against which it has a claim to a subsequent purchaser. In those states that have not adopted the revised Article 8, it is possible that the traditional BFP rule might be applied to resolve competing claims. As a result, the third approach initially may not achieve an optimum degree of either certainty or uniformity as to the outcome of cases involving competing claims.

Nevertheless, the Department believes that this third approach is the most feasible at this time. Several factors contributed to this decision. Some of the difficulties with attempts to fashion a bona fide purchaser rule that could be applied to a tiered book-entry system have already been described. Furthermore, the Department notes that the drafters or revised Article 8 themselves severely limited applicability of the Article 8 BFP rule to uncertificated securities, no doublt in recognition of theoretical and practical difficulties such as those noted here.

From the foregoing discussion concerning competing claims to book-entry securities, it should be apparent that the interests of investors who have fully paid for their securities would be best protected by an enforceable segregation requirement that will assure that such securities will be free of any liens—at least after the close of business on the purchase date. Such a rule would be beyond the scope of the Department's current statutory authority for promulgating regulations governing book-entry securities. The Department has submitted a bill to Congress providing for the regulation of government securities dealers and containing specific rulemaking authority for promulgating a segregation requirement and enforcement it through inspection of books and records. The Department believes that this bill is a necessary step to providing optimal security for the government securities market. Absent adoption of this bill or similar legislation, it appears that no regulatory action can resolve, to the maximum extent possible, the complex questions that arise from either vertical or horizontal competing claims.

Section 357.12. This proposed rule contains two parallel rules for effecting transfers of book-entry securities. Section 357.12(a) provides the rule for effecting transfers on the books of the Federal Reserve Banks. The proposed rule is intended to apply only to transactions among Federal Reserve Banks and entities that otherwise are permitted to maintain a book-entry securities account at a Federal Reserve Bank. The rule applies to all transactions of the books of a Federal Reserve Bank involving one or more such entities including the initial issuance of securities, whether the entity acquired the securities for its own account or for the account of a customer. If the entity acquired the securities for the account of a customer, then § 357.12(b) would apply to entries made on the books of the entity to show the customer's interest. Because subsections (a) and (b) each apply to transfers at different levels in the book-entry system, they are not alternative transfer rules to be applicable depending upon the choice of the parties to a given transaction.

Under §357.12, a transfer of a security is accomplished at the time an entry is made on the books of either a Federal Reserve Bank or a book-entry custodian crediting the security to the securities account maintained for the transferee at such Federal Reserve Bank or book-entry custodian. Making an entry on an entity's books crediting securities to a transferee's account is intended to describe the same action more commonly referred to as "marking the books." The rule is intended to describe an act that is a part of a standardized system of bookkeeping through which a book-entry custodian keeps a record of securities held for specific customers. In keeping with the foregoing, the term "books" as used throughout the proposed rule and the section-by-section analysis, was chosen because it connotes such a system of records. However, it should be clear that the term "books" does not require the presence of tangible objects such as journals and ledgers in order to have an effective transfer since the entire book-entry system is predicated upon the use of computer entries as the means of effecting transactions and storing information. Although the Department does not believe it is feasible to define the relevant act more precisely because of operational differences that may exist in the bookkeeping methods of various book-entry custodians, the Department specifically invites comments on this point and suggestions as to any potential refinements of the relevant phrase.

This type of tranfer can be used for both transfers of ownership and transfers of security interests comparable to pledges of definitive securities. Both types of transactions would be recorded simply as transfers on the relevant entity's books and the entity will view the transferee as the owner. For those transactions in which the transferee is merely a secured party, the nature of the interest being transferred and the relationship between the transferor and the transferee will be set forth in the security agreement that is required under §357.14 below for attachment and perfection of the security interest.

Unlike the similar rule of section 8–313(1)(d) of Article 8, the sending of a confirmation to the transferee under § 357.12 is not a prerequisite to an effective transfer. However, sending confirmation is required as an independent duty of a book-entry custodian under § 357.15(a) below.

There were several considerations that led the Department to structure the rule in this way. It seemed inadvisable to require both book-marking and the sending of confirmation, as in Article 8, because such an approach made the effectiveness of a transfer to a transferee depend upon two separate actions that must be taken by a book-entry custodian, and might therefore increase the risk that an effective transfer would not be accomplished. For example, even if a book-entry custodian's books had been marked to show the transferee's interest, if insolvency of the book-entry custodian intervened so that confirmations were never sent, then there would have been no effective transfer to the transferee. Failure to effect the transfer might have a detrimental effect on the transferee's rights in a liquidation of the book-entry custodian. To allow a transferee's rights to be affected by a fortuity such as whether or not the ministerial act of sending confirmation had been accomplished seems and unreasonable result.

Because book-entry custodians frequently mark their books prior to sending out a confirmation, it seemed appropriate to have a transfer completed at the earliest parcticable time in order to protect the rights of the investor. For these reasons, book-marking was selected as the single event necessary to accomplish an effective transfer. To diminish the risk that a book-entry custodian would not mark its books as required, §357.15(f) provides that the confirmation constitutes a warranty that the book-entry custodian has in fact marked its books.

An alternative solution would have been to require both book-marking and confirmation but to have the time of effectiveness relate to the time of book-marking. If book marking were the earlier of the two events, then once the confirmation had been sent the transfer would be deemed effective as of the earlier date. Such a rule would temporarily suspend a transferee's rights but would not ultimately delay the time of effectiveness if a confirmation ultimately was sent. Such a rule, however, like the first alternative, makes the transferee's rights depend upon two actions of the book-entry custodian rather than one, and thereby increases the risk that an effective transfer would not be accomplished. For that reason, this alternative was rejected.

A third alternative would have been to have only the confirmation be the prerequisite to an effective transfer. This alternative was rejected both because it might delay the effectiveness of a transfer, as described above, and because it might discourage appropriate record-keeping. In the event of insolvency of a book-entry custodian, the most fundamental evidence of customers' interests in book-entry securities will be that book-entry custodian's own books. As a result, it is the marking of the book-entry custodian's own books. As a result, it is the marking of the book-entry custodian's books that should be the minimum requirement for effecting a transfer.

Based upon all of the foregoing, it was concluded that the best approach would be to make an effective transfer depend solely upon the act of marking the books. At the same time, the Department agrees with the conclusion of the drafters of Article 8 that it is advisable for transferees to receive confirmations so that there is some evidence outside the book-entry custodian's books of the transferee's interest in the security. As a result, issuance of confirmations is set out as an independent requirement for book-entry custodians. Because the use of confirmations appears to be already widely used, the requirment should not add a new burden to commercial practice. In any case, the Department believes that regardless of any legal requirements to issue them, confirmations will be demanded by transferees as a matter of prudent business practice.

As a final matter, consideration has been given to the scope of the transfer rules just discussed. The Department has concluded that the rules should represent the exclusive means for transferring ownership of Treasury book-entry securities. The proposed rule is not, however, intended to supplant creation of equitable interests in securities under established principles, nor would it preclude the creation of interests in book-entry securities by private agreement. However, to have title that is good against third parties, it would be necessary to have an effective transfer under the proposed rules.

Section 357.13. Section 357.13 provides specific methods for transferring a security interest in addition to the pledge-type transfer described above under § 357.12. Note that effecting a transfer under any of the provisions of this section may be only one of the requirements for perfection of the security interest. See § 357.14 below.

It is anticipated that, under §§357.13 (a) and (b), the books of the Federal Reserve Bank or the book-entry custodian will continue to reflect the ownership of the security by the transferor of the security interest, but an added notation would also reflect the identity and interest of the secured party. For example, the securities could be placed in a collateral account that reflects the identity of both the owner and the secured party.

Note that, as specified in § 357.17(a) below, the class of entities that may acquire security interests under § 357.13(a) is limited to Federal Reserve Banks, the United States, entities entitled to recordation of a security interest on the books of a Federal Reserve Bank solely by virtue of an express requirement of Federal law or the order of a Federal court, and entities that have a special agreement with a Federal Reserve Bank for recording security interests. The inclusion of entities that have special arrangements with a Federal Reserve Bank for recording security interests does not create a new method for perfecting security interests in securities nor does it expand the class of entities for which recordation of security interests on the books of a Federal Reserve Bank is available. The proposed rule merely describes current practice under which, in very limited circumstances, individual Federal Reserve Banks will agree to record security interests on such terms and conditions as they deem appropriate, for certain entities, primarily governmental units, that are not otherwise eligible to maintain any accounts with the Federal Reserve Bank.

Sections 357.13 (b) and (c) provide two methods for transferring security interests at levels of the book-entry system below the Federal Reserve Banks. Note that under §§ 357.15 (b) and (c) below a book-entry custodian is required to send and acknowledgment of the transfer to the transferor of the security interest and, under § 357.16(b), to the secured party. Note also that neither § 357.13(b) nor 357.13(c) is applicable if the transferor's book-entry custodian is also the secured party. A special rule is provided in § 357.13(d), as discussed below, for transfers of security interests to a book-entry custodian from its own customer.

The transfer method provided in § 357.13(b) essentially is parallel to the method described in § 357.13(a); the primary difference is the entity on whose books the security interest is recorded. Section 357.13(c) provides an additional method for transferring a security interest that is essentially parallel to the method described in Section 8–313(1)(h)(i) of Article 8 of the Uniform Commercial Code. Unlike the § 357.13(b) method, under § 357.13(c) the parties to a secured transaction can transfer a security interest without depending upon the actions of the book-entry custodian who may be a third party with no direct interest in the transaction. The Department recognizes that permitting the transfer of a security interest solely by means of sending notice to the book-entry custodian on whose books the transferor appears raises several questions. For example, should it be necessary to establish in court that a security interest had been transferred in accordance with § 357.13(c), it would be necessary for the secured party to establish that appropriate notice was actually received by the book-entry custodian. Without cooperation by the book-entry custodian this could prove difficult unless the notification had been hand delivered or delivered by registered mail. Such a proof problem would appear to limit severely the usefulness of such a rule.

An added difficulty is presented by the fact that there is some case law suggesting that a book-entry custodian

has the right to refuse notice under Section 8–313(1)(h)(i). If applied to the similar provision in the Department's regulations, such case law would also appear to limit the utility of the security interest transfer method of § 357.13(c).

Still another set of difficulties arises when the rule is considered from the point of view of a book-entry custodian that might receive notification of a security interest under § 357.13(c). For example, one might ask whether notice to a single branch of a large bank is notice received by a book-entry custodian for purposes of the rule. If so, then the rule would create operational problems for a book-entry custodian since it would be possible to receive notice of a security interest at one office and subsequently receive fraudulent instructions to sell the security at another office. If the book-entry custodian sells the security based on the owner's instructions, should it then be viewed as having violated a duty owed to the secured party? May such a duty be imposed when the book-entry custodian has taken no affirmative action recognizing either the security interest or the secured party?

Clearly, the § 357.13(c) method of transferring a security interest has many questions that were left open by the drafters of Article 8 and have not been resolved by case law. The Department nevertheless has chosen to include the method because it may provide a desirable alternative in some cases that permits transfer, and therefore perfection, of a security interest without the direct involvement of a book-entry custodian. Although such a method of perfection leaves open the risk that a book-entry custodian might transfer inadvertently a security in which a § 357.13(c) security interest has been granted, the Department notes that the same risk is already present under the provisions of § 357.14, which permits automatic perfection of security interests in certain circumstances for a limited period of time without requiring a transfer on the book-entry custodian in accordance with either § 357.12 or 357.13.

Based on the foregoing discussion, comments are specifically requested on the utility and the advisability of including a method of transferring security interests like the one in proposed § 357.13(c).

Section 357.13(d) provides the only method by which a security interest may be transferred to a book-entry custodian from that book-entry custodian's own customer. The Department concluded that a separate rule was appropriate to emphasize that, except for the limited class of transactions covered by § 357.13(d), an effective transfer of a security interest requires the involvement of a third party having no interest in the transaction giving rise to the security interest. In other words, the book-entry custodian marking its books to reflect a security interest under § 357.13(b), or receiving notice of a security interest under § 357.13(c), should be acting solely in its capacity as a custodian and not for its own account.

An added reason for a separate rule is that the transfer methods described in § 357.13(b) and (c) do not necessarily describe any step that operationally would be taken by a book-entry custodian in taking a security interest from its own customer. Since it is clear, however, that a book-entry custodian must be able to take such a security interest, the Department concluded that a separate rule such as § 357.13(d) would avoid any temptation to interpret § 357.13(b) loosely in order to cover a book-entry custodian's security interest. Such a broad interpretation of the concept of book-marking could dilute the idea, emphasized in the discussion of both § 375.3 and 357.12, that book-marking constitutes an act that is part of a standardized system of bookkeeping.

For the foregoing reasons, the Department drafted § 357.13(d) to provide that, for a book-entry custodian taking a security interest in customer securities, the transfer of the security interest occurs at the later of: (1) The time that the security itself is transferred to the customer under § 357.12(b) or (2) the time that a written security agreement is executed by the customer granting the security interest to its book-entry custodian. Note that, as with all secured transactions under these rules, a transfer is only one of the steps relevant to achieving an enforceable long-term security interest.

Section 357.14. Article 8 contains provisions on the creation and perfection of security interests that were formerly included in Article 9. Under Article 8, the concept of attachment of a security interest has been eliminated, *i.e.*, it is not possible to create an unperfected security interest in a security. The proposed rules, however, maintain the distinction between attachment, which is enforceable as between the parties to a security agreement, and perfection, which is good against third parties. This was considered desirable because in certain situations, in order to obtain a perfected security interest, the secured party might be forced to rely on the actions of a book-entry custodian that has an interest in the security adverse to that of the secured party. If a security interest has attached but is unperfected, the secured party will have some avenue of recovery that would not be available if attachment were eliminated as a distinct event. If a security interest is perfected, it shall be perfected for purposes of any relevant state law on priority of security interests, including those rules found in Article 9 of the Uniform Commercial Code.

Article 8 has been criticized for not providing a method of perfection that gives adequate notice of security interests to third parties. However, for a book-entry system, the only method of perfection that would provide adequate notice to the public would appear to be centralized public filing. That method was considered to be unacceptably burdensome in light of the current volume of government securities transactions. Therefore, the proposed rule adopts a rule similar to Article 8 which provides a rule that generally a transfer is a necessary incident to a perfected security interest. However, § 357.14(b) provides for "automatic" perfection for a limited period of time without requiring a transfer.

The automatic perfection described in § 357.14(b) parallels a provision for certificated securities contained in Article 9. It is available to all secured parties and is intended to provide a grace period until the usual steps for perfection take place. However, the 21-day period provided in the Uniform Commercial Code has been shortened to seven days because a shorter period of time should be sufficient, given the rapidity of transactions in government securities. Comments specifically are solicited on the appropriateness of this time period.

It should be noted that the relevant time period is measured in calendar days rather than business days. This approach was chosen because a workable definition of business days did not appear feasible. The seven-day period was chosen with the recognition that it would normally include two nonbusiness days and that for some transactions the seven-day period would end on a nonbusiness day so that the transfer required for continued perfection would have to be accomplished before the end of the period.

Long-term perfection can only be achieved by meeting two additional requirements. First, either a transfer of the security to the secured party in accordance with § 357.12(b) must have occurred or a transfer of the security interest in accordance with § 357.13 must have been accomplished. Second, the security agreement must be written. To meet this requirement, either the

security agreement may have been in writing at the time of attachment or the security agreement may be reduced to writing after attachment. The Department intends that the collateral described in the security agreement may be either a specified security or it may be the securities account itself so that the security interest attaches to any securities in the specified account at the time of attachment. Comments are requested as to the appropriateness of requiring written security agreements as part of the process of perfection, particularly with regard to transactions in which the security that constitutes the collateral is transferred to the secured party under § 357.12(b).

Section 357.15. The proposed rule sets forth several duties of book-entry custodians. Section 357.15(a) provides that a book-entry custodian shall provide a transferee with confirmation of a transfer pursuant to § 357.12(b). The reasons for requiring confirmation have already been discussed in the analysis of § 357.12(b) itself.

The rule further provides in § 357.15(f) that by sending the confirmation, the book-entry custodian: (1) Warrants that either an entry has been made in the book-entry custodian's records, or that such an entry will be made before the book-entry custodian next opens for business, crediting such security to a securities account maintained for the transferee and (2) warrants its own good faith and authority with respect to the transfer. As specified in § 357.15(f), the warranty of good faith and authority includes, but is not limited to, certain warranties that the security described in the confirmation is free of claims of third parties. The warranty concerning claims of or created by the book-entry custodian is expressed in absolute terms since it is intended to cover security interests that the warranting book-entry custodian itself may have granted. The warranty concerning claims of other customers of the book-entry custodian covers claims not created by the book-entry custodian and therefore is limited to claims of which the book-entry custodian has knowledge. For example, security interests that have been transferred pursuant to § 357.13(b) or (c) would be covered by the warranty. The warranty, as expressed in the proposed rule, is based on recognition that where a book-entry custodian transfers a security from Customer A to Customer B, the book-entry custodian is acting only as agent for the two customers and, therefore, appropriately can only warrant as to adverse claims of which it has knowledge.

The imposition of such warranties on book-entry custodians cannot guarantee that the facts so warranted will prove to be the case, nor will they likely improve a transferee's position vis-a-vis the book-entry custodian or its receiver or other legal representative in the event of its insolvency. However, expressly stating the warranties in these regulations should have two beneficial effects. First, it will encourage investors to demand confirmations, even though they are not required for effective transfers. Second, it may instill a greater sense of caution in book-entry custodians that might otherwise fail to keep accurate records of customers' positions as well as their own positions, whether through negligence or wilful action.

Section 357.15(b) requires a book-entry custodian to send acknowledgement of the transfer of a security interest under § 357.13(b) to both the transferor of the security interest and the secured party. Requiring acknowledgment to both parties to the secured transaction is based upon the assumption that if a book-entry custodian formally records a security interest on its records, the secured party, as well as the transferor of the security interest, will have established a customer relationship with the book-entry custodian, whether solely as a result of the secured transaction or as a result of other transactions with or through the book-entry custodian.

Section 357.13(c) requires a book-entry custodian to send acknowledgment of the receipt of notice of the transfer of a security interest in accordance with § 357.13(c). In this case, sending acknowledgment to the secured party is not required since it may be a third party with whom the book-entry custodian has no formal customer relationship and receipt of notice of a security interest under § 357.13(c), standing alone, is not a sufficient basis for imposing that relationship.

Section 357.15(d) requires a book-entry custodian to provide to a customer, or a third person designated by the customer, upon written request, information as to all interests of any customers of the book-entry custodian in a security in which the requesting customer has an interest as shown on the books of that book-entry custodian. For purposes of this section, a customer may be either the owner of a security or a person having a security interest in such security that is reflected in the book-entry custodian's books in accordance with § 357.13(b). The book-entry custodian must also identify security interests for which it has received notice in accordance with Section 357.13(c), and any security interest in favor of or granted by the book-entry custodian. Furthermore, § 357.15(g) provides that by providing information described in § 357.14(d), a book-entry custodian warrants the accuracy of all the information provided. This provision and the accompanying warranty provide a mechanism for investors or third parties designated by an investor to verify the investor's interest in a security and the existence of any other interests in a security of which the book-entry custodian has knowledge.

Section 357.15(e) provides that any confirmation or acknowledgment issued pursuant to § 357.15 must be in writing or in a form reducible to writing at the option of the recipient. Such a formulation is intended to permit electronic confirmation messages which may be printed in hard copy if the recipient so chooses. The rule is not intended to cover voice transmissions that are recorded.

Section 357.16. The proposed rule would provide that certain security interests in book-entry securities granted to the Department or to the United States shall have priority over any other security interest in such securities regardless of when such other security interest was created or perfected. The proposed rule restates, in a somewhat more limited fashion, the priority rule that currently is stated in § 306.118(a) of the existing regulations. Many security interests granted to the United States protect the public because they secure deposits that represent tax and other monies owed to the United States. Super-priority for such security interests is considered appropriate because the security interests run to the benefit of the general public rather than to a private entity or even to a single governmental entity. For similar reasons, the proposed rule also provides that securities transferred to the United States or the Department, acting in a governmental capacity, shall be free of all adverse claims.

Section 357.17. Section 357.17(a) makes clear, as described above in the analysis of § 357.13, that the recordation of security interests on the books of the Federal Reserve Banks is available only in limited circumstances. The rule is intended to cover the current practice of placing securities in an account designated as a collateral account in which the interests of both the owner of the security and the secured party are noted and the security may be moved out of the account only upon receipt of instructions from both parties.

Section 357.17(b) replaces a more broadly worded provision in the existing regulations that states, in effect, that transfers or pledges of book-entry securities on the books of the Federal Reserve Banks have priority over any transfer or pledge effected or perfected on the book of a book-entry custodian other than a Federal Reserve Bank. Although the intended effect of both the existing regulation and the proposed rule are similar, the existing rule is overbroad and confusing.

The first sentence of § 375.17(b) is similar to the rule found in Section 8–207(1) of Article 8 that provides that the issuer is entitled to treat the person shown on its books as the person exclusively entitled to exercise the rights and powers of ownership. Under the proposed rule, the Department and the Federal Reserve Banks are entitled to rely exclusively on the books of the Federal Reserve Banks and treat the entity appearing as the holder of a given security on a Federal Reserve Bank's books as the person entitled to transfer the securities or security interests therein or to receive payments of principal and interest. The rule is only intended to address the rights of the United States, the Department, and the Federal Reserve Banks and not to express any determination of the rights of an entity to book-entry securities as against any other third party.

Sections 357.40–375.45. Except as described below, these sections are restatements of proposed rules already published in connection with the proposed rules relating to TREASURY DIRECT. Section 357.42, as originally published, has been deleted because the preservation of existing rights is now dealt with in § 357.1(a), as proposed herein. Section 357.43 as originally published has been renumbered as § 357.42 and is supplemented by a separation into paragraphs (a) and (b) and by the addition of the second sentence in paragraph (b). Sections 357.44 as originally published has been renumbered as § 357.43.

Section 357.44 as set forth below is new. It simply provides that notices arising from judicial proceedings concerning disposition of securities should be directed to the Federal Reserve Bank or the book-entry custodian on whose books appears the interest in such security of the person that the judicial proceedings are directed against. The Department believes that the proposed rule describes what would be the appropriate step in any case since the specified entity is the only entity on whose books a transfer of the security may occur.

Procedural Requirements

The proposed rule is not considered a "major rule" for purposes of Executive Order 12291. A regulatory impact analysis, therefore, is not required.

Although this rule is being issued in proposed form to secure the benefit of public comment, the notice and public procedures of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2). As no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) do not apply.

List of Subjects in 31 CFR Part 357

Electronic funds transfer, Federal Reserve System, Government securities.

Dated: March 7, 1986.

Gerald Murphy,

Fiscal Assistant Secretary.

A new Part 357 is proposed to be added to subchapter B of Title 31, Code of Federal Regulations, Chapter II, and issued as Department of the Treasury Circular, Public Debt Series No. 2–86, to read as follows:

PART 357—REGULATIONS GOVERNING BOOK-ENTRY TREASURY BONDS, NOTES AND BILLS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 2-86)

Subpart A—General Information

Sec.

357.0 Dual book-entry systems.
357.1 Applicability.
357.2 Governing law.
357.3 Definitions.

Subpart B—Treasury/Reserve Automated Debt Entry System (TRADES)

357.10 Payment of interest; payment at maturity or upon call.
357.11 Rights acquired upon transfer, attachment and perfection.
357.12 Transfers of securities.
357.13 Transfers of security interests.
357.14 Enforceability, attachment, perfection and termination of a security interest.
357.15 Duties and warranties of book-entry custodians.
357.16 Priority of interests of the United States.
357.17 Rights of the United States and Federal Reserve Banks with respect to transfers on Federal Reserve Bank records.

Subpart D—Additional Provisions

357.40 Additional requirements.
357.41 Waiver of regulations.
357.42 Liability of Department and Federal Reserve Banks.
357.43 Liability of transfers to and from TREASURY DIRECT.
357.44 Notices of attachment for securities in TRADES.
357.45 Supplements, amendments or revisions.

Authority: 31 U.S.C. Chapter 31; 12 U.S.C. 391

Subpart A—General Information

§ 357.0 Dual book-entry systems.

Securities to which this Part applies, as set forth in § 357.1, shall be maintained in either of the following two book-entry systems, and may be transferred from one system to the other in accordance with this Part:

(a) *Treasury/Reserve Automated Debt Entry System (TRADES).* A security is maintained in TRADES if it is credited to a securities account maintained at a Federal Reserve Bank. *See* Subpart B for rules pertaining to TRADES.

(b) *TREASURY DIRECT Book-entry Securities System (TREASURY DIRECT).* A security is maintained in TREASURY DIRECT if it credited to a TREASURY DIRECT account as described in § 357.20.[1] (See Subpart C for rules pertaining to TREASURY DIRECT.)

§ 357.1 Applicability.

(a) This Part applies to all transactions in securities in book-entry form that occur on or after [the date which is 60 calendar days after the date of publication of this Part in final form], except that:

(1) A security may not be transferred to or maintained in TREASURY DIRECT unless the offering circular applicable to such security specifies that it is eligible to be maintained in TREASURY DIRECT or until such time as the Secretary announces that such security has become eligible to be maintained in TREASURY DIRECT; and

(2) Nothing contained in the rules set forth in this Part shall limit or restrict existing obligations of the United States with respect to any security issued and outstanding prior to the date such security becomes eligible to the maintained in TREASURY DIRECT. In addition, these rules shall not affect the rights the parties have acquired in a transaction in such outstanding securities that occurred prior to [the date which is 60 calendar days after the date of publication of this part in final form] and that was rightful and effective

[1] TREASURY DIRECT accounts will be maintained through a system administered by the Federal Reserve Bank of Philadelphia, acting as fiscal agent of the United States. Such accounts may be accessed by investors in accordance with Subpart C through any Federal Reserve Bank or the Bureau of Public Debt.

under the regulations and law then applicable to such outstanding security.

(b) A transaction involving a transfer of a security or a security interest will be deemed to have occurred for purposes of this section on the date on which occurs the act that constitutes a transfer of a security or of a security interest as described in this Part.

(c) This part supplements, amends, and modifies the regulations contained in Department Circular No. 30, current revision (31 CFR Part 306) and Department Circular, Public Debt Series No. 26–76 (31 CFR Part 350), and to the extent that the rules contained in this Part are inconsistent with the regulations contained in Circular Nos. 300 and 26–76, the rules of this Part shall control, subject only to the limitation set forth in paragraph (a)(2) of this section.

§ 357.2 Governing law.

The rights and obligations of the United States and the Department with respect to securities to which this Part applies are governed solely by applicable Treasury regulations, including the regulations of this Part, the offering circular, the announcement and/or notice of the offering, and other applicable Federal law (hereinafter collectively referred to as "applicable Federal law"). The rights and obligations arising out of interests in securities, other than rights and obligations of the United States, are governed by applicable Federal law, and, to the extent not inconsistent with such applicable Federal law, by state and local law. For example, determinations as to what constitutes a valid security agreement or what rights a secured party shall have upon default should be determined in accordance with state or local law.

§ 357.3 Definitions.

In this Part, unless the context indicates otherwise:

"Bill" means an obligation of the United States, with a term of not more than one year, issued at a discount, under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Bond" means an obligation of the United States, with a term of more than ten years, issued under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Book-entry custodian" is a person other than the Department or a Federal Reserve Bank, that in the ordinary course of its business maintains book-entry securities accounts for other persons. A book-entry custodian may have a security interest in securities held for another person and also may hold securities for its own account.

"Department" means the United States Department of the Treasury and, where appropriate, the Federal Reserve Banks acting as fiscal agents of the United States.

"Entity" means any person except an individual.

"Federal Reserve Bank" or "Reserve Bank" means a Federal Reserve Bank or Branch.

"Note" means an obligation of the United States, with a term of at least one year, but of not more than ten years, issued under Chapter 31 of Title 31 of the United States Code, in book-entry form.

"Person" means and includes an individual, corporation, company, association, firm, partnership, trust, estate, and any other similar organization.

"Secured party" is a person in whose favor there is security interest.

"Security" means a bond, note, or bill, each as defined above in this section, and any other obligation issued by the Department that, by the terms of the applicable offering circular, are made subject to this Part. Solely for purposes of this Part, it also means the interest and principal components of a security eligible for Separate Trading of Registered Interest and Principal of Securities ("STRIPS"), if such security has been divided into such components by the express terms of the offering circular under which the security was issued and the components are maintained separately on the books of a Federal Reserve Bank.

"Security agreement" means an agreement that creates or provides for a security interest.

"Security interest" and "pledge" mean an interest in a security, which interest is acquired by a secured party to secure payment or performance of an obligation and is created by a security agreement between the person having such obligation and the secured party.

Subpart B—Treasury/Reserve Automated Debt Entry System (TRADES)

§ 357.10 Payment of interest; payment at maturity or upon call.

(a) Interest on securities maintained in TRADES shall be credited through a Federal Reserve Bank to such reserve or other account at a Federal Reserve Bank as is designated by the entity to whose securities account such securities have been credited. See § 357.26 for the rules governing payments with respect to securities held in TREASURY DIRECT.

(b) Securities maintained in TRADES shall be redeemed at maturity or upon call by charging the securities account in which they are maintained and by crediting the amount of the redemption proceeds, including both principal and interest, where applicable, through a Federal Reserve Bank to such reserve or other account at a Federal Reserve Bank as is designated by the entity to whose securities account such securities have been credited. See § 357.26 for the rules governing payments with respect to securities held in TREASURY DIRECT.

(c) The obligation of the Department and the United States to make payments of interest and principal on securities held in TRADES shall be discharged at the time payment in the appropriate amount is credited to an account at a Federal Reserve Bank as described in paragraph (a) and (b) of this section in accordance with the instructions of the entity to whose securities account such securities have been credited. See also § 357.26(b)(1)(iii).

(d) A book-entry custodian that is maintaining securities on behalf of another person shall, upon receipt of any payment in accordance with § 357.10 (a) or (b) relating to such securities, make such payment available for withdrawal or use by such other person at the earliest possible time on such date of receipt and in any event not later than the close of business on such date of receipt.

§ 357.11 Rights acquired upon transfer, attachment and perfection.

(a) Upon transfer of a security in accordance with § 357.12, the transferee acquires the rights in the security that the transferor had or had actual authority to convey.

(b) Upon the attachment or perfection of a security interest in accordance with § 357.14, the secured party acquires rights only to the extent of the interest transferred and to the extent described in § 357.14. The creation or termination of a security interest constitutes a transfer of a security interest.

§ 357.12 Transfers of securities.

Transfer of a security to a transferee occurs only:

(a) At the time an entry is made on Federal Reserve Bank books that credits such security to a securities account maintained for the transferee; or

(b) At the time an entry is made on the books of a book-entry custodian that credits such security to a securities account maintained for the transferee.

§ 357.13 Transfers of security interests.

Transfer of a security interest to a secured party occurs only:

(a) At the time an entry is made on the books of the Federal Reserve Bank on

whose books the interest of the transferor appears identifying such security interest in favor of the secured party; or

(b) At the time an entry is made on the books of the book-entry custodian on whose books the interest of the transferor appears identifying such security interest in favor of the secured party, which cannot be the book-entry custodian making the entry; or

(c) At the time written notification of the security interest is received by the book-entry custodian on whose books the interest of the transferor appears, which book-entry custodian cannot be the secured party. Such notification must be signed by the transferor of the security interest, which in the case of a termination of a security interest in accordance with § 357.14(d), or in the case of an assignment of a security interest, is the secured party; or

(d) If the secured party is to be the book-entry custodian on whose books the interest of the transferor of the security interest appears, at the later of (1) the time the security is transferred to the transferor of the security interest in accordance with § 357.12(b), or (2) the time the transferor has executed a written security agreement with the book-entry custodian granting the book-entry custodian such security interest.

§ 357.14 Enforceability, attachment, perfection and termination of a security interest.

(a) A security interest attaches to a security, and is enforceable between the grantor of the security interest and the secured party, only if—

(1) The security interest has been granted pursuant to a security agreement between the grantor of the security interest and the secured party,

(2) The grantor of the security interest has rights in the security, and

(3) The secured party has given value.

The time at which a security interest attaches shall be the time at which the last of the above conditions for attachment has occurred.

(b) A security interest becomes perfected and enforceable against third parties for a period of seven (7) calendar days from the date on which it has attached under paragraph (a) of this section. Thereafter, a security interest will continue to be perfected only if, no later than the seventh day of the period described above, (1) the security interest has been transferred to the secured party pursuant to § 357.13 or the security has been transferred to the secured party pursuant to § 357.12 and (2) the security agreement referred to in paragraph (a)(1) of this section has been reduced to written form signed by the grantor of the security interest and containing a description of the collateral. In the event that the requirements described in paragraphs (b) (1) and (2) of this section have not been met within the seven-day period, the security interest will become unperfected and unenforceable against third parties until the time at which both requirements have been complied with, and the security interest will be deemed to be perfected only as of such time.

(c) A security interest that is perfected in accordance with this section shall be perfected for all purposes, including but not limited to the applicability of any state or local law concerning priority of perfected security interests.

(d) A security interest in a security is terminated by (1) transfer of the security to the grantor of the security interest, a designee of the grantor, or any successor in interest of the grantor, or (2) written release of the security interest signed by the secured party.

§ 357.15 Duties and warranties of book-entry custodians.

(a) A book-entry custodian shall send confirmation of a transfer of a security under § 357.12(b) to the transferee no later than the close of business on its next business day after the day on which the entry is made on the books of the book-entry custodian that credits such security to a securities account maintained for the transferee.

(b) A book-entry custodian shall send an acknowledgement of the transfer of a security interest in accordance with § 357.13(b) above both to the transferor and to the secured party by the close of business on its next business day after the day on which an entry is made on the books of the book-entry custodian identifying such security interest in favor of such secured party.

(c) A book-entry custodian shall send an acknowledgement of receipt of notice of the transfer of a security interest in accordance with § 357.13(c) to the transferor of the security interest by the close of business on its next business day after the day on which the book-entry custodian receives such notice.

(d) A book-entry custodian, upon the written request of a customer (as defined below), shall confirm to such customer or a designee of such customer (1) the interest in such security of such customer and any other customer in such security as such interests appear on the books of the book-entry custodian; (2) any security interest for which the book-entry custodian has received a notice in accordance with § 357.13(c); and (3) any security interest in favor of the book-entry custodian, or granted by the book-entry custodian to a third party. For purposes of this paragraph, a customer of a book/entry custodian is any person whose interest in a security, including a security interest, is recorded on the books of the book-entry custodian.

(e) Any confirmation or acknowledgement issued pursuant to this section must be delivered in writing or in other form reducible to writing at the option of the recipient of such confirmation or acknowledgment.

(f) By sending a confirmation in accordance with paragraph (a) of this section, a book-entry custodian (1) warrants to its transferee and any subsequent transferee that the book-entry custodian has made an entry in its books crediting the security described in the confirmation to a securities account maintained for its transferee, or that such an entry will be made before the book-entry custodian next opens for business; and (2) warrants the book-entry custodian's good faith and authority; such warranty of good faith and authority shall include in particular, but shall not be limited to, (i) a warranty that the security described in the confirmation is free of any and all claims of, or claims created by, the book-entry custodian except as specifically noted on the confirmation; and (ii) a warranty that, to the knowledge of the book-entry custodian, the security described in the confirmation is free of claims, except as specifically noted on the confirmation;

(g) By sending a confirmation in accordance with paragraph (d) of this section, a book-entry custodian warrants to its customer that the information provided therein is accurate.

§ 357.16 Priority of interests of the United States.

A security interest in securities transferred to the United States or the Department to secure deposits of public money, deposits to Treasury tax and loan accounts, or any other security interest in favor of the United States that is required by Federal statute or regulation and is transferred to the United Sates or the Department, shall be superior to any other interest created in such securities, whenever created. A security transferred to the United States or the Department shall be free of any adverse claims, whenever created, unless the security was acquired in a transaction in which the United States or the Department was acting in a proprietary rather than governmental capacity.

§ 357.17 Rights of the United States and Federal Reserve Banks with respect to transfers on Federal Reserve Bank records.

(a) A transfer of a security interest on the books of a Federal Reserve Bank under § 357.13(a) may be made to a person or entity other than a Federal Reserve Bank or the United States only pursuant to an order of a Federal court or a specific requirement of Federal law or by special agreement with the Federal Reserve Bank on whose books the transfer is to be recorded. In the event that a security interest is transferred on the books of a Federal Reserve Bank pursuant to § 357.13(a), that Federal Reserve Bank shall recognize the interest of the secured party only to extent expressly set forth in the applicable Federal statute or regulations, that Federal Reserve Bank's operating circulars and letters or by specific agreement with the secured party.

(b) Except as otherwise provided in paragraph (a) of this section, and notwithstanding any information or notice to the contrary, the United States and the Federal Reserve Banks shall be entitled to treat the entity in whose account a security is credited as the entity exclusively entitled to effect transfers of such security, to receive interest and other payments with respect to such security and otherwise to exercise control over the security. Subject only to any requirements to recognize the interest of a secured party as described in paragraph (a) of this section, a Federal Reserve Bank that has transferred a security or a security interest according to the instruction of the entity in whose account the security is maintained, shall not be liable for conversion or participation in breach of fiduciary duty even though the instructing entity had no right to issue the instruction. The Federal Reserve Bank shall be fully discharged by completing the order of the entity in whose account the security is maintained.

Subpart D—Additional Provisions

§ 357.40 Additional requirements.

In any case or any class of cases arising under these regulations, the Secretary of the Treasury ("Secretary") may require such additional evidence and a bond of indemnity, with or without surely, as may in the judgment of the Secretary be necessary for the protection of the interests of the United States.

§ 357.41 Waiver of regulations.

The Secretary reserves the rights, in the Secretary's discretion, to waive any provision(s) of these regulations in any case or class of cases for the convenience of the United States or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not impair any existing rights, and the Secretary is satisfied that such action will not subject the United States to any substantial expense or liability.

§ 357.42 Liability of Department and Federal Reserve Banks.

(a) The Department and the Federal Reserve Banks may rely on the information provided in a tender or transaction request form and are not required to verify the information. The Department and the Federal Reserve Banks shall not be liable for any action taken in accordance with the information set out in a tender or transaction request form or evidence submitted in support thereof.

(b) In the event that the United States or the Department is unable to make a payment when due, the liability of the United States and the Department is limited to the amount of the payment. In the event that the United States or the Department is unable to take any other action with respect to securities to which this Part applies, neither the United States nor the Department shall be liable for failure to take such action if such failure to take action is due to an event which is beyond the reasonable control of the United States or the Department. An event which is beyond reasonable control includes but is not limited to natural disasters, acts of God, war or other civil comotion, accident, computer or other equipment failure, or the failure or interruption of electrical power or of communications lines.

§ 357.43 Liability for transfers to and from TREASURY DIRECT.

A depository or sending institution that transfers to, or receives, a security from TREASURY DIRECT is deemed to be acting as agent for its customer and agrees thereby to indemnify the United States and the Federal Reserve Banks from any claim, liability, or loss resulting from the transaction.

§ 357.44 Notices of attachment for securities in TRADES.

In the event of judicial proceedings in which a person seeks to attach a security maintained by a Federal Reserve Bank for an entity's account or to obtain an order concerning disposition of such securities, any notice of attachment or other notice arising from such judicial proceeding shall be directed to the Federal Reserve Bank on whose books such security is maintained. In all other cases in which a person seeks to attach a security maintained in TRADES or to obtain an order concerning disposition of such security, any notice of attachment or other notice arising from such judicial proceeding shall be directed to the book-entry custodian on whose books appears the interest of the person against whom the attachment or other disposition is sought.

§ 357.45 Supplements, amendments or revisions.

The Secretary may, at any time, prescribe additional supplemental, amendatory or revised regulation with respect to securities.

[FR Doc. 86-5513 Filed 3-13-86; 8:45 am]
BILLING CODE 4810-10-M

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual; Second-Class In-County Rates

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to require mailers who claim the Congressionally subsidized in-county postage rates for copies of their second-class publications to file additional information including a certification for each mailed issue. This change in procedures is needed to verify that the additional restrictions placed on the copies that can be mailed at the in-county rates are met. This change will help the Postal Service determine at the time of mailing whether copies of an issue qualify for mailing at the second-class in-county rates. This should help to avoid postage deficiencies which can result if the mailer claims the in-county rates incorrectly at the time of mailing.

DATE: Comment must be received on or before April 14, 1986.

ADDRESS: Written comments should be mailed or delivered to the Director, Office of Mail Classification, Rates and Classification Department, Room 8430, 475 L'Enfant Plaza West, SW., Washington, DC 20260-5360. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, (202) 268-5171.

SUPPLEMENTARY INFORMATION: Public Law 99-190 established new requirements for in-county second-class

rates of postage. Copies of an issue of a second-class publication may qualify for these rates if the total paid circulation of such issue is less than 10,000 copies, or if the number of paid copies of such issue distributed within the county of publication is at least two more than one-half of the total paid circulation of such issue. These requirements are reflected in § 411.32, Domestic Mail Manual, as published in the Postal Bulletin of February 13, 1986.

In order to determine at the time of mailing whether copies of an issue of a second-class publication can qualify for in-county rates given these new restrictions, the Postal Service needs to have more information about the paid circulation and distribution of the issue than is currently required by the mailing statement. When a mailer distributes copies of a second-class publication at postage rates other than second-class rates, or by means outside the mailstream such as newspaper carriers, newsstands, news agents, etc., the Postal Service has no way of determining at the time of mailing how many copies are distributed outside the mailstream, how many copies are nonsubscribers' copies and where the copies are distributed, whether within or outside the county of publication. By completing a statement for each issue, the mailer will be required to keep track of pertinent information needed to claim the correct rates. This requirement should not only prevent the mailer from incurring postage deficiencies for mailing copies at in-county rates for which they were not eligible, but it will also enable the Postal Service to better administer the provisions of Pub. L. 99–190. A copy of proposed Form 3541–B follows.

Under this proposal the mailer would be required to submit a mailing statement containing the following information on each issue for which in-county rates are claimed:

1. Total paid circulation for issue to destinations within county of publication.

2. Total number of nonsubscribers' copies to destinations within county of publication.

3. Total paid circulation for issue.

4. Total circulation for issue by any means.

5. Weight of nonsubscribers' copies this issue mailed to destinations within county of publication at in-county rates.

6. Year-to-date weight of nonsubscribers' copies mailed to destinations within county of publication at in-county rates.

7. Weight of subscribers' copies this issue mailed to destinations within county of publication at in-county rates.

8. Year-to-date weight of subscribers' copies mailed to destinations within county of publication at in-county rates.

9. Total weight of mailed subscribers' copies this issue.

10. Year-to-date weight of mailed subscribers' copies.

11. Total weight of mailed nonsubscribers' copies this issue.

12. Year-to-date total weight of mailed nonsubscribers copies.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3405, 3621; 42 U.S.C. 1973cc–13, 1973cc–14.

Chapter 4—Second-Class Mail

* * * * *

PART 480—PAYMENT OF POSTAGE

In 482, revise 482.1 to read as follows:

482 Mailing Statement (See Exhibit 482)

482.1 Computing Postage.

.11 Mailing Statement. Second-class postage is computed on Form 3541, Statement of Mailing-Second-Class Publications and/or Form 3541–A, Statement of Mailing-Second-Class (Requester) Publications. These mailing statements must be submitted by the publisher with the first mailing of each issue, except that postmasters will, upon request, authorize publishers of publications which are regularly printed on sheets of uniform weight to submit one mailing statement at the end of each calendar month for mailings made during that month. If the mailer claims in-county rates and some issues for the month did not qualify for in-county rates, a separate Form 3541 must be filed for the issues that did not qualify for in-county rates.

.12 In-County Certification. A Form 3541–B, Second-Class In-County Certification, must be completed for each issue when second-class in-county rates are claimed. If the the mailer is authorized to submit one mailing statement at the end of each calendar month for mailings made during that month, one Form 3541–B may be submitted for all issues distributed during the calendar month if all issues qualified for in-county rates. If some issues did not qualify for in-county rates, a separate Form 3541 must be filed for those issues that did not qualify. In such instances the information included on Form 3541–B should pertain only to issues which did qualify for in-county rates.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published when the final rule is adopted.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

BILLING CODE 7710-12-M

U.S. POSTAL SERVICE

SECOND-CLASS IN-COUNTY CERTIFICATION

INSTRUCTIONS

1. Complete this form and attach it to Form 3541, *Statement of Mailing-2nd Class Pubs Except Requester Publications*, if second-class in-county rates in section 411.32, Domestic Mail Manual, are claimed for copies of an issue of a second-class publication.
2. Information in items below must include all editions of the issue identified in item 3.

NOTE: If total paid circulation of issue is at least 10,000 copies and item 6 is less than two (2) more than half of item 8, issue does not qualify for in-county rates.

1. Title of Publication		2. Date of issue	3. Issue number
4. County of Publication		5. Post Office and State of mailing	
6. Total paid circulation for issue to destinations within county of publication. (see 411.321, DMM)	Total Paid	7. Total number of nonsubscribers' copies to destinations within county of publication.	Total Copies
8. Total paid circulation for issue. (see 411.321, DMM)	Total Paid	9. Total circulation for issue by any means.	Total Copies
10. Weight of nonsubscribers' copies this issue mailed to destinations within county of publication at in-county rates.	Pounds	11. Year-to-date weight of nonsubscribers' copies mailed to destinations within county of publication at in-county rates.	Pounds
12. Weight of subscribers' copies this issue mailed to destinations within county of publication at in-county rates.	Pounds	13. Year-to-date weight of subscribers' copies mailed to destinations within county of publication at in-county rates.	Pounds
14. Total weight of mailed subscribers' copies this issue.	Pounds	15. Year-to-date weight of mailed subscribers' copies.	Pounds
16. Total weight of mailed nonsubscribers' copies this issue.	Pounds	17. Year-to-date total weight of mailed nonsubscribers' copies.	Pounds
I certify that the information furnished on this form is correct.		18. Signature of publisher	

Willful entry of false, fictitious or fradulent statements or representations hereon is punishable by fine up to $10,000 or imprisonment up to 5 years, or both (18 USC 1001).

PS Form **3541-B**, Mar. 1986

[FR Doc. 86-5643 Filed 3-13-86; 8:45 am]
BILLING CODE 7710-12-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 60336-6036]

American Lobster Fishery

Correction

In FR Doc. 86-5025, beginning on page 8220 in the issue of Monday, March 10, 1986, make the following corrections:

1. On page 8220, in the sixth line from the bottom of the second column in the **SUPPLEMENTARY INFORMATION,** "until" should read "unit";

2. On page 8221, in the seventh line of the second column, insert the word "not" between "will" and "have"; and

3. On page 8222, in the first column, in the second line of § 649.21(b)(4)(iv), "70°'" should read "71°'".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 51, No. 50
Friday, March 14, 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

Office of the Secretary

Grazing Fees for Domestic Livestock for Certain National Forest System Lands in the 16 Contiguous Western States

AGENCY: Office of the Secretary, Agriculture.

ACTION: Notice of Grazing Fee formula for National Forests and Land Utilization Projects in the 16 contiguous Western States and the Curlew and Crooked River National Grasslands.

SUMMARY: The Secretary of Agriculture announces the grazing fee formula to be used to determine grazing fees for domestic livestock for certain specified National Forest System lands in the 16 contiguous Western States administered by the U.S. Department of Agriculture, Forest Service.

EFFECTIVE DATE: March 1, 1986.

ADDRESS: Address any inquiries about this policy to: R. Max Peterson, Chief (2230), ISDA—Forest Service, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Robert M. Williamson, Director, Range Management Staff, (703) 235–8139.

SUPPLEMENTARY INFORMATION: Executive order 12548 issued February 14, 1986, directed the Secretary of Agriculture to establish fees for domestic livestock grazing on the public rangelands. Accordingly, the Secretary of Agriculture, acting under the authority of the Organic Act of June 4, 1897 (16 U.S.C. 473–475, 477–482, 551) and the Bankhead-Jones Farm Tenant Act of July 22, 1937 (7 U.S.C. 1010–1012), has established the following formula effective March 1, 1986, to determine grazing fees on the National Forests and Land Utilization Projects in the 16 contiguous Western States and the Curlew and Crooked River National Grasslands:

The annual fee equals the $1.23 base established by the 1966 Western Livestock Grazing Survey multiplied by the result of the Forage Value Index (computed annually from data supplied by the Statistical Reporting Service) added to the Combined Index (Beef Cattle Price Index minus the Prices Paid Index) and divided by 100; provided, that the annual increase or decrease in such fee for any given year shall be limited to not more than plus or minus 25 percent of the previous year's fee, and provided further, that the fee shall not be less than $1.35 per animal unit month (animal month).

Direction implementing the grazing fee formula is contained in a recent interim directive in the Forest Service Manual, Chapter 2230, Grazing and Livestock Use Permit System.

Establishing a grazing fee formula has no effect on the physical and biological environment. Provisions of grazing permits issued on the National Forests control the environmental aspects of livestock grazing use, including the amount of grazing allotted to individual users, the kind and number of livestock that may be on National Forest System rangelands, and specifications as to their movement, entry, and exit. Stocking rates for livestock are determined by the Forest Service independent of fee levels.

It is hereby determined that the establishment of this grazing fee formula does not constitute a major Federal action significantly affecting the quality of the environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

Dated: March 6, 1986.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86–5619 Filed 3–13–86; 8:45 am]
BILLING CODE 3410–11–M

Statistical Reporting Service

Modification of Program Reports

Final notice is hereby given that the Statistical Reporting Service (SRS) of USDA will make immediate modifications in portions of its crop, dairy, poultry, and prices paid estimating program. These actions are in response to the funding level provided to the Agency for fiscal year 1986. Available resources will be directed to maintaining high quality statistics for the more than 300 reports that will continue to be published by SRS.

Full consideration has been given to the oral and written comments received in response to the proposed modifications announced in the Friday, February 7, 1986, **Federal Register** in developing the final program modifications outlined in this notice. SRS will work with commodity organizations and State agencies to reestablish programs being curtailed if funds for data collection, summarization, and publication can be provided by those organizations.

A. The following crop estimate program modifications will be made:

1. Discontinue pasture and range condition table and map and crop prospects map in the April *Crop Production* report. For later months (May–November) the pasture and range condition table will be retained but the pasture and range conditions map and the crops prospects map will be discontinued. The maps will be replaced by two crop moisture maps (short-term and long-term) prepared by the NOAA/USDA Joint Agricultural Weather Facility.

2. Grain stocks program:

a. Discontinue quarterly on- and off-farm stock estimates for barley, oats, sorghum, and sunflowers. Continue these commodity estimates at end-of-marketing year only (barley and oats, June 1; sunflowers, September 1), except that sorghum will be estimated both June 1 and September 1.

b. Discontinue separate State on-farm stock estimates for other grains and oil seeds in minor producing States. Individual State estimates published will account for 90 percent or more of the total U.S. production for each crop. Minor States will be published as an "unallocated" total. United States estimates will be continued.

c. Rye stocks will be continued June 1 in the States of Georgia, Minnesota, North Dakota, and South Dakota.

3. Field crop production program:

a. Discontinue winter wheat production forecasts in September.

b. Discontinue spring wheat production forecasts in October.

c. Discontinue all rye and flaxseed production forecasts. Retain acreage estimates and the end-of-year acres, yield, and production report.

d. Discontinue barley and oats production forecasts in July. Retain acreage estimates, August forecasts, and the end-of-year acres, yield, and production report plus a September 1986 production forecast.

e. Discontinue end-of-year forage estimates for corn and sorghum.

f. Discontinue sweetpotato production forecasts and disposition estimates. Retain acreage estimates and end-of-year acres, yield, and production report.

g. Publish a preliminary end-of-year acres and yield and production for small grains in the October *Crop Production* report. For 1986, this release will be on October 10 with estimates based on a survey about September 1 in 27 States in conjunction with the September *Grain Stocks* report.

4. Discontinue all fertilizer production and consumption statistics collected and published by SRS, including the annual *Commerical Fertilizers* report.

5. Hop production and stocks estimates will continue to be made, at least while the Federal Marketing Order remains in place.

B. The following reductions in State estimates for dairy and poultry reports are planned:

1. *Milk Production*—Coverage of estimates in the monthly reports will be reduced from 33 States and the U.S. to 21 States with about 85 percent of the U.S. production. Reports issued in January, April, July, and October will continue to include quarterly estimates for 50 States and the U.S. Reports in the nonquarterly months will include and indication of U.S. totals based on the relationship for the most recent quarterly month. Estimates by month will be eliminated for Alabama, Arkansas, Colorado, Georgia, Kansas, Louisiana, Mississippi, Nebraska, North Dakota, Oklahoma, Oregon and Utah beginning with the May 14, 1986, release of April production.

2. *Eggs, Chicken & Turkeys*—Coverage of layers and egg production estiamtes in the monthly reports will be reduced in coverage from 33 States and the U.S. to 20 States with about 84 percent of the U.S. production. Reports issued in March, June, September, and December will continue to include quarterly egg production estimates for 50 States and the U.S. Reports in the nonquarterly months will include and indication of U.S. totals based on the relationship for the most recent quarterly month. Estimates by month will be eliminated for Hawaii, Illinois, Kansas, Kentucky, Louisiana, Massachusetts, Nebraska, New Jersey, Oklahoma, Oregon, Tennessee, Virgina and Wisconsin beginning with the April 23, 1986, release of March production.

3. *Weekly Broiler Hatchery*—Coverage of weekly estimates of broiler eggs set and chicks placed will be reduced from 19 States to 12 States with about 92 percent of the U.S. production. Monthly estimates of brolier chicks hatched in the U.S. will continue as currently published in *Eggs, Chicken & Turkeys*. States to be eliminated from the weekly coverage are Louisiana, Missouri, Oregon, South Carolina, Tennessee, Washington, and West Virginia beginning with data for week ending March 8 available for release March 12, 1986.

C. The following changes in the program of prices paid reports are planned:

1. The annual Telephone and Electric Survey will be discontinued.

2. Feed, fuels and motor supplies will be surveyed and published quarterly rather than monthly. Only regional and U.S. level prices will be estimated in this new quarterly survey, which will begin in April, due to reduced sample sizes. The last monthly survey for these items will be February 1986.

3. Fertilizer prices will be surveyed and published on a regional and U.S. basis in April and October of each year, instead of the current 4 surveys.

4. Seed prices will be surveyed annually in April of each year with U.S. level prices published rather than semiannually by States.

5. Replacement livestock prices will be published on a U.S. level basis each quarter instead of monthly by States.

6. Building Materials will be surveyed in April, July, and October with prices published at the U.S. level compared with current bimonthly State data.

7. Farm Machinery, Farm Supplies, and Marketing Containers will be surveyed semiannually in April and October (rather than quarterly) with prices published at the U.S. level.

8. Autos and trucks annually in April instead of semiannually with prices published at the U.S. level.

D. Modification in survey dates for quarterly stocks report:

In addition to these program modifications, on-farm and off-farm grain stocks surveys scheduled for October 1, 1986, will be moved to September 1 and the dates of other quarterly reports shifted to a uniform quarterly time schedule. This is to reduce costs and responds to new legislation changing the official marketing year for corn from October 1-September 30 to September 1-August 31. The first new stocks report will be issued on September 29, 1986. The stocks survey scheduled for Janaury 1, 1987, including stocks of rice and hay, will be changed to December 1, 1986, and the report will be issued in January 1987. The grain stocks survey scheduled for April 1, 1987, including rice, and the February 1 propsective planting survey will be changed to March 1 with a report to be issued in late March 1987. A historical 10-year data series of U.S. totals will be published for each of the new stock report dates to assist data users in shifting data bases to the new report schedule.

Done at Washington, DC, this 11th day of March 1986.

W.E. Kibler,

Administrator.

[FR Doc. 86-5606 Filed 3-13-86; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping Duty; Administrative Reviews

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Initiation of antidumping duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews, Office of Compliance, International Trade Administration, U.S. Department of Commerce, 20230; telephone: (202) 377-5253.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews The Department has received timely requests, in accordance with § 353.53a(a)(5) of the Commerce Regulations, for administrative reviews of various antidumping duty orders and findings.

Initiation of Reviews

In accordance with § 353.53a(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping duty orders and findings. We intend to issue the final results of

these reviews not later than March 31, 1987.

Antidumping duty proceeding and firms	Periods to be reviewed
Birch 3-Ply Doorskins from Japan:	
Matsumoko/C. Itoh	02/82-07/83
Nitta Veneer/C. Itoh	02/82-11/82
Sanmoku/C. Itoh	12/82-01/85
Sattsuru Veneer/C. Itoh	12/82-07/83
Ferrite Cores (of the Type Used in Consumer Electronic Products) from Japan:	
Fuji Electrochemical	03/83-10/84
Matsushita	03/83-02/85
TDK	03/83-02/85
TDK/Sony	03/83-8/6/84
Tohoku	03/83-8/6/84
Fishnetting of Manmade Fibers from Japan:	
Hirata Spinning	[1] 10/83-05/85
Inagaki/Nichimen	06/82-09/83
Maruhei	06/82-05/85
Puretic Supplies (Canada)	06/82-05/85
Sanyo Enterprises	04/81-06/82
Spun Acrylic Yarn from Japan:	
Asahi Chemical	04/83-05/85
Diafibers	04/83-05/85
Japan Exlan	04/83-05/85
Mitsubishi Corp	04/83-05/85
Nichimen	04/83-05/85
Nissho-Iwai	04/83-05/85
Teijin Shoji	04/83-05/85
Circular Welded Pipes and Tubes from Taiwan: Far East Machinery	05/84-04/85

[1] Corrected period.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and § 353.53a(c) of the Commerce Regulations (19 CFR 353.53a(c); 50 FR 32556, August 13, 1985).

Dated: March 5, 1986.

John L. Evans,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-5634 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received timely requests to conduct administrative reviews of an antidumping finding and a countervailing duty suspended investigation with February anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION: On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32558) a notice outlining the procedures for requesting administrative reviews during the anniversary month of a proceeding. The Department has received timely requests, in accordance with §§ 353.53a(a)(3) and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of an antidumping finding and a countervailing duty suspended investigation with February anniversary dates.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping finding and countervailing duty suspended investigation. We intend to issue the final results of these reviews not later than March 31, 1987.

Antidumping proceeding and firms	Periods to be reviewed
Birch 3/Ply Doorskins from Japan:	
Matsumoko/C. Itoh	02/85-01/86
Nitta Veneer/C. Itoh	02/85-01/86
Sanmoku/C Itoh	02/85-01/86
Sattsuru Veneer/C. Itoh	02/85-01/86
Countervailing Duty Proceeding	
Unprocessed Float Glass from Mexico	01/85-12/85
Certain Stainless Steel Products from Brazil	01/85-12/85

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c); 50 FR 32556, August 13, 1985).

Dated: March 5, 1986.

John L. Evans,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-5637 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-479-502]

Antidumping; Welded Carbon Steel Pipe and Tube Products From Yugoslavia; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration.

ACTION: Notice.

SUMMARY: We have determined that certain welded carbon steel pipe and tube products from Yugoslavia are being sold in the United States at less that fair value. The United States International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring, or threatening material injury to, a United States industry.

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: Charles E. Wilson, Office of Investigations, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation and in accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act), we have reached a final determination that certain welded carbon steel pipe and tube products from Yugoslavia are being sold in the Untied States at less than fair value within the meaning of section 731 of the Act. The weighted-average margin is indicated in the "Suspension of Liquidation" section of this notice.

Case History

On July 16, 1985, we received a petition in proper form filed by the Standard Pipe and Tube Subcommittee and the Line Pipe Subcommittee of the Committee on Pipe and Tube Imports (CPTI) on behalf of the U.S. industry producing standard pipe and tube and line pipe. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Yugoslavia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that these imports are materially injuring a United States industry.

After reviewing the petition, we determined that is contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on August 5, 1985 (50 FR 32246). On August 30, 1985, the ITC determined that there is reasonable indication that imports of standard pipe and tube from Yugoslavia are materially injuring a United States industry. On August 30, 1985, the ITC also determined pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)) that there is no reasonable indication that an industry in the United States is materially injured, or threatened with

material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Yugoslavia of welded carbon steel line pipes and tubes (50 FR 37068).

On September 24, 1985, we received an amendment to the petition alleging critical circumstances.

On September 11, 1985, questionnaires were sent via certified mail to two Yugoslavian companies, FZC 11 Oktomvri Oktomvri and Zeljezara Sisak. We received a response from Zeljezara Sisak on November 13, 1985. In a letter dated November 27, 1985, the Department requested supplemental information from Zeljezara Sisak that was received on December 12, 1985. Information contained in the November 12, 1985 response of Oktomvri established that this company did not have any sales to the United States during the period of investigation. Therefore, for purposes of this investigation, Zeljezara Sisak is the only Yugoslavian respondent.

Our notice of preliminary determination provided interested parties an opportunity to submit views orally and in writing. We did not hold a public hearing because none of the interested parties requested a hearing.

On February 10–12, 1986, we verified the response of Zeljezara Sisak.

Scope of Investigation

The products covered by this investigation are welded carbon steel pipe and tube products with an outside diameter of .375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A–120, A–53, or A–135.

We investigated sales of the subject merchandise during the period February 1, 1985 to July 31, 1985. Since Zeljezara Sisak accounts for virtually all exports of the merchandise from Yugoslavia, we limited our investigation to them.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value.

U.S. Price

As provided in section 772 of the Act, we used the purchase price of standard pipe and tube to represent the United States price for sales by the respondent because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price on the packed, f.o.b., Yugoslavian port price to unrelated purchasers in the United States. We made deductions for foreign inland freight.

Foreign Market Value

In accordance with section 773 of the Act, we used home market prices as the basis for foreign market value. We calculated the home market price on the basis of the ex-factory, packed price to unrelated purchasers. In accordance with section 353.15 of the Commerce Regulations, we made adjustments for differences in circumstances of sale between the two markets. These adjustments were for credit costs. Since home market packing costs were negligible, we simply added U.S. packing costs to the home market sales price. In accordance with § 353.16, we made adjustments for the differences in zinc costs in the two markets.

In calculating foreign market value we made currency conversions to United States dollars in accordance with § 353.56(a)(1) of the regulations.

Final Negative Determination of Critical Circumstances

Petitioners alleged that imports of standard pipe and tube from Yugoslavia present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we find that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there were massive imports we generally consider the following: (1) The volume and value of imports, (2) seasonal trends, and (3) the share of domestic consumption accounted for by the imports.

In considering this question, we analyzed recent trade statistics on import levels for standard pipe and tube from Yugoslavia for the periods immediately preceding and subsequent to the filing of the petition. Based on our analysis of recent trade data, we have found that imports of standard pipe and tube from Yugoslavia during the period subsequent to the receipt of the petition have not been massive when compared to recent import levels. Accordingly, we did not have to reach a determination with respect to a history of dumping or whether the importers knew or should have known that the exporters were selling the merchandise under investigation at less than fair value.

Therefore, we have determined that critical circumstances do not exist with respect to imports of standard pipe and tube from Yugoslavia.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of the company involved. We used standard verification procedures, including examination of accounting records, financial statements and selected documents containing relevant information.

Comments

The Department has received no oral or written comments relative to this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of certain welded carbon steel pipes and tubes from Yugoslavia that are entered, or withdrawn from warehouse, for consumption, on or after December 31, 1985. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average-amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on certain welded carbon steel pipes and tubes from Yugoslavia, we found export subsidies (50 FR 53360). Since dumping duties cannot be ultimately assessed on the portion of the margin attributable to

export subsidies, there is no reason to require a duplicated cash deposit or bond for the amount. Thus, the amount of the export subsidies will be subtracted for deposit or bonding purposes from the dumping margins.

Company	Weighted-average margin
Zeljezara Sisak	33.26
All others	33.26

ITC Notification

In accordance with section 735(d), we will notify the ITC of our determinations. In addition we are making available to it all non-privileged and nonconfidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on carbon steel pipe and tube products from Yugoslavia entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 10, 1986

[FR Doc. 86-5636 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-502]

Welded Carbon Steel API Line Pipe From Taiwan: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that welded carbon steel API line pipe (line pipe) from Taiwan is being, or is likely to be, sold in the United States at less than fair value and that critical circumstances exist, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend the liquidation of all entries of line pipe from Tawian that are entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days before December 30, 1985, the date of publication of the notice of the preliminary determination, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 14, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5404 or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that line pipe from Taiwan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). The estimated margins were based on the best information available as explained below in the section of this notice which describes our fair value comparisons. We also found that critical circumstances exist. The margins found for the companies investigated are listed in the "Suspension of Liquidation" section of this notice.

Case History

On July 16, 1985, we received a petition filed in proper form from the Line Pipe Subcommittee of the Committee on Pipe and Tube Imports and by each of the member companies who produce line pipe on behalf of the U.S. industry producing line pipe. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on August 5, 1985 (50 FR 32245), and notified the ITC of our action.

On August 16, 1985, questionnaires were presented to counsel for the respondents. On August 30, 1985, the ITC found that there is a reasonable indication that imports of line pipe from Taiwan are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1742, August 1985).

On October 31, 1985, counsel for the respondents notified us that they would not be responding to our questionnaire.

On December 23, 1985, we made our preliminary determination, which was based on the best information available.

Scope of Investigation

The Product covered under this investigation is welded carbon steel line pipe with an outside diameter of 0.375 inch or more but not over 16 inches, and with a wall thichness of not less than .065 inch, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3208 and 610.3209. This product is produced to various API specifications for line pipe, most notably API-5L or API-5LX. The period of investigation is February 1—July 31, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available as required by section 776(b) of the Act because the respondents did not submit responses.

United States Price

We calculated the purchase price of welded carbon steel API line pipe, as provided in section 772 of the Act, on the basis of the average f.o.b. packed values for the six month period of investigation as provided in the IM146 statistics compiled by the Bureau of the Census. We used these data as the best information available instead of the average FAS values for a 17 month period which are provided in the petition.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value using the best information available in the absence of a response to our questionnaire. The best information

available for calculating foreign market value was statistics provided in the petition. These statistics were published by the Taiwan Department of Statistics for the fourth quarter of 1984. These statistics encompass all pipe and tube production in Taiwan.

Affirmative Determination of Critical Circumstances

The petitioners alleged that imports of line pipe from Taiwan present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we find that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise over a relatively short period.

In determining whether the importer knew, or should have known, that the exporter was dumping the merchandise, we normally consider margins of 25 percent or more to constitute knowledge of dumping. Since the margins in this case exceed this level, we find that knowledge of dumping can be imputed to the importers. Because we believe that the importers knew or should have known that the exporter was dumping the merchandise, we do not have to determine whether there is a history of dumping.

We generally consider the following concerning massive imports: (1) Volume and value of imports (2) seasonal trends, and (3) the share of domestic consumption accounted for by the imports. In considering this question, we analyzed the factors listed above for line pipe from Taiwan for equal periods immediately preceding and following the filing of the petition. Based on this analysis, we find that imports of the subject merchandise from Taiwan during the period subsequent to receipt of the petition have been massive.

Therefore, for the reasons described above, we determine that "critical circumstances" exist with respect to line pipe from Taiwan.

Verification

Since no responses were submitted, there were no verifications.

Comments

The Department received no oral or written comments relative to this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of line pipe from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before December 30, 1985, the date of publication of the preliminary determination notice in the **Federal Register.** The United States Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on line pipe from Taiwan, we found that the export subsidies were *de minimis*. Therefore, the bonding rate will not be reduced by the amount of any export subsidies.

Manufacturer/producer/exporter	Weighted-average margin percentage
Far East Machinery Company, Ltd	27.98
Kao Hsing Chang Iron & Steel Corp	27.98
All others	27.98

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on line pipe from Taiwan entered, or withdrawn from warehouses, for consumption equal to the amount by which the foreign market value exceeds the United States price. This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 10, 1986.

[FR Doc. 86-5635 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-433-402]

Carbon Steel Products From Austria; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on certain carbon steel products from Austria. The review covers the period from March 20, 1985. The petitioner and other domestic interested parties have notified the Department that they are no longer interested in the countervailing duty order. These affirmative statements of no interest from domestic interested parties provide a reasonable basis for the Department to revoke the order. Therefore, we tentatively determine to revoke the order. In accordance with the domestic interested parties' notifications, the revocation will apply to all cold-rolled carbon steel flat-rolled products from Austria entered, or withdrawn from warehouse, for consumption on or after March 20, 1985.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: March 20, 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Bernard Carreau,

Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On October 11, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 41546) a countervailing duty order on certain carbon steel products from Austria.

The petitioner, United States Steel Corporation, and Bethlehem Steel Corporation, LTV Steel Company, Inland Steel Company and Armco Inc., domestic interested parties, informed the Department that they were no longer interested in the order and stated their support of revocation of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of Review

Imports covered by the review are shipments of Austrian cold-rolled carbon steel flat-rolled products. For a further description of these products, see Appendix A of this notice. The review covers the period from March 20, 1985.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the petitioner's and domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty order on certain carbon steel products from Austria provide a reasonable basis for revocation of the order. In light of the March 20, 1985, effective date for revocation requested by the domestic parties, there is good cause (as required by section 751(b)(2) of the Tariff Act) to conduct this review at this time.

Therefore, we tentatively determine to revoke the order on certain carbon steel products from Austria effective March 20, 1985. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 20, 1985, without regard to countervailing duties, and to refund any estimated countervailing duties collected with respect to those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

Appendix

The term "*cold-rolled carbon steel flat-rolled products*" covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, nor pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and 0.1875 or more in thickness, as currently provided for in item 607.8320 of the Tariff Schedules of the United States Annotated ("TSUSA"); or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils as currently provided for in items 607.8350, 607.8355, or 607.8360 of the TSUSA.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice, and may request a hearing within five days of the date of publication. Any hearing, if requested, will be held 55 days from the date of publication, or the last workday preceding. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: March 7, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86–5638 Filed 3–13–86; 8:45 am]

BILLING CODE 3510–DS–M

Subcommittee on Export Administration of the President's Export Council; Closed Meeting

A closed meeting of the President's Export Council Subcommittee on Export Administration will be held April 9, 1986, 8:30 a.m. to 3 p.m., Department of Defense, 1201 Fern Street, Arlington, Virginia.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act as amended that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

Executive Session: 8:30 a.m.–3 p.m. Discussion of matters properly classified under Executive Order 12356 dealing with matters pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act of 1979, as amended. A Notice of Determination to close meetings or portions of meetings of the subcommittee to the public on the basis of 5 U.S.C. 522b(c)(1) was approved October 17, 1985 in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inpection Facility, Room 6628, U.S. Department of Commerce, (202) 377–4217.

For further information contact Debra Waggoner, (202) 377–5622.

Dated: March 10, 1986.

Willard A. Workman,

Director, Strategic Policy and Planning Division, Export Administration.

[FR Doc. 86–5639 Filed 3–13–86 8:45 am]

BILLING CODE 3810–DT–M

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 355]

Marine Mammals; Permit Modification; Department of Vertebrate Zoology, National Museum of Natural History

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the regulations governing endangered species (50 CFR Part 222), Scientific Research Permit No. 355 issued to the Department of Vertebrate Zoology, National Museum of Natural History, Smithsonian Institution Washington, DC 20560 on October 20, 1981, is modified as follows:

This Permit is valid with respect to taking authorized herein until December 31, 1989.

This modification became effective on January 1, 1986.

As required by the Endangered Species Act of 1973 issuance of this modification is based on a finding that such modifications (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of the modification, and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This modification was issued in accordance with, and is subject to Parts 220–222 of Title 50 CFR of the National

Marine Fisheries Service regulations governing endangered species permits (39 FR 41367), November 27, 1974.

Documents submitted in connection with the above modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC 20235; and
Director, Northeast Region National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: March 4, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-5617 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Dr. Douglas Wartzok (P375)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant:

a. Name: Dr. Douglas Wartzok, Professor and Chairman.

b. Address: Department of Biological Services, Purdue University, Fort Wayne, Indiana 46805.

2. Type of Permit: Scientific Research.

3. Name of Marine Mammals: Bowhead whale (Balaena mysticetus).

4. Type of Take and Number: Forty (40) animals per year may be radio-tagged to identify and track individual whales and to repeatedly present certain whales with playback sounds of drilling and icebreaking. The behaviors of tagged and other whales will be observed as they pass operating drill sites. An unspecified number of animals will be harassed during aerial and ship operations associated with the tagging and observational activities.

5. Location of Activity: Alaskan Beaufort Sea.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC; and
Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

March 11, 1986.

[FR Doc. 86-5675 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancelling Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the People's Republic of China

March 11, 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 17, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 30, 1985 a notice was published in the Federal Register (50 FR 53182), which among other things, established staged entry periods for imports of cotton textile products in Categories 331 (cotton gloves) and 340 (men's and boys' woven cotton shirts), produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1985 and extended through December 31, 1985. Inasmuch as it has been determined that these staged entry periods are no longer needed, they are being cancelled.

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 Tariff Schedules of the United States Annotated (1986).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 11, 1986

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, I request that, effective on March 17, 1986, you cancel the staged entry periods established in the directive of December 24, 1985 for cotton textile products in Categories 331 and 340, produced or manufactured in the People's Republic of China.

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. 86-5640 Filed 3-13-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletion from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1986 commodities and a military resale commodity to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 14, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Cystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On April 12, September 13, October 22, and December 13, 1985 and January 10, 1986, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (50 FR 14411, 50 FR 37396, 50 FR 42751, 50 FR 50936 and 51 FR 1274) of proposed additions to and deletions from Procurement List 1986, October 15, 1985 (50 FR 41809).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities and military resale commodity listed.

c. The actions will result in authorizing small entities to produce the commodities and military resale commodity procured by the Government.

Accordingly, the following commodities and military resale commodity are hereby added to Procurment List 1986:

Commodities

Strap, Webbing, Litter Securing: 6530–00–784–4335

Boxspring: 7210–00–NIB–0043, 38 x 75" Twin; 7210–00–NIB–0044, 53 x 75" Double; 7210–00–NIB–0045, 60 x 80" Queen; 7210–00–NIB–0052, 76 x 80" King.

Mattress (innerspring): 7210–00–NIB–0040, 38 x 75" Twin; 7210–00–NIB–0041, 53 x 75" Double; 7210–00–NIB–0042, 60 x 80" Queen; 7210–00–NIB–0050, 76 x 80" King.

(Requirements for non-appropriated fund activities of the Armed Forces only).

Table, Coffee: 7105–00–139–7573; 7105–00–139–7573.

Table, End: 7105–00–139–7598.

Table, Lamp: 7105–00–139–7600.

(Requirements for Zones 2 and 3 only).

Military Resale Item No. and Name

No. 204 Cleaner, Tobacco, Pipe.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77 and 41 CFR 51–2.6.

Accordingly, the following commodity is hereby deleted from Procurement List 1986: Mop, Wet, Cellulose: 7920–00–728–1167.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–5651 Filed 3–13–86; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1986; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1986 a commodity and services to be provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before April 16, 1986.

ADDRESS: Committe for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

The notice of proposed addition to the Procurement List of Kit, First Aid, Eye Dressing is being reissued to confirm the continued interest by a workshop in the addition of this item to the Procurement List.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1986, October 15, 1985 (50 FR 41809):

Commodity

Kit, First Aid, Eye Dressing, 6545–00–853–6309.

Services

Grounds Maintenance, USAR Facility, Building 4306, Grant County Airport, Moses Lake, Washington

Operation of Postal Service Center, Minot Air Force Base, North Dakota.

Deletions

It is proposed to delete the following services from Procurement List 1986, October 15, 1985 (50 FR 41809):

Commissary Shelf Stocking and Custodial, Fort Sheridan, Illinois

Janitorial Service, GSA Depot Building 58, Hingham Industrial Park, 349 Lincoln Street, Hingham, Massachusetts.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–5652 Filed 3–13–86; 8:45 am]

BILLING CODE 6820–33–M

Procurement List 1986; Correction

In FR Doc. 86–4503 appearing on page 7315 in the issue of Monday, March 3, 1986, make the following corrections:

On page 7315, in the third column, the Summary should read:

SUMMARY: This action adds to Procurement List 1986 a commodity to be produced by workshops for the blind or other severely handicapped.

On page 7316, in the first column under Supplementary Information, the first sentence in the second paragraph should read: The workshop's capability to produce the poncho liner was verified by a Government on-site inspection.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–5650 Filed 3–13–86; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Scientific Advisory Committee; Closed Meetings

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that closed meetings of a panel of the DIA Scientific Advisory Committee have been scheduled as follows:

DATES: 3 April, 21 May and 17 June 1986, 9:00 a.m. to 5:00 p.m. each day.

ADDRESS: Foreign Technology Division, Wright-Patterson Air Force Base, Ohio for the 3 April meeting and the DIAC, Bolling AFB, Washington, DC for the 21 May and 17 June meetings.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC. 20301 (202/373–4930).

SUPPLEMENTARY INFORMATION: The entire meetings are devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Microelectronics and Computers.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

March 10, 1986.

[FR Doc. 86–5618 Filed 3–13–86; 8:45 am]

BILLING CODE 3810–01–M

Defense Science Board Task Force on Multi-National FOFA; Advisory Committee Meetings

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Multi-National FOFA will meet in closed session on 7-11 April 1986, London, Engand; Paris, France; Bonn, Germany; and 27–29 May 1986, The Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to review, in detail, classified material associated with conventional military capabilities in NATO with a view towards future U.S. and NATO requirements.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Dated: March 10, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–5621 Filed 3–13–86; 8:45 am]

BILLING CODE 3810–01–M

Strategic Defense Initiative Advisory Committee; Meetings

SUMMARY: The Strategic Defense Initiative (SDI) Advisory Committee will meet in closed session, in Washington, DC on April 9 and 10, 1986.

The mission of the SDI Advisory Committee is to advise the Secretary of Defense and the Director, Strategic Defense Initiative Organization on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting on April 9 and 10, the committee will discuss status of SDI research and management issues.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C., App II, (1982)), it has been determined that this SDI Advisory Committee meeting concerns matters listed in 5 U.S.C., 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Dated: March 10, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86–5620 Filed 3–13–86; 8:45 am]

BILLING CODE 3810–01–M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 10, 1986.

The USAF Scientific Advisory Board Airlift Cross-Matrix Panel/Ad Hoc Committee on Enhancement of Special Operations Forces will meet at Wright-Patterson AFB, OH on 17 April, 1986, from 2:00 pm to 5:00 pm, and at Oswego, NY on April 18, 1986 from 9:00 am to 2:30 pm.

The purpose of the meeting will be to review Combat Talon II Avionics programs, specifically defensive avionics integration, simulator development, and human factors integration.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–5614 Filed 3–13–86; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

March 10, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Appropriate Air Force Technology Efforts to Complement the Strategic Defense Initiative Program will meet at Los Angeles AFS, CA on 10–11 April 1986 from 8:30 am to 5:00 pm both days.

The purpose of the meeting will be for the Sensors/KEW panel to review Air Force space surveillance and KEW programs for completeness and ability to satisfy AF space requirements.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–5615 Filed 3–13–86; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

March 10, 1986.

The USAF Scientific Advisory Board will conduct its Spring General meeting at Wright-Patterson AFB, OH on 21 April, 1986, from 2:00 pm to 5:00 pm, and on April 22–23, 1986 from 8:00 am to 5:00 pm.

The purpose of the meeting will be to review and provide SAB members information on Air Force programs in artificial intelligence on Project Forecast II.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–5616 Filed 3–13–86; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF DEFENSE

Department of the Army

ENVIRONMENTAL PROTECTION AGENCY

Water Pollution Control; Memorandum of Agreement on Solid Waste

February 28, 1986.

AGENCY: Department of the Army, DoD and Environmental Protection Agency.

ACTION: Notice of agreement.

SUMMARY: The Department of the Army and the Environmental Protection Agency (EPA) have entered into an agreement to promote effective control under the Clean Water Act (CWA) of discharges of solid and semi-solid waste materials discharged into the waters of the United States for the purpose of disposal of waste.

DATE: The Memorandum of Agreement (MOA) was executed on January 23, 1986, and shall take effect on April 23, 1986. Written comments received on or before June 23, 1986, will be considered in any future revision undertaken to the Agreement. Written comments received after June 23, 1986, will be considered if the timing of any future revision allows for such consideration.

ADDRESS: Office of the Assistant Secretary of the Army (Civil Works), U.S. Department of the Army, Room 2E570, Washington, DC, 20310-0103; or Office of Federal Activities (A-104), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460.

FOR FURTHER INFORMATION CONTACT:

Morgan Rees, Assistant for Regulatory Affairs, Office of the Assistant Secretary of the Army (Civil Works), Department of the Army, Pentagon, Room 2E569, Washington, DC, 20310, (202) 695-1370.

John Meagher, Director, Aquatic Resource Division, Office of Federal Activities (A-104), Environmental Protection Agency, Washington, DC, 20460, (202) 382-5043.

SUPPLEMENTARY INFORMATION: Under section 404 of the CWA, the Army Corps of Engineers (and States approved by EPA) issue permits for discharges of dredged and fill material into waters of the United States which comply with the Act and applicable regulations. Under section 402 of the CWA (the National Pollutant Discharge Elimination System or NPDES Program), EPA (and States approved by EPA) issue permits for discharges of all other pollutants into waters of the United States, which comply with the Act and applicable regulations.

The MOA was entered into to resolve a difference (since 1980) between Army and EPA over the appropriate CWA program for regulating certain discharges of solid wastes into waters of the United States. The Army Corps of Engineers' definition of "fill material" provides that only those materials discharged for the primary purpose of replacing an aquatic area or of changing the bottom elevation of a waterbody are regulated under the Corps section 404 permit program. These discharges include discharges of pollutants intended to fill a regulated wetland to create fast land for development. The Corps definition excludes pollutants discharged with the primary purpose to dispose of waste which, under the Corps definition, would be regulated under section 402. Under EPA's definition of "fill material," all such solid waste discharges would be regulated under section 404, regardless of the primary purpose of the discharger. This difference has complicated the regulatory program for solid wastes discharged into waters of the United States.

A February 1984 Settlement Agreement in *NWF* v. *Marsh*, a case brought by 16 environmental groups against Army and EPA on a number of section 404 matters required resolution of the definition of fill issue by September 1984. Army and EPA have been working toward a resolution since settlement. In Section 404 oversight hearings conducted by the Senate Environment and Public Works Committee in 1985, EPA and Army agreed to make every effort to resolve the matter by the end of 1985.

The agreement published today provides an interim arrangement between the agencies for controlling discharges. In the longer term, EPA and Army agree that consideration given to the control of discharges of solid waste both in waters of the United States and upland should take into account the results of studies being implemented under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), signed into law on November 8, 1984.

The amendments to RCRA require EPA, by November 8, 1987, to submit a report to Congress determining whether the RCRA Subtitle D Criteria (40 CFR Part 257) are adequate to protect human health and the environment from groundwater contamination, and recommending whether additional authorities are needed to enforce the Criteria. In addition, EPA must revise the Criteria by March 31, 1988, for solid waste disposal facilities that may receive hazardous household waste or small quantity generator hazardous waste. At a minimum, these revisions should require not only groundwater monitoring as necessary to detect contamination, but should also establish criteria for the acceptable location of new or existing facilities, and provide for corrective action, as appropriate.

The main focus of the interim arrangement is to ensure an effective enforcement program under section 309 of the CWA for controlling discharges of solid and semi-solid wastes into waters of the United States for the purpose of disposal of waste. When warranted, EPA will normally initiate section 309 action to control such discharges. If it becomes necessary to determine whether section 402 or 404 applies to an ongoing or proposed discharge, the determination will be based upon criteria in the agreement, which provide, *inter alia*, for certain homogeneous wastes to be regulated under the section 402 (NPDES) Program and certain heterogeneous wastes to be regulated under the section 404 Program.

To promote regulatory consistency for those seeking to apply for authorization to discharge these wastes into waters of the United States, the agreement encourages the use of the criteria in the MOA by prospective dischargers. It also provides a procedure for the agencies' consideration of any permit applications received, and calls upon the agencies to advise prospective dischargers regarding the probable unsuitability of certain kinds of wastes for discharge into waters of the United States.

This agreement does not affect the regulatory requirements for materials discharged into waters of the United States for the primary purpose of replacing an aquatic area or of changing the bottom elevation of a water body. Discharges listed in the Corps definition of "discharge of fill material," 33 CFR 323.2(1) remain subject to section 404 even if they occur in association with discharges of wastes meeting the criteria in the agreement for section 402 discharges.

Unless extended by mutual agreement, the agreement will expire at such time as EPA has accomplished specified steps in its implementation of RCRA, at which time the results of the study of the adequacy of the existing Subtitle D criteria and proposed revisions to the Subtitle D criteria for solid waste disposal facilities, including those that may receive hazardous household wastes and small quantity generator waste, will be known. In addition, data resulting from actions

under the interim agreement can be considered at that time.

The Department of Army and EPA will ensure that decisions made pursuant to this agreement meet the requirements of the CWA and are consistent with the Act's objective to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. EPA and Army will also take steps to ensure that discharges of solid and semi-solid wastes into waters of the United States are evaluated consistently under the section 402 and 404 programs, and that this agreement will be implemented in a manner that imposes no unnecessary burden on the regulated sector.

Text

January 17, 1986.

Memorandum of Agreement Between the Assistant Administrators for External Affairs and Water, U.S. Environmental Protection Agency, and the Assistant Secretary of the Army for Civil Works Concerning Regulation of Discharge of Solid Waste Under the Clean Water Act

A. Basis of Agreement

1. Whereas the Clean Water Act has as its principal objective the requirement "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters; and,

2. Whereas section 301 of the Clean Water Act prohibits the discharge of any pollutant into waters of the United States except in compliance with sections 301, 302, 306, 307, 318, 402, and 404 of the Act; and

3. Whereas EPA, and States approved by EPA, have been vested with authority to permit discharges of pollutants, other than dredged or fill material, into waters of the United States pursuant to section 402 of the Clean Water Act that satisfy the requirements of the Act and regulations developed to administer this program promulgated in 40 CFR 122–125; and

4. Whereas the Army, and States approved by EPA, have been vested with authority to permit discharges of dredged or fill material into waters of the United States that satisfy the requirements of the Act and regulations developed to administer this program promulgated in 33 CFR Part 320 *et seq.* and 40 CFR Part 230 *et seq.*; and

5. Whereas the definitions of the term "fill material" contained in the aforementioned regulations have created uncertainty as to whether section 402 of the Act or section 404 is intended to regulate discharges of solid waste materials into waters of the United States for the purpose of disposal of waste; and

6. Whereas the Resource Conservation and Recovery Act Amendments of 1984 (RCRA) require that certain steps be taken to improve the control of solid waste; and

7. Whereas interim control of such discharges is necessary to ensure sound management of the Nation's waters and to avoid complications in enforcement actions taken against persons discharging pollutants into waters of the United States without a permit;

8. The undersigned agencies do hereby agree to use their respective abilities cooperatively in an interim program to control the discharges of solid waste material into waters of the United States.

B. Procedures

1. When either agency is aware of a proposed or an unpermitted discharge of solid waste into waters of the United States, the agency will notify the discharger of the prohibition against such discharges as provided in section 301 of the Clean Water Act. Such notice is not a prerequisite for an enforcement action by either agency.

2. Normally, if an activity in B.1 above warrants action, EPA will issue an administrative order or file a complaint under section 309 to control the discharge.

3. In issuing a notice of violation or administrative order or in filing a complaint, it is not necessary in order to demonstrate a violation of section 301(a) of the Clean Water Act to identify which permit a permitless discharge should have had. However, after an enforcement action has commenced, a question may be raised by the court, discharger, or other party as to whether a particular discharge having the effect of replacing an aquatic area with dry land or of changing the bottom elevation of a water body meets the primary purpose test for "fill material" in the Corps definition (33 CFR 323.2(k)). For example, such question may be raised in connection with a defense, or it may be relevant to the relief to be granted or the terms of a settlement.

4. To avoid any impediment to prompt resolution of the enforcement action, if such a question arises, a discharge will normally be considered to meet the definition of "fill material" in 33 CFR 323.2(k) for each specific case by consideration of the following factors:

a. The discharge has as its primary purpose or has as one principle purpose of multi-purposes to replace a portion of the waters of the United States with dry land or to raise the bottom elevation.

b. The discharge results from activities such as road construction or other activities where the material to be discharged is generally identified with construction-type activities.

c. A principal effect of the discharge is physical loss or physical modification of waters of the United States, including smothering of aquatic life or habitat.

d. The discharge is heterogeneous in nature and of the type normally associated with sanitary landfill discharges.

5. On the other hand, in the situation in paragraph B.3., a pollutant (other than dredged material) will normally be considered by EPA and the Corps to be subject to section 402 if it is a discharge in liquid, semi-liquid, or suspended form or if it is a discharge of solid material of a homogeneous nature normally associated with single industry wastes, and from a fixed conveyance, or if trucked, from a single site and set of known processes. These materials include placer mining wastes, phosphate mining wastes, titanium mining wastes, sand and gravel wastes, fly ash, and drilling muds. As appropriate, EPA and the Corps will identify additional such materials.

6. While this document addresses enforcement cases, prospective dischargers who apply for a permit will be encouraged to use the above criteria for purposes of project planning. If a prospective discharger applies for a section 404 permit based on the considerations in paragraph B.4., or for a Section 402 permit based on the considerations in paragraph B.5., the application will normally be accepted for processing. If a prospective discharger applies for a 404 permit for discharge of materials that might be hazardous, he shall be advised that dischargers of wastes to waters of the United States that are hazardous under RCRA are unlikely to comply with the section 404(b)(1) Guidelines. To facilitate processing of applications for permits under sections 402 or 404 for discharges covered by this agreement, an application for such discharge shall not be accepted for processing until the applicant has provided a determination signed by the State or appropriate interstate agency that the proposed discharge will comply with applicable provisions of State law including applicable water quality standards, or evidence of waiver by the State or interstate agency. As mandated under the Clean Water Act, neither a 402 nor a 404 permit will be issued for a discharge of toxic pollutants in toxic amounts. Prospective applicants for section 402 permits shall be advised that the proposed discharge will be evaluated for compliance with the Act, in particular with sections 101(a), 301, 303, 304, 307, 402, and 405 of the Act.

C. Determination of Permit

1. In enforcement cases, where a question arises under paragraph B.3 as to which permit would be required for a permitless discharge, the enforcing agency will determine whether the criteria in paragraph B.4 or B.5, if either, have been satisfied, with concurrence from the other agency. If the enforcing agency concludes that neither set of the criteria has been met and additional analysis is required to determine which Section applies, or if the necessary concurrence is not forthcoming promptly, the Division Engineer and the Regional Administrator (or designees) will consult and determine which permit program is applicable.

2. In non-enforcement situations, the agency receiving an application shall determine whether it meets the criteria in paragraphs 4 or 5, as the case may be. If the agency determines that the criteria applicable to its permit program have not been met, it will ask the other agency to determine whether the criteria for the latter's permit program have been met.

If neither agency determines that the criteria for its permit program have been met, the Division Engineer and the RA (or their designees) shall consult and determine which agency shall process the application in question.

D. Publication in the "Federal Register"

Since this Memorandum of Agreement clarifies the definition of fill material with

respect to discharges of solid waste into waters of the United States, the parties in this agreement shall jointly publish it in the Federal Register within 45 days after it has been signed.

E. Effective Dates

1. This agreement shall take effect 90 days after the date of the last signature below and will continue in effect until modified or revoked by agreement of both parties, or revoked by either party alone upon six months written notice.

2. This agreement automatically expires at such time as EPA has submitted its Report to Congress on the Results of Study of the Adequacy of the Existing Subtitle D Criteria and has published a Notice of Proposed Revisions to the Subtitle D Criteria in the Federal Register, unless the agencies mutually agree that extension of this agreement is needed.

Dated: January 22, 1986.

Jennifer J. Manson,

Assistant Administrator for External Affairs, U.S. Environmental Protection Agency.

Dated: January 23, 1986.

Larry Jensen,

Assistant Administrator for Water, U.S. Environmental Protection Agency.

Dated: January 17, 1986.

Robert K. Dawson,

Assistant Secretary of the Army (Civil Works).

Dated: March 11, 1986.

Jennifer J. Manson,

Assistant Administrator for External Affairs, U.S. Environmental Protection Agency.

Lawrence J. Jensen,

Assistant Administrator for Water, U.S. Environmental Protection Agency.

Robert K. Dawson,

Assistant Secretary of the Army for Civil Works, Department of the Army.

[FR Doc. 86-5611 Filed 3-13-86; 8:45 am]

BILLING CODE 3710-08-M

Intent To Prepare a Draft Supplemental Environmental Impact Statement (SEIS) for the East-bank Barrier Levee Feature of the New Orleans to Venice, Louisiana, Hurricane Protection Project

AGENCY: New Orleans District, Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft SEIS.

SUMMARY:

1. Proposed Action

In 1962, Pub. L. 874, 87th Congress, authorized the project "Mississippi River Delta at and below New Orleans to Venice, Louisiana." The project would prevent tidal damages along the Mississippi River in lower Plaquemines Parish, Louisiana, by increasing the height of the existing back levees, altering the existing drainage facilities, and modifying the main river levee as necessary. Construction of a back levee on the east bank from Phoenix to Bohemia, Louisiana, began in 1966, and construction of a back levee on the west bank from Tropical Bend to Venice, Louisiana, began in 1968. Construction of the remaining back levee on the west bank from City Price to Tropical Bend has not begun. The East-bank Barrier Levee feature would protect the west bank between City Price and Venice from storms to the east.

2. Alternatives

a. *East-bank Plan.* This alternative consists of a barrier levee along the east bank of the Mississippi River from opposite City Price near Bohemia, Louisiana, to an area opposite Venice, Louisiana. In addition, this alternative includes an enlarged Mississippi River and Tributaries (MR&T) levee on the west bank of the Mississippi River from Fort Jackson to Venice, Louisiana.

b. *West-bank Plan.* This alternative involves an enlargement of the existing MR&T levee to hurricane grade from City Price, Louisiana, to Venice, Louisiana. In reaches where stability conditions do not permit an enlarged levee, a levee setback or floodwall is proposed.

c. *No Action Plan.* The no action alternative would result in no additional hurricane protection, and is the basis of comparison for the action alternative plans evaluated.

3. Scoping Process

a. A public meeting was held on March 13, 1956 in New Orleans, Louisiana, to discuss the views of the local interests concerning hurricane flooding and protection. On November 30, 1984 and January 10, 1985, public meetings were conducted by the Plaquemines Parish Commission Council to receive public input on the project, particularly the levee segment from City Price to Tropical Bend on the west bank of the Mississippi River. The public involvement program will include scoping meetings to obtain the public's input as to alternatives under consideration and significant resources to be evaluated in the SEIS. The participation of affected Federal, state, and local agencies, and other interested private organizations and parties will be invited.

b. Significant issues to be analyzed in the SEIS include impacts of the proposed changes on biological, cultural, historical, social, economic, water quality, and human resources, and project costs.

c. The U.S. Fish and Wildlife Service will provide Planning Aid information and a Coordination Act Report for the draft SEIS.

d. The draft SEIS will be coordinated with all required Federal, state, and local agencies, environmental groups, landowner groups, and interested individuals. All review comments received will be considered and responses will be made.

4. Public Meeting(s)

An intra-agency scoping meeting of concerned Federal and state natural resource agencies was conducted on January 29, 1986, and an additional meeting with these agencies will follow as the project planning progresses. A public scoping meeting is tentatively scheduled on March 18, 1986 to obtain the public's input.

5. Availability

The draft SEIS is scheduled to be available to the public in May 1987.

ADDRESS: Questions concerning the proposed action and draft SEIS may be directed to Mr. E. Scott Clark, U.S. Army Corps of Engineers, Environmental Quality Section (LMNPD-RE), P.O. Box 60267, New Orleans, Louisiana 70160-0267, telephone (504) 862-2321.

Dated: March 5, 1986.

Eugene S. Witherspoon,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86-5582 Filed 3-13-86; 8:45 am]

BILLING CODE 3710-84-M

DEPARTMENT OF DEFENSE

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: Thursday & Friday, 3-4 April 1986

Times of Meeting: 0800-1700 (Thursday), 0800-1530 (Friday)

Places: Pentagon, Room 2E715B, Washington, DC 20310

Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense will meet for briefings on deployment options, lasers and instrumentation reviews. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed

are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–5575 Filed 3–13–86; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: Thursday, 10 April 1986

Times of Meeting: 0900–1500 hours

Places: Vint Hill Farms Station, Warrenton, Virginia 22186

Agenda: The Army Science Board 1986 Summer Study Panel on C^3I Requirements for AirLand Battle will meet to receive briefings on selected systems and technology being developed by the Signals Warfare Center. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–5576 Filed 3–13–86; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–85–026; OFP Case No. 65039–9286–20–24]

Powerplant and Industrial Fuel Use; Northern Cogeneration One Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order Granting to Northern Cogeneration One Company Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or the "the Act"), to Northern Cogeneration One Company (Northern or "the petitioner"). The permanent cogeneration exemption permits the use of natural gas as the energy source, for a 424 MW net generating topping cycle cogeneration plant designed to produce steam for sale to the Union Carbide Corporation (Union Carbide) and electricity to Union Carbide and to Texas Utilities Electric Company (TUEC). The electric power purchased by TUEC will be interconnected with the Electric Reliability Council of Texas (ERCOT) regional grid. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: The order shall take effect on May 13, 1986. The public file containing a copy of this order as well as other documents and supporting materials on this proceeding are available upon request at: Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–045, Washington, DC 20585, Telephone (202) 252–4523.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: On August 2, 1985, Northern petitioned ERA under 10 CFR 503.37 for a permanent cogeneration exemption. The proposed powerplant for which the petition was filed is to consist of three combustion turbine generators, three heat recovery steam generators and one auto extraction condensing steam turbine. The power production capacity of the facility will be 431 MW (108 MW per combustion turbine generator and 107 MW for the steam turbine generator (140 MW under maximum generating conditions)). Under normal operating conditions the net plant output will be 424 MW of power (7 MW of the electricity produced will be consumed by the facility for auxiliary power).

It is expected that more than 50 percent of the net annual electric power generation of the facility will be sold to TUEC, making the cogeneration facility an electric powerplant under FUA.

Basis for Permanent Exemption Order

The permanent exemption is based upon evidence in the record including Northern's certification to ERA, in accordance with 10 CFR 503.37(a) that:

1. The natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility pursuant to the methodology for calculating such savings; and

2. The mixture of natural gas and/or petroleum and coal would not be technically feasible for the proposed facility.

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on September 30, 1985 (50 FR 39757), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency (EPA) for comments as required by section 701(f) of the Act.

During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on November 14, 1985; no comments were received and no hearing requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that Northern has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to Northern to permit the use of natural gas as the energy source for its proposed Texas City Cogeneration Facility to be located in Texas City, Galveston County, Texas.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on March 6, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-5596 Filed 3-13-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER79-97-006]

Alamito Co.; Complaint

March 11, 1986.

Take notice that on February 28, 1986, San Diego Gas & Electric Company (SDG&E) submit for filing a complaint, motion for expansion of refund authority, and an alternative request for rehearing of the Commission's orders in *Alamito Co.*, Docket Nos. ER79-97-001 and ER85-408-000. SDG&E requests that the Commission expand the refund authority of Ordering Paragraph (D) of its order issued on July 5, 1985 in the capitioned proceeding, 32 FERC ¶ 61,022, and require refunds of excess collections by Alamito Company ("Alamito") under its Rates Schedule No. 1. SDG&E alleges that because Alamito's rates for its sale of 251 Mw of Springerville Unit No. 1 to SDG&E have reflected substantially more equity in capitalization than was actually employed, it has collected rates that are not just and reasonable as required by the Act.

Any person desiring to be heard or to protest the 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 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 April 10, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any 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. SDG&E states that a copy of the filing has been served on Alamito. Alamito's answer shall be due on or before April 10, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5648 Filed 3-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-26-000]

San Diego Gas & Electric Co. v. Alamito Co.; Complaint

March 11, 1986.

Take notice that on February 28, 1986 San Diego Gas & Electric Company (SDG&E) submitted for filing a complaint and motion for summary judgment pursuant to sections 206 and 306 of the Federal Power Act and Rules 206, 212 and 217 of the Commission's Rules of Practice and Procedure. SDG&E requests that the Commission institute an investigation pursuant ot section 206 of the Act and order that Amendment No. 4 to Rate Schedule No. 1 of Alamito Company ("Alamito") be changed immediately so that it reflects the actual capitalization to be employed by Alamito to finance its assets used to make wholesale sales of electrical power upon the consummation of a leveraged buy-out that senior management has requested Alamito's public shareholders to approve. SDG&E asserts that change is required so that Alamito's wholesale rates are just and reasonable as required by the Act. If immediate rate reductions are not ordered, SDG&E will be required to pay excessive revenues until relief can be obtained.

SDG&E requests that the rate schedule be modified prospectively based upon this complaint and Alamito's answer. SDG&E asserts that there are no genuine issues of fact that require that this complaint be set for hearing. In a companion filing made today in Docket No. ER79-79-006, SDG&E requests refunds under Rate Schedule No. 1, retroactive to June 1, 1985, at which time a revision to the capital structure contained in the rate of return formula under that rate schedule became effective.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 10, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. 86-5649 Filed 3-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-336-000 et al.]

Electric Rate and Corporate Regulation Filings; Arizona Public Service Co. et al.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER86-336-000]

March 7, 1986.

Take notice that Arizona Public Service Company ("APS"), on March 3, 1986, tendered for filing the McNeal Mutual Standby Transmission Service Agreement (Agreement) among Sulphur Spring Valley Electric Cooperative (SSVEC), Arizona Electric Power Cooperative (AEPCO) and APS. This Agreement, executed December 31, 1985, provides for mutual standby transmission service between APS and SSVEC.

APS, with the concurrence of AEPCO and SSVEC, requests waiver of § 35.3 pursuant to § 35.11 so that the Agreement be made effective on February 20, 1985, the date on which a similar agreement (APS—FPC Rate Schedule No. 37) between APS and SSVEC had terminated. It is the intent of the parties that this Agreement supercede the previous agreement designated FPC Rate Schedule No. 37.

Copies of this filing have been served upon AEPCO, SSVEC and the Arizona Corporation Commission.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. The Dayton Power and Light Company

[Docket No. ER86-330-000]

March 7, 1986.

Take notice that on March 3, 1986, The Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of Yellow Springs (Yellow Springs), Ohio.

The proposed Agreement allows Yellow Springs to purchase energy requirements from third parties who will

use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&L for delivery to Yellow Springs.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Dayton Power and Light Company

[Docket No. ER86-331-000]

March 7, 1986.

Take notice that on March 3, 1986, The Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of Tipp City (Tipp City), Ohio.

The proposed Agreement allows Tipp City to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&L for delivery to Tipp City.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Dayton Power and Light Company

[Docket No. ER86-337-000]

March 7, 1986.

Take notice that on March 4, 1986, The Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of Lakeview (Lakeview), Ohio.

The proposed Agreement allows Lakeview to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&L for delivery to Lakeview.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this doucment.

5. Iowa Power and Light Company

[Docket No. ER86-329-000]

March 7, 1986.

Take notice that Iowa Power and Light Company ("Iowa Power") on March 3, 1986, tendered for filing Transmission Service Schedule Nos. 2, 3 and 4 ("Schedules") to Schedule D of an Interchange Agreement dated June 13, 1983 between Iowa Power and Iowa-Illinois Gas and Electric Company ("Iowa-Illinois"). The proposed changes would increase revenues from jurisdictional sales and service by $102,529.68 based on the twelve month period ending December 31, 1985.

The Schedules provide for Iowa-Illinois' continued use of certain portions of Iowa Power's electric tansmission system for further delivery of power to Iowa-Illinois at a proposed increased rate to recover increased costs incurred by Iowa Power in its fixed costs, at the Hills substation terminal, and as a result of storm damage incurred on its Montezuma to Hills 345 kV transmission line.

Copies of the filing were served upon Iowa-Illinois, the Iowa State Commerce Commission and the Illinois Commerce Commission.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER86-332-000]

March 7, 1986.

Take notice that on March 3, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rates for transmission service as embodied in Edison's agreements with the following entities:

	Rate schedules FERC No.
Contract Rate TN	FPC Electric Tariff Original Volume No. 1.
City of Riverside	165
City of Anaheim	164

Edison requests waiver of the Commission's prior notice requirements and an effective date of January 1, 1986.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER86-334-000]

March 7, 1986.

Take notice that on March 3, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rates for interruptible transmission service as embodied in Edison's agreements with the following entities:

	Rate schedules FERC No.
City of Anaheim	130
City of Azusa	160
City of Banning	159
City of Colton	162
City of Riverside	129
City of Vernon	149, 172

Edison requests waiver of the Commission's prior notice requirement and an effective date of January 1, 1986, for these rate changes.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Arkansas Power & Light Company

[Docket No. ER83-297-000]

March 10, 1986.

Take notice that on March 4, 1986 Arkansas Power & Light Company tendered for filing redetermined formula rates, revenue comparisons and supporting workpapers for the Cities of Campbell and Thayer, Missouri in accordance with the Power Coordination, Interchange and Transmission Service Agreements (Agreements) in the above-referenced docket.

AP&L requests that the updated rates supersede those effective on March 1, 1985 and that they become effective for service on and after March 1, 1986, subject to refund, in accordance with the provisions of the Agreements.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER86-333-000]

March 10, 1986.

Take notice that on March 3, 1986 Southern California Edison tendered for filing a notice of cancellation of the following rate schedules:

Agreement	Rate schedule No.
Edison-Burbank, Palo Verde Firm Transmission Service Agreement	135
Edison-Glendale, Palo Verde Firm Transmission Service Agreement	136
Edison-Pasadena, Palo Verde Firm Transmission Service Agreement	137
Edison-IID, Palo Verde Firm Transmission Service Agreement	138

The aforementioned rate schedules reflect contractual agreements between Edison and City of Burbank, City of Glendale, City of Pasadena, and the Imperial Irrigation District. These agreements provide that Edison will make available firm transmission service from Palo Verde Nuclear Generating Station 500 kV Switchyard to the respective parties' receiving points.

Pursuant to section 5.3 of this agreement, Edison respectfully requests that the Commission authorize Edison to terminate the aforementioned rate schedules effective midnight on April 30, 1986.

Comment date: March 21, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Tapoco, Inc.

[Docket No. ER86-257-000]

March 10, 1986.

Take notice that on February 28, 1986, the Town of Highlands, North Carolina, Haywood Electrical Membership Corporation, North Carolina Electrical Membership Corporation and Lacy H. Thornburg, Attorney General of the State of North Carolina tendered for filing a protest of Tapoco Inc. (Tapoco) February 11, 1986 filing and a motion for intervention pursuant to Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214).

The filing parties request that Tapoco's proposed amendment to its exchange agreement with the Tennesee Valley Authority extending Tapoco's exercise of its termination rights to December 22, 1982 be rejected or, alternatively, that Tapoco's request for waiver of the Commission filings be denied. If the proposed amendment is not rejected, they request that it be suspended for one day, and that the Commission declare that any approval of the proposed amendment in no way constitutes approval of a Tapoco termination in 1988, and also modify the proposed amendment to require Commission intervention prior to Tapoco's submission of a notice of termination to TVA. Alternatively, they request a hearing, and request that the Commission consolidate this proceeding with the pending consolidated proceeding in Docket Nos. ER82-774-000 *et al.* and defer further action with regard to Tapoco's proposed amendment pending a final determination in the consolidated proceedings.

Comment date: March 19, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5601 Filed 3-13-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-523-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Cogent Energy Co. et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Cogent Energy Co.

[Docket No. QF86-523-000]

March 6, 1986.

On February 7, 1986, Cogent Energy Co. (Applicant), of Four Gateway Center, Pittsburgh, Pennsylvania 15222, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at or adjacent to the Ciba-Geigy Plant near Toms River, New Jersey. The facility will consist of four natural gas fired combustion turbine generators and four waste heat recovery boilers. The thermal energy recovered in the form of steam will be used for industrial processes within the plant. The net electric power production capacity of the facility will be 200 MW.

2. HDI Associates IV (Dry Creek Hydropower Facility)

[Docket No. QF86-535-000]

March 10, 1986.

On February 20, 1986, HDI Associates IV (Applicant), of Suite 108, 10394 West Chatfield Avenue, Littleton, Colorado 80127 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 6 megawatt hydroelectric facility (FERC P. 9134) will be located on the Dry Creek Basin, in Butte County, Idaho.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

3. HDI Associates III (Ashuelot Paper Power Project)

[Docket No. QF86-536-000]

March 10, 1986.

On February 20, 1986, HDI Associates III (Applicant), of Suite 108, 10394 West Chatfield Avenue, Littleton, Colorado 80127 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 850 kilowatt hydroelectric facility (FERC P. 7791) will be located on the Ashuelot River in Cheshire County, New Hampshire.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

4. HDI Associates III (Lower Robertson Dam)

[Docket No. QF86-537-000]

March 10, 1986.

On February 20, 1986, HDI Associates III (Applicant), of Suite 108, 10394 West Chatfield Avenue, Littleton, Colorado 80127 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 850 kilowatt hydroelectric facility (FERC P. 8235) will be located on the Ashuelot River in Cheshire County, New Hampshire.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

HDI Associates II (Talcville Water Power Project)

[Docket No. QF86-538-000]

March 10, 1986.

On February 20, 1986, HDI Associates II (Applicant), of Suite 108, 10394 West Chatfield Avenue, Littleton, Colorado 80127 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The one megawatt hydroelectric facility (FERC P. 4402) will be located on the Oswegatchie River in St. Lawrence County, New York.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

6. Hydroelectric Development, Inc. (Upper Robertson Dam)

[Docket No. QF86-539-000]

March 10, 1986.

On February 20, 1986, Hydroelectric Development, Inc. (Applicant) of Suite 108, 10394 West Chatfield Avenue, Littleton, Colorado 80127 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 810 kilowatt hydroelectric facility (FERC P. 8915) will be located on the Ashuelot River in Cheshire County New Hampshire.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5602 Filed 3-13-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2983-5]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed March 3, 1986 Through March 7, 1986, Pursuant to 40 CFR 1506.9.

EIS No. 860081, Draft, SCS, LA, Acadia Parish Fifth Ward Flood Prevention and Agricultural Water Management Plan, Acadia Parish, Due: April 28, 1986, Contact: Horace Austin (318) 473-7751.

EIS No. 860082, Draft, AFS, AZ, Canyon Uranium Mining Development, Kaibab National Forest, Approval, Coconino County, Due: May 1, 1986, Contact: Dennis Lund (602) 635-2681.

EIS No. 860083, Draft, BLM, UT, House Range Resource Area, Resource Management Plan, Juab and Millard Cos., Due: June 13, 1986, Contact: Alan Partridge (801) 896-8221.

EIS No. 860084, DSuppl, IBR, ND, Garrison Diversion Unit, New Irrigation Areas and New Project Features, Operation and Maintenance, Pick-Sloan Missouri Basin Program, James River, Due: May 6, 1986, Contact: Timothy Keller (701) 255-4011.

EIS No. 860085, DSuppl, FHW, FL, Port Everglades Expressway/I-595 Construction, I-95/FL-736/Davie Blvd. Improvements, South Fork New River to Broward Blvd., Broward County, Due: April 30, 1986, Contact: P.E. Carpenter (904) 681-7223.

EIS No. 860086, Final, FHW, NM, San Mateo Blvd. Improvements, Gibson Blvd. to Zuni Rd., Bernalillo County, Due: April 14, 1986, Contact: Anthony Alonzo (505) 988-6150.

EIS No. 860087, Draft FHW, CT, CT-11 Improvements, CT-82 in Salem to I-95 in Waterford, New London County, Due: May 19, 1986, Contact: James Barakos (722) 244-2420.

EIS No. 860088, FSuppl, DOE, CO, Blue River-Gore Pass Substation, Portion of Hayden-Blue River 345kV Transmission Line, C/O/M, Grand and Summit Cos., Due: April 14, 1986, Contact: Bill Melander (303) 224-7231.

EIS No. 860089, Final, OSM, MT, CX Ranch Mine, Construction and Operation, Big Horn County, Due: April 14, 1986, Contact: Floyd McMullen (303) 844-2451.

EIS No. 860090, Final, AFS, WY, Shoshone National Forest, Land and Resource Management Plan, Due: April 14, 1986, Contact: Steven Mealey (307) 527-6241.

Amended notices

EIS No. 860062, Draft, BOP, OR, Sheridan Federal Correctional Institution Complex, Construction and Operation, Yamhill County, Due: April 21, 1986, Published FR 2-20-86—Review period reestablished.

EIS No. 860032, Final, EPA, OR, Coos Bay Ocean Disposal Sites, Dredged Material Disposal Site, Coos County, Due: March 10, 1986, Published FR 2-7-86—Incorrect status.

EIS No. 860071, Draft, COE, NY, Cazenova Creek Flood Damage Reduction Plan, Due: April 28, 1986, Published FR 3-7-86—Review period reestablished.

Dated: March 11, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-5660 Filed 3-13-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2983-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 24, 1986 through February 28, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. DR-AFS-G65035-NM, Rating LO, Santa Fe Nat'l Forest, Land and Resource Mgmt. Plan, NM. **SUMMARY:** EPA expressed no objections to the proposed action as described.

ERP No. DS-FHW-K40074-CA, Rating LO, I-8 and CA-125 Interchange Improvement, Fletcher Parkway to Amaya Dr., Revision Change, Right-of-Way Acquisition, CA. **SUMMARY:** EPA has no objections to the project as proposed in the draft supplemental EIS.

ERP No. D-JUS-D81014-PA, Rating EC2, Bradford Federal Correctional Institution Complex, Construction and Operation, PA. **SUMMARY:** EPA expressed concerns about the level of discussion of controls and potential impacts from surface and groundwater flows in the project area, and water and wastewater treatment alternatives. Additional studies and documentation of impacts were requested.

Final EISs

ERP No. F-AFS-J65111-MT, Flathead Nat'l Forest, Land and Resource Mgmt. Plan, MT. **SUMMARY:** EPA's concerns were responded to in the final EIS.

Dated: March 11, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-5659 Filed 3-13-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53076; FRL-2961-2]

Premanufacture Notices Monthly Status Report for July 1985

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for July 1985.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53076]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20406, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)], will identify: (a) PMNs received during July; (b) PMNs received previously and still under review at the end of July; (c) PMNs for which the notice review period has ended during July; (d) chemical substances for which EPA has received a notice of commencement to manufacture during July and (e) PMNs for which the review period has been suspended. Therefore, the July 1985 PMN Status Report is being published.

Dated: January 15, 1986.

Linda A. Travers,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, July 1985

I. 170 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1141	4-(Acetylamino)-5-hydroxy-2,7-naphthalene-disulfonic acid, dipyridinium salt	50 FR 28464(28465) (7-12-85)	Sept. 28, 1985
P 85-1142	4-amino-5-hydroxy-2,7-naphthalene-disulfonic acid, monopyridinium salt	50 FR 28464(28465) (7-12-85)	Do.
P 85-1143	Generic name: Polymer of bisanhydride of Bisphenol-A, amino-substituted polysiloxane and an aromatic diamine.	50 FR 28464(28465) (7-12-85)	Do.
P 85-1144	Generic name: Thiotriazine	50 FR 28464(28465) (7-12-85)	Do.
P 85-1145	Generic name: Alkoxylated alkyl amine	50 FR 28464(28465) (7-12-85)	Do.
P 85-1146	Generic name: Aliphatic aromatic copolyester	50 FR 28464(28465) (7-12-85)	Sept. 29, 1985
P 85-1147	Generic name: Polymer of modified polyolefin and modified elastomers	50 FR 28464(28465) (7-12-85)	Do.
P 85-1148	Generic name: Phenolic modified epoxy	50 FR 28464(28465) (7-12-85)	Do.
P 85-1149	Generic name: Hydroxylated aromatic epoxy acrylate ester	50 FR 28464(28465) (7-12-85)	Do.
P 85-1150	Generic name: Benzothiazolylidenealkenyl-benzothiazolium salt	50 FR 28464(28465) (7-12-85)	Do.
P 85-1151	Generic name: Benzothiazolylidenealkenyl-benzothiazolium salt	50 FR 28464(28465) (7-12-85)	Do.
P 85-1152	Benzene, methyl-, mono-C_{14-20}-alkyl derivatives	50 FR 28464(28465) (7-12-85)	Do.
P 85-1153	Benzene, methyl-, mono-C_{14-18}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1154	Benzene, methyl-, mono-C_{16-18}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1155	Benzene, methyl-, mono-C_{18}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1156	Benzenesulfonic acid, methyl-, mono-C_{14-20}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1157	Benzenesulfonic acid, methyl-, mono-C_{14-18}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1158	Benzenesulfonic acid, methyl-, mono-C_{16-18}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1159	Benzenesulfonic acid, methyl-, mono-C_{18}-alkyl derivatives	50 FR 28464(28466) (7-12-85)	Do.
P 85-1160	Benzenesulfonic acid, methyl-, mono-C_{14-20}-alkyl derivatives, sodium salts	50 FR 28464(28466) (7-12-85)	Do.
P 85-1161	Benzenesulfonic acid, methyl-, mono-C_{14-18}-alkyl derivatives, sodium salts	50 FR 28464(28466) (7-12-85)	Do.
P 85-1162	Benzenesulfonic acid, methyl-, mono-C_{16-18}-alkyl derivatives, sodium salts	50 FR 28464(28466) (7-12-85)	Do.
P 85-1163	Benzenesulfonic acid, methyl-, mono-C_{18}-alkyl derivatives, sodium salts	50 FR 28464(28466) (7-12-85)	Do.
P 85-1164	Generic name: Unsaturated polyester	50 FR 28464(28466) (7-12-85)	Sept. 30, 1985
P 85-1165	Generic name: Fatty acrylate polymer	50 FR 28464(28466) (7-12-85)	Do.
P 85-1166	Generic name: Acrylic resin	50 FR 28464(28466) (7-12-85)	Do.
P 85-1167	Generic name: Dichloropropene	50 FR 28464(28466) (7-12-85)	Do.
P 85-1168	Generic name: Epoxy acrylate	50 FR 28464(28466) (7-12-85)	Do.
P 85-1169	Generic name: Acid modified acrylated epoxide	50 FR 2846(28466) (7-12-85)	Do.

I. 170 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1170	Generic name: Acid modified acrylated epoxide	50 FR 28464(28467) (7-12-85)	Do.
P 85-1171	Generic name: Polymer modified acrylated epoxide	50 FR 28464(28467) (7-12-85)	Do.
P 85-1172	Generic name: Phosphorotrithioic acid aliphatic ester	50 FR 29476(7-19-85)	Oct. 2, 1985.
P 85-1173	Generic name: Silica supported transitional metal complex	50 FR 29476(7-19-85)	Do.
P 85-1174	Generic name: Modified alkyl polymer from an anhydride with unsaturated oils, alkanediols, a carbomonocyclic acid and alkanoic ester.	50 FR 29476(7-19-85)	Oct. 5, 1985.
P 85-1175	Generic name: Amide of naturally occurring organic acids and fatty amines	50 FR 29476(29477) (7-19-85)	Oct. 6, 1985.
P 85-1176	Polymer of trimethylol propane triacrylate, Jeffamine M600, (polyoxypropylene mono primary amine), maleic anhydride.	50 FR 29476(29477) (7-19-85)	Do.
P 85-1177	Generic name: Cyclooctoamylose	50 FR 29476(29477) (7-19-85)	Do.
P 85-1178	Generic name: Enzymatically derived starch based syrup	50 FR 29476(29477) (7-19-85)	Do.
P 85-1179	Generic name: Polyacrylate	50 FR 29476(29477) (7-19-85)	Do.
P 85-1180	Generic name: Tert-amyl peroxy alkylene ester	50 FR 29476(29477) (7-19-85)	Do.
P 85-1181	Dinitroethylbenzene	50 FR 29476(29477) (7-19-85)	Do.
P 85-1182	Diaminoethylbenzene	50 FR 29476(29477) (7-19-85)	Do.
P 85-1183	Generic name: N,N-bis(substituted imidazolinium chloride) alkyl stearamide	50 FR 29476(29477) (7-19-85)	Oct. 7, 1985.
P 85-1184	Generic name: Substituted pyridine	50 FR 29476(29477) (7-19-85)	Oct. 8, 1985.
P 85-1185	1-Naphthalenol, 5,6,7,8 tetrahydro-	50 FR 29476(29477) (7-19-85)	Do.
P 85-1186	Generic name: Monosubstituted carbamic acid, methyl ester, salt	50 FR 29476(29477) (7-19-85)	Do.
P 85-1187	Polymer of dipropylene glycol, 1,3-butylene glycol, tetrahydrophthalic anhydride, dibutyl tin oxide.	50 FR 30513(30514) (7-26-85)	Oct. 9, 1985.
P 85-1188	Generic name: Substituted bis phenyl isobenzofuranone	50 FR 30513(30514) (7-26-85)	Do.
P 85-1189	2-Butanone, 0,0'-(ethenyl methyl silylene) dioxime, (E-Z)	50 FR 30513(30514) (7-26-85)	Oct. 8, 1985.
P 85-1190	Generic name: Reaction of products of polycarbonate and poly(butadiene styrene)	50 FR 30513(30514) (7-26-85)	Oct. 12, 1985.
P 85-1191	Generic name: Epoxy amine polymer	50 FR 30513(30514) (7-26-85)	Do.
P 85-1192	Generic name: Amine epoxy polymer	50 FR 30513(30514) (7-26-85)	Do.
P 85-1193	Generic name: Epoxy amine polymer	50 FR 30513(30514) (7-26-85)	Do.
P 85-1194	Generic name: Silylated isocyanate functional aliphatic polyurea lacquer	50 FR 30513(30514) (7-26-85)	Oct. 13, 1985.
P 85-1195	Generic name: Partially silylated aliphatic isocyanate oligomer	50 FR 30513(30514) (7-26-85)	Do.
P 85-1196	Generic name: Amino functional polysilane adduct	50 FR 30513(30514) (7-26-85)	Do.
P 85-1197	Generic name: Hydroxyl terminated silylated isocyanate functional aliphatic polyurea lacquer.	50 FR 30513(30514) (7-26-85)	Do.
P 85-1198	Generic name: Amine functional acrylic terpolymer	50 FR 30513(30514) (7-26-85)	Do.
P 85-1199	Generic name: Polyurethane prepolymer resin	50 FR 30513(30515) (7-26-85)	Do.
P 85-1200	1,3 bis-(dimethyl stearyl ammonium chloride)-2-propanol	50 FR 30513(30515) (7-26-85)	Do.
P 85-1201	Generic name: Cationic latex	50 FR 30513(30515) (7-26-85)	Do.
P 85-1202	2-Naphthalenecarboxaldehyde, 5,6,7,8-tetrahydro-l-methoxy-3,5,5,8,8-pentamethyl-	50 FR 30513(30515) (7-26-85)	Do.
P 85-1203	1-Cyclopentene-1-propanol, beta, beta, 2-trimethyl-5-(l-methylethenyl)-, propanoate	50 FR 30513(30515) (7-26-85)	Do.
P 85-1204	Generic name: Polyester resin	50 FR 30513(30515) (7-26-85)	Do.
P 85-1205	Generic name: Polyester resin	50 FR 30513(30515) (7-26-85)	Do.
P 85-1206	Generic name: Blocked isocyanate homopolymer	50 FR 30513(30515) (7-26-85)	Do.
P 85-1207	Generic name: [Bis(alkylphenylamino)-(xanthenyl)-isobenzofuranone][(alkyl-imidazolyl)methylene]deriv., (mixed salts).	50 FR 30513(30515) (7-26-85)	Do.
P 85-1208	Generic name: Cobalt acylate complex	50 FR 30513(30515) (7-26-85)	Do.
P 85-1209	Generic name: Cobalt acylate complex	50 FR 30513(30515) (7-26-85)	Do.
P 85-1210	Benzoic acid, 2-[(3a,4,5,6,7,7a-hexahydro-5(or 6) methoxy-4,7-methanoindan)-methylidene] amino, methyl ester.	50 FR 30513(30515) (7-26-85)	Do.
P 85-1211	Benzoic acid, 2-[3-phenyl, butylidene) amino, methyl ester	50 FR 30513(30515) (7-26-85)	Do.
P 85-1212	Benzoic acid, 2-[3-(4-methyl, cyclohex-3-enyl)butylidene]amino, methyl ester	50 FR 30513(30516) (7-26-85)	Do.
P 85-1213	Generic name: Polyurethane dispersion	50 FR 30513(30516) (7-26-85)	Do.
P 85-1214	Generic name: Reaction product of functionalized alcohol, tall oil fatty acids, and hydroxy acryl ketone.	50 FR 30513(30516) (7-26-85)	Oct. 14, 1985.
P 85-1215	Generic name: Modified alkyd resin	50 FR 30513(30516) (7-26-85)	Do.
P 85-1216	Silicon monoxide	50 FR 30513(30516) (7-26-85)	Oct. 15, 1985.
P 85-1217	Generic name: Poly(phenoxyalkylene) phosphate	50 FR 32290(32291) (8-9-85)	Oct. 16, 1985.
P 85-1218	Generic name: Acrylate copolymer	50 FR 32290(32291) (8-9-85)	Do.
P 85-1219	Generic name: Substituted dithiocarbamate salt	50 FR 32290(32291) (8-9-85)	Do.
P 85-1220	Generic name: Chlorinated fatty acids, polyoxyalkylene esters	50 FR 32290(32291) (8-9-85)	Do.
P 85-1221	Generic name: Styrene acrylic polymer	50 FR 32290(32291) (8-9-85)	Do.
P 85-1222	Generic name: Polyether	50 FR 32290(32291) (8-9-85)	Oct. 19, 1985.
P 85-1223	Generic name: Aliphatic amine adduct with expoxy resin	50 FR 32290(32291) (8-9-85)	Do.
P 85-1224	Polymer of N(alpha, alpha-dimethyl metaisopropenylbenzyl), poly(oxy-1,2-ethanediyl), alpha-(nonyl phenyl), carbamate, methacrylic acid, ethyl acrylate.	50 FR 32290(32291) (8-9-85)	Do.
P 85-1225	Modified castor oil polymer	50 FR 32290(32291) (8-9-85)	Do.
P 85-1226	Generic name: Polyether polyurethane polymer	50 FR 32290(32292) (8-9-85)	Do.
P 85-1227	Generic name: Polyether polyurethane polymer	50 FR 32290(32292) (8-9-85)	Do.
P 85-1228	2-Naphthylazo 2'-uriedo, 4'-[3''-chloro 5''-(p-ethyl sulfonyl sulfuric ester potassium salt-phenylamino)-S-triazinylamino phenyl] 3,6,8-trisulfonic acid potassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1229	2-(3',5'-dichloro-S-triazinylamino)-4-amino 5-(p-ethyl sulfonyl sulfuric ester-potassium salt-benzeneazo)-benzene sulfonic acid-potassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1230	1-[3'-chloro 5'-(p-ethyl-sulfonyl-sulfuric acid ester-potassium salt-phenyl-amino)-S-triazinylamino]-5-[1''-ethyl-2''-hydroxy-3''azo-4''' methyl-5''-carbamido-6'' pyridonyi]-2,4-benzene-disulfonic acid-potassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1231	1(P-sulfo phenyl potassium salt)-3-carboxy acid potassium salt)-4-[3'(3''-chloro-5''-(P-ethyl sulfonyl sulfuric ester potassium salt-phenylamino)-S-triazinylamino)-6'-sulfonic acid potassium salt phenyl azo-]-5-pyrazolone.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1232	1-hydroxy-2-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-[3'' (4'''-ethylsulfonyl sulfuric acid ester potassium salt phenylamino)-5'' chloro-S-triazinylamino]naphthalene-3-6-disulfonic acid dipotassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1233	1-hydroxy-2-(2'-sulfonic acid potassium salt phenylazo)-8-[5''-chloro-3''-(4''-ethyl sulfonyl sulfuric acid ester potassium salt phenylamino)-S-triazinyl-amino)]naphthalene-3,6-disulfonic acid dipotassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1234	1-[3'-chloro-5'-(p-ethyl sulfonyl sulfuric ester sodium salt-phenylamino)-S-triazinylamino]-7-[2''-Naphthyl-azo-1''-sulfonic acid sodium salt]-8-naphthol-3, 6 disulfonic acid sodium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1235	1-hydroxy-2-[1', 5'-disulfonic acid dipotassium salt-2'-naphthyl-azo]-8-[3''-(4''-ethyl sulfonyl sulfuric acid ester potassium salt phenylamino)-5''-chloro-S-triazinylamino] naphthalene-3,6-disulfonic acid potassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1236	[4-(1''-hydroxy-8''amino-7''-(4'''-ethyl sulfonyl sulfuric acid ester potassium salt benzeneazo)-3'', 6''-disulfonic acid dipotassium salt, 2''-naphthylazo)-4'-(4'''-hydroxy-benzeneazo)] stilbene 2,2' disulfonic acid-dipotassium salt.	50 FR 32290(32292) (8-9-85)	Do.

I. 170 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1237	Copper complex of [Naphthalene-(1-hydroxy 2-(5'-ethylsulfonyl sulfuric acid ester potassium salt 2'-methoxy benzeneazo) 6-(1''-hydroxy 8''acetylamino-3'', 6''-disulfonic acid dipotassium salt-2''-naphthylazo)3-sulfonic acid potassium salt).	50 FR 32290(32292) (8-9-85)	Do.
P 85-1238	4-[1''-hydroxy-8''-amino-7''-(4'' ethyl sulfonyl sulfuric acid ester potassium salt benzeneazo) 3'', 6'' disulfonic acid dipotassium salt-2''-naphthylazo] 4'[1'''-hydroxy 8''' (3''''', 5'''''-dichloro-S-triazinylamino) 3''', 6'''-disulfonic acid dipotassium salt 2'''-naphthylazo] stilbene, 2-2-disulfonic acid-dipotassium salt.	50 FR 32290(32292) (8-9-85)	Do.
P 85-1239	Generic name: Polyamine adduct	50 FR 32290(32293) (8-9-85)	Do.
P 85-1240	Genric name: Polyamine adduct	50 FR 32290(32293) (8-9-85)	Do.
P 85-1241	Generic name: Vinyl ether/anhydride copolymer	50 FR 32290(32293) (8-9-85)	Oct. 20, 1985.
P 85-1242	Generic name: Ether higher alkyl ester copolymer	50 FR 32290(32293) (8-9-85)	Do.
P 85-1243	1-propanaminium, 2-hydroxy-N, N-dimethyl-N-octyl-3-sulfo-, hydroxide, inner salt	50 FR 32290(32293) (8-9-85)	Do.
P 85-1244	Generic name: Functional aromatic aliphatic polyether polyol	50 FR 32290(32293) (8-9-85)	Do.
P 85-1245	para-Hydroxy benzene sulfonic acid, copper (II) salt	50 FR 32290(32293) (8-9-85)	Do.
P 85-1246	Generic name: Methacrylated liquid rubber	50 FR 32290(32293) (8-9-85)	Do.
P 85-1247	Generic name: Ethylene, vinyl acetate, methacrylic acid, hydroxy substituted hydrocarbon copolymer.	50 FR 32290(32293) (8-9-85)	Oct. 21, 1985.
P 85-1248	Generic name: Aryloxycyclophosphazene	50 FR 32290(32293) (8-9-85)	Do.

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I. 170 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1249	Generic name: Tetrafunctional silane	50 FR 32290(32293) (8-9-85)	Oct. 22, 1985.
P 85-1250	Generic name: Organo tin	50 FR 32290(32293) (8-9-85)	Do.
P 85-1251	Generic name: Substituted aromatic polymer	50 FR 32290(32993) (8-9-85)	Do.
P 85-1252	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Oct. 23, 1985.
P 85-1253	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1254	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1255	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1256	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1257	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1258	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1259	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1260	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1261	Generic name: Aliphatic polyisocyanate modified acrylic resin	50 FR 32302(32306) (8-9-85)	Do.
P 85-1262	Generic name: Modified copolymer of maleic anhydride and 1-substituted alkene	50 FR 32302(32306) (8-9-85)	Oct. 26, 1985.
P 85-1263	Generic name: Alkenyl nitrile	50 FR 32302(32306) (8-9-85)	Do.
P 85-1264	1-(4'-sulfophenyl sodium salt)-3-methyl-4-(2''-mathoxy-5''-methyl-4''-ethylsulfonyl sulfonic acid ester sodium salt phenyl azo)-5-pyrazolone.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1265	2-Acetylamino-7-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-hydroxy naphthalene-6-sulfonic acid potassium salt.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1266	1-Acetylamino-8-hydroxy-7-(3'-ethyl sulfonyl sulfuric acid ester potassium salt-6'-methoxy phenylazo)naphthalene 3,6-disulfonic acid dipotassium salt.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1267	Copper complex of 1-acetylamino-8-hydroxy-7-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)naphthalene 3,6-disulfonic acid dipotassium salt.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1268	1-(4'-sulfo phenyl sodium salt)-3-carboxylic acid sodium salt)-4-(4''-ethyl sulfonyl sulfonic acid ester sodium salt phenylazo)-5-pyrazolone.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1269	Copper complex of 1-(4'-sulfophenyl potassium salt)-3-methyl-4-(2''-methoxy-5''-ethyl sulfonyl sulfonic acid ester potassium salt phenylazo)-5-pyrazolone.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1270	1-(4'-Sulfophenyl potassium salt)-3-methyl-4-(2'',5'-dimethoxy-4''-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-5-pyrazolone.	50 FR 32303(32306) (8-9-85)	Do.
P 85-1271	1-Hydroxy-2-(4'-ethyl sulfonyl sulfuric acid ester sodium salt phenyl azo)-8-[5''-chloro-3''-(4'-ethyl sulfonyl sulfuric acid ester sodium salt phenyl amino)-S-triazinyl]amino naphthalene-3,6-disulfonic acid disodium salt.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1272	Copper complex of naphthalene 1-hydroxy 2-(5'-ethyl sulfonyl sulfuric acid ester potassium salt 2'-methoxy benzeneazo) 6-(1''-hydroxy 8''-acetylamino 3'',6''-disulfonic acid dipotassium salt 2''-naphthylazo)-3-sulfonic acid potassium salt.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1273	Copper complex of 1-acetylamino-8-hydroxy-7-(2',5'-dimethoxy-4'-ethyl sulfo phenyl sulfuric acid ester potassium salt phenylazo)-3,6-disulfonic acid dipotassium salt..	50 FR 32302(32306) 8-9-85)	Do.
P 85-1274	Copper complex of 2-(2'-methoxy-5'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-6-(4''8''-disulfonic acid potassium salt naphthylazo) 1,3-dihydroxy benzene.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1275	Generic name: Cellulose derivative	50 FR 32302(32306) (8-9-85)	Do.
P 85-1276	Generic name: Lake dye	50 FR 32302(32306) (8-9-85)	Do.
P 85-1277	Generic name: Lake dye	50 FR 32302(32306) (8-9-85)	Do.
P 85-1278	Generic name: Lake dye	50 FR 32302(32306) (8-9-85)	Do.
P 85-1279	Generic name: Benzene sulfonic acid, cooper (II) salt	50 FR 32302(32306) (8-9-85)	Do.
P 85-1280	Generic name: Poly[1,4(dilinaleic, phthalic) polymethylene diamide]	50 FR 32302(32306) (8-9-85)	Do.
P 85-1281	Generic name: Alkyl(halosubstituted phenyl) oxoheterocyclic substituted sulfonaniiide	50 FR 32302(32306) (8-9-85)	Oct. 27, 1985.
P 85-1282	Generic name: Urethane modified copolyester	50 FR 32302(32306) (8-9-85)	Do.
P 85-1283	Generic name: Polymer of an acrylate ester and mixed methacrylate esters	50 FR 32302(32306) (8-9-85)	Do.
P 85-1284	Generic name: Alkanoic ester derivative of an alkanol and a carbomonocyclic anhydride	50 FR 32302(32306) (8-9-85)	Do.
P 85-1285	Generic name: Molybdenum complex of organic nitrogen compound	50 FR 32302(32306) (8-9-35)	Do.
P 85-1286	Generic name: Mixed fatty and alkyl esters	50 FR 32302(32306) (8-9-85)	Do.
P 85-1287	Generic name: Alkyl esters	50 FR 32302(32306) (8-9-85)	Do.
P 85-1288	4,4'-Isopropylidenediphenol, reaction product with epichlorohydrin and 4-glycidoxy-N,N-diglycidyl aniline.	50 FR 32302(32306) (8-9-85)	Do.
P 85-1289	Generic name: Bis-(alkylureido)-alkane	50 FR 32302(32306) (8-9-85)	Do.
P 85-1290	Generic name: Aliphatic polycarbonate urethane	50 FR 32302(32306) (8-9-85)	Do.
P 85-1291	Generic name: Aliphatic polycarbonate urethane	50 FR 32302(32306) (8-9-85)	Do.
P 85-1292	Generic name: Aromatic polyether urethane	50 FR 32302(32306) (8-9-85)	Do.
P 85-1293	1,2-Dibromooctadecane	50 FR 32302(32306) (8-9-85)	Do.
P 85-1294	Generic name: Phosphonium salt	50 FR 32302(32306) (8-9-85)	Do.

I. 170 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1295	Generic name: Quaternary salt of fatty acid amide esters	50 FR 32302(32306) (8-9-85)	Oct. 28, 1985.
Y 85-101	Acid terminated prepolymer polyester	50 FR 28467(28468) (7-12-85)	July 22, 1985.
Y 85-102	Ethylene-propylene styrene copolymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-103	Ethylene styrene copolymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-104	Propylene-styrene copolymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-105	Generic name: Polyether polyurethane polymer	50 FR 28467(28468) (7-12-85)	July 23, 1985.
Y 85-106	Generic name: Polyether polyurethane polymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-107	Generic name: Ethylene, vinyl acetate methacrylic acid, hydroxy substituted hydrocarbon copolymer.	50 FR 29476 (7-19-85)	July 26, 1985.
Y 85-108	Generic name: Polysiloxane block copolymer	50 FR 29476 (7-19-85)	Do.
Y 85-109	Polymer of isophthalic acid, terephthalic acid, adipic acid, ethylene glycol, neopentyl glycol, 1,6 hexanediol and dibutyl tin oxide.	50 FR 30516 (7-26-85)	Aug. 1, 1985.
Y 85-110	Generic name: Polyurethane resin	50 FR 30516 (7-26-85)	Aug. 4, 1985.
Y 85-111	Generic name: Unsaturated polyester resin from dibasic acids and polyol	50 FR 30516 (7-26-85)	Do.
Y 85-112	Generic name: Ethylene olefin terpolymer	50 FR 30516 (7-26-85)	Aug. 5, 1985.
Y 85-113	Generic name: Chain-stopped alkyd resin	50 FR 31656(31657) (8-5-85)	Aug. 12, 1985.
Y 85-114	Generic name: Substituted (1-oxo-2-propenyl) amino polymer with 2 propenoic acid, sodium salt.	50 FR 32302 (8-9-85)	Aug. 19, 1985.

II. 119 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR Citation	Expiration date
P 85-1022	Generic name: Heavy metal salt of a sulfonated azo dye	50 FR 24938(24939) (6-14-85)	Aug. 31, 1985.
P 85-1023	Generic name: Polyfluoroalkyl thiocyanate	50 FR 24938(24939) (6-14-85)	Do.
P 85-1024	Polyfluoroalkyl sulfonamido propylamine	50 FR 24938(24939) (6-14-85)	Do.
P 85-1025	Polyfluoroalkyl betaine	50 FR 24938(24939) (6-14-85)	Do.
P 85-1026	Generic name: Mercaptoalkylsiloxane	50 FR 24938(24939) (6-14-85)	Do.
P 85-1027	Generic name: Polydimethylsiloxy, methylmercaptoalkyl siloxane copolymer	50 FR 24938(24939) (6-14-85)	Do.
P 85-1028	Generic name: Polymethyl mercaptoalkyl siloxane polymer	50 FR 24938(24939) (6-14-85)	Do.
P 85-1029	Generic name: Polymer of alkane polyols, aromatic carboxylic acid, benzene dicarboxylic acids, polyamide resin, vegetable oil, and vegetable oil acids.	50 FR 24938(24939) (6-14-85)	Sept. 1, 1985.
P 85-1030	Generic name: Polyurethane polymer	50 FR 24938(24939) (6-14-85)	Do.
P 85-1031	Generic name: Acylic polymer with pendant amide acid, and sulfonate groups	50 FR 24938(24939) (6-14-85)	Do.
P 85-1032	Generic name: Reaction product of substituted alkyl, substituted methacrylate homopolymer, and fatty acid modified phenoxy resin.	50 FR 24938(24939) (6-14-85)	Do.
P 85-1033	Generic name: Epoxy modified polyol	50 FR 24938(24939) (6-14-85)	Do.
P 85-1034	Generic name: Nickel acylate complex	50 FR 24938(24939) (6-14-85)	Do.
P 85-1035	Humic acids, zinc salts	50 FR 24938(24940) (6-14-85)	Aug. 25, 1985.
P 85-1036	Humic acids, zinc salts	50 FR 24938(24940) (6-14-85)	Do.
P 85-1037	Humic acids, iron salts	50 FR 24938(24940) (6-14-85)	Do.
P 85-1038	Humic acids, iron salts	50 FR 24938(24940) (6-14-85)	Do.
P 85-1039	Humic acids, iron salts	50 FR 24938(24940) (6-14-85)	Do.
P 85-1040	Humic acids, iron salts	50 FR 24938(24940) (6-14-85)	Do.
P 85-1041	Generic name: Polyurethane polymers with pendant acrylate esters	50 FR 24938(24940) (6-14-85)	Sept. 2, 1985.
P 85-1042	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1043	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1044	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1045	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1046	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1047	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1048	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1049	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938(24940) (6-14-85)	Do.
P 85-1050	Generic name: Modified tall oil fatty acids amidoamine	50 FR 24938(24941) (6-14-85)	Sept. 3, 1985.
P 85-1051	Starch, 2-hydroxy-3-(trimethylammonio) propyl ether, chloride, phosphate	50 FR 24938(24941) (6-14-85)	Do.
P 85-1052	Generic name: Perfluoroalkyl, alkyl, carboxysilane	50 FR 24938(24941) (6-14-85)	Do.
P 85-1053	Generic name: Perfluoroalkyl methacrylate copolymer	50 FR 25778 (6-21-85)	Sept. 4, 1985.
P 85-1054	Generic name: Perfluoroalkyl methacrylate copolymer	50 FR 25778 (6-21-85)	Do.
P 85-1055	Generic name: Polyester polymer	50 FR 25778 (6-21-85)	Sept. 7, 1985.
P 85-1056	Generic name: Polyester polymer	50 FR 25778 (6-21-85)	Do.
P 85-1057	Generic name: Alkatriene	50 FR 25778 (6-21-85)	Do.
P 85-1058	Generic name: Alkyl ketone dimer	50 FR 25778 (6-21-85)	Do.
P 85-1059	Generic name: Alkylene bis-anthranilate ester	50 FR 25778(25779) (6-21-85)	Do.
P 85-1060	Generic name: 1-oxaspiro (4.5) deca-3,6-diene, 2,7-dimethyl-10-(1-methyl ethyl)	50 FR 25778(25779) (6-21-85)	Do.
P 85-1061	Generic name: Salt of N,N-diethyl-phenylene diamine with an organic acid	50 FR 25778(25779) (6-21-85)	Sept. 8, 1985.
P 85-1062	Generic name: Acrylic modified alkyd, resin	50 FR 25778(25779) (6-21-85)	Do.
P 85-1063	Generic name: Acrylate modified hetero-cyclic urethane	50 FR 25778(25779) (6-21-85)	Do.
P 85-1064	Generic name: Biphenolphosphite	50 FR 25778(25779) (6-21-85)	Do.
P 85-1065	Generic name: Biphenol	50 FR 25778(25779) (6-21-85)	Do.
P 85-1066	Generic name: Substituted phenol	50 FR 25778(25779) (6-21-85)	Do.
P 85-1067	N-(5-fluorosulfonyl-2-methoxyphenyl) ethanamide	50 FR 25778(25779) (6-21-85)	Do.
P 85-1068	Generic name: Polyester polyurethane	50 FR 25778(25779) (6-21-85)	Sept. 9, 1985.
P 85-1069	Generic name: Copper phthalocyanato-poly[[alkyl-mono hydroxyethylimidazo-lium]methylene] derivative, compound with alkanoate.	50 FR 25778(25779) (6-21-85)	Do.
P 85-1070	Generic name: Copper phthalocyanato-, poly [[alkybishydroxyethylimidazolium] methylene] deriv., compound with alkanoate.	50 FR 25778(25779) (6-21-85)	Sept. 9, 1985.
P 85-1071	Generic name: Cationically modified acrylic copolymer	50 FR 25778(25780) (6-14-85)	Sept. 10, 1985.
P 85-1072	Tetra isobutyl titanate	50 FR 25778(25780) (6-14-85)	Do.
P 85-1073	Generic name: Substituted xanthene	50 FR 25778(25780) (6-14-85)	Do.
P 85-1074	Generic name: Substituted xanthene	50 FR 25778(25780) (6-14-85)	Do.
P 85-1075	Generic name: Substituted phenylcarbonyl benzoic acid	50 FR 26837(6-28-85)	Sept. 11, 1985.
P 85-1076	Generic name: Substituted phenyl isobenzofuranone	50 FR 26837(6-28-85)	Do.
P 85-1077	Generic name: Substituted bis phenyl isobenzofuranone	50 FR 26837(6-28-85)	Do.
P 85-1078	N(alpha, alpha-dimethyl, meta-isopropenyl benzyl), poly(oxy-1,2-ethanediyl), alpha-(nonyl phenyl) carbamate.	50 FR 26837(6-28-85)	Sept. 14, 1985.
P 85-1079	Generic name: Substituted naphthalene, {1,2-ethenediyl bis-[(sulfo-4,1-phenylene) imino(chloro-1,3,5-triazinediyl) imino (hydroxy-substituted-naphthalene-diyl) azo]} bis-, alkali metal salt.	50 FR 26837(26838) (6-28-85)	Do.
P 85-1080	Generic name: Polyamide of C_{18}-fatty acids dimers with alkylenediamines and polyether diamine	50 FR 26837(26838) (6-28-85)	Do.
P 85-1081	Generic name: (Tnacyl)silylalkyl ester of an alkenoic acid	50 FR 26837(26838) (6-28-85)	Sept. 15, 1985.
P 85-1082	Humic acids, cupric salts	50 FR 26837(26838) (6-28-85)	Do.

II. 119 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity/generic name	FR Citation	Expiration date
P 85-1083	Humic acids cupric nitrate complex	50 FR 26837(26838) (6-28-85)	Do.
P 85-1084	Humic acids cupric sulfate complex	50 FR 26837(26838) (6-28-85)	Do.
P 85-1085	Generic name: Alkoxy terpenylsilane	50 FR 26837(26838) (6-26-85)	Do.
P 85-1086	Generic name: Urethane of polymethylene polyphenyl isocyanate and saturated alcohol	50 FR 26837(26838) (6-28-85)	Do.
P 85-1087	Generic name: Alkyl amine, compound with (chloromethyl) oxirane, alkenyl ether	50 FR 26837(26838) (6-28-85)	Do.
P 85-1088	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	50 FR 26837(26838) (6-28-85)	Do.
P 85-1089	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	50 FR 26837(26838) (6-28-85)	Do.
P 85-1090	Generic name: Spent sulfite liquor, reaction product with an aromatic monomer	50 FR 26837(26838) (6-28-85)	Do.
P 85-1091	Generic name: Polystyrylpyridine resin	50 FR 26837(26838) (6-28-85)	Do.
P 85-1092	Invalid		
P 85-1093	Generic name: Trisubstituted methanaminium salt	50 FR 26837(26839) (6-28-85)	Do.
P 85-1094	Generic name: Disubstituted-1,1'-biphenyl, bis[1-[[(alkylphenyl)amino] carbonyl]-2-oxoalkyl]azo-	50 FR 26837(26839) (6-28-85)	Do.
P 85-1095	Generic name: Alkylamide, [dihalo-[[(substituted-phenyl)amino]carbonyl]-(2-oxoalkyl)azo] [1,1'-biphenyl]azo]-N-(substituted-phenyl)-3-oxo-.	50 FR 26837(26839) (6-28-85)	Do.
P 85-1096	Generic name: Copper phthalocyanine polysulfonic acid salt with alkylated amine	50 FR 26837(26839) (6-28-85)	Do.
P 85-1097	Generic name: Metal salt of hydroxy-naphthalene sulfonic acid [(substituted-naphthyl)azo]	50 FR 26837(26839) (6-28-85)	Do.
P 85-1098	Generic name: Metal salt of hydroxy naphthalene sulfonic acid [substituted-phenyl)azo]	50 FR 26837(26839) (6-28-85)	Do.
P 85-1099	Generic name: Alkoxy borated polybutylsuccinamide	50 FR 26837(26839) (6-28-85)	Sept. 16, 1985.
P 85-1100	Polymer of 2-ethanol, 1,1'-thiobis; ethanol, 2-mercapto, reaction product with propylene oxide; ethanol, 2-mercapto, reaction product with oxirane, [2-propenyl (oxy) methyl]; 3-thiahept-5-ene-1-o1; 4,4'-thiodiphenol.	50 FR 26837(26839) (6-28-85)	Do.
P 85-1101	Triethylgallium	50 FR 26837(26839) (6-28-85)	Do.
P 85-1102	Substituted ketone	50 FR 26837(26839) (6-28-85)	Do.
P 85-1103	Generic name: Amine salt of an alkyl dithiocarbamate	50 FR 26837(26839) (6-28-85)	Sept. 17, 1985.
P 85-1104	Generic name: Ammonium polyacrylate/methacrylate acid esters	50 FR 27845 (7-8-85)	Sept. 18, 1985.
P 85-1105	Generic name: Substituted ammonium polyacrylate/methacrylate acid esters	50 FR 27845 (7-8-85)	Do.
P 85-1106	Generic name: Alkenyl acetate	50 FR 27845 (7-8-85)	Do.
P 85-1107	Generic name: Alkenoate-terminated poly (dimethiyl-siloxane)	50 FR 27845 (7-8-85)	Do.
P 85-1108	Generic name: Polystyrylpyridine resin	50 FR 27845 (7-8-85)	Do.
P 85-1109	Generic name: Polystyrylpyridine resin	50 FR 27845 (7-8-85)	Do.
P 85-1110	Generic name: (N-substituted-amino-carbonyl)alkyl substituted aromaticheterocycle, halide salt	50 FR 27845 (7-8-85)	Do.
P 85-1111	Phenyl tribromomethyl sulfone	50 FR 27845(27846) (7-8-85)	Sept. 21, 1985.
P 85-1112	Generic name: Alkoxyiated modified polyacrylate	50 FR 27845(27846) (7-8-85)	Do.
P 85-1113	Generic name: Acrylic resin	50 FR 27845(27846) (7-8-85)	Sept. 22, 1985.
P 85-1114	Generic name: Acrylic resin	50 FR 27845(27846) (7-8-85)	Do.
P 85-1115	Generic name: Acrylic resin	50 FR 27845(27846) (7-8-85)	Do.
P 85-1116	Generic name: Acrylic resin	50 FR 27845(27846) (7-8-85)	Do.
P 85-1117	Generic name: Alkyd resin	50 FR 27845(27846) (7-8-85)	Do.
P 85-1118	Generic name: Epoxy polyester	50 FR 27845(27846) (7-8-85)	Do.
P 85-1119	Generic name: High molecular weight linear saturated polyester	50 FR 27845(27846) (7-8-85)	Do.
P 85-1120	Generic name: High molecular weight linear saturated polyester	50 FR 27845(27846) (7-8-85)	Do.
P 85-1121	Generic name: High molecular weight linear saturated polyester	50 FR 27845(27846) (7-8-85)	Do.
P 85-1122	Polymer of ethanol, 2,2'-thiobis, ethanol, 2-mercapto, oxirane, methyl and phenol, 4,4'-thiobis	50 FR 27845(27846) (7-8-85)	Do.
P 85-1123	Humic acids, magnesium salts	50 FR 27845(27846) (7-8-85)	Do.
P 85-1124	Humic acids, msgnesium chloride complex	50 FR 27845(27846) (7-8-85)	Do.
P 85-1125	Humic acids, magnesium sulfate complex	50 FR 27845(27846) (7-8-85)	Do.
P 85-1126	Humic acids, manganese salts	50 FR 27845(27846) (7-8-85)	Do.
P 85-1127	Humic acids, manganese chloride complex	50 FR 27845(27847) (7-8-85)	Do.
P 85-1128	Humic acids, manganese sulfate complex	50 FR 27845(27847) (7-8-85)	Do.
P 85-1129	Generic name: Polyether polyol with pendant isocyanate groups	50 FR 27845(27847) (7-8-85)	Do.
P 85-1130	Generic name: Acrylate-substituted phenoxy resin	50 FR 27845(27847) (7-8-85)	Do.
P 85-1131	Generic name: Acrylate-substituted vinyl chloride copolymer resin	50 FR 27845(27847) (7-8-85)	Do.
P 85-1132	Generic name: Acrylic modified epoxy ester resin	50 FR 27845(27847) (7-8-85)	Do.
P 85-1133	Polymer of propylene glycol, isophthalic acid, adipic acid, and 12-hydroxystearic acid	50 FR 27845(27847) (7-8-85)	Sept. 23, 1985.
P 85-1134	Generic name: Terpolymer containing vinyl acrylate	50 FR 27845(27847) (7-8-85)	Do.
P 85-1135	Generic name: Alkyl phenol blocked isocyanate prepolymer	50 FR 27845(27847) (7-8-85)	Do.
P 85-1136	Generic name: Ketoxime blocked urethane polymer of an aromatic diisocyanate, alkane polyols, alkanedioic acid.	50 FR 27845(27847) (7-8-85)	Do.
P 85-1137	Generic name: Hydroxy-terminated polyurethane	50 FR 28464 (7-12-85)	Sept. 25, 1985.
P 85-1138	Generic name: Medium-oil alkyd based on linseed oil	50 FR 28464 (7-12-85)	Do.
P 85-1139	Generic name: Isocyanate-modified alkyd resin	50 FR 28464 (7-12-85)	Do.
P 85-1140	Generic name: Alkyd resin additive	50 FR 28464(28465) (7-12-85)	Do.

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PMN No.	Identify/generic name	FR citation	Expiration date
P 84-814	Generic name: Polysubstituted polyol	49 FR 24782(24784) (6-15-84)	July 1, 1985.
P 84-895	Generic name: Substituted-substituted benzenesulfonic acid coupled with substituted-substituted benzenes and substituted substituted naphthalenedi-sulfonic acid, sodium salt.	49 FR 28614(28616) (7-13-84)	July 16, 1985
P 84-938	Polymer of hydroxy ethyl acrylate and polyisocyanate T 1890/100	49 FR 29451(29453) (7-20-84)	July 23, 1985
P 84-1114	Generic name: Sodium salt of sulfonated, alkylated diphenyl oxide	49 FR 35414(35416) (9-7-84)	July 15, 1985
P 84-1188	Generic name: Modified acrylamide polymer	49 FR 38356(38357) (9-28-84)	July 11, 1985.
P 85-344	Benzoic acid, 2-(3-(1,3-benzodioxole-5-yl)-2 methyl propylidene)amino, methyl ester	50 FR 543(544) (1-4-85)	July 12, 1985.
P 85-415	Generic name: Acrylic ester	50 FR 4896(4897) (2-4-85)	Do.
P 85-460	Generic name: Substituted succinic anhydride, reaction product with heterocyclic amine	50 FR 6383(6384) (2-15-85)	July 3, 1985.
P 85-497	2-hydroxy-3 epsilon lysino propyl trimethyl ammonium chloride derivatized hydrolyzed soy protein isolate.	50 FR 7640(7642) (2-25-85)	July 8, 1985.
P 85-498	2-hydroxy-3 epsilon lysino propyl trimethyl ammonium chloride derivatized hydrolyzed soy protein isolate.	50 FR 7640(7642) (2-25-85)	Do.
P 85-523	Generic name: Functionally modified urethane	50 FR 8391 (3-1-85)	July 16, 1985.
P 85-564	Polymer of: hydroxyethyl acrylate, 4,4'-diphenylmethyane diisocyanate and polymethylene polyphenyl isocyanate.	50 FR 9504(9505) (3-8-85)	July 6, 1985.
P 85-605	Generic name: Trisubstituted phenol	50 FR 9504(9508) (3-8-85)	July 26, 1985.
P 85-612	Generic name: Polymer of substituted aryl olefin	50 FR 9504(9508) (3-8-85)	Sept. 5, 1985.
P 85-681	1,2,7,8-diepoxyoctane	50 FR 12623(12624) (3-29-85)	July 30, 1985.
P 85-742	Generic name: Alkyl polyoxyalkylene phosphate esters	50 FR 14439(14441) (4-12-85)	July 1, 1985.

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PMN No.	Identity/generic name	FR citation	Expiration date
P 85-743	Generic name: Isocyanato oxazolidenyl isocyanurate	50 FR 14439(14441) (4-12-85)	Aug. 7, 1985.
P 85-743	Generic name: Isocyanato oxazolidonyl isocyanaurate	50 FR 14439(14441) (4-12-85)	Apr. 19, 1985.
P 85-744	4-N-tetradecyl 4'-(2-methylbutyl)phenylbenzoate	50 FR 14439(14441) (4-12-85)	July 1, 1985.
P 85-745	4-n-Hexyloxyhenyl 4-(2-methylbutyl)biphenyl 4'-carboxylate	50 FR 14439(14441) (4-12-85)	Do.
P 85-746	4-[2-methybutyl)phenyl 4-(2-methyl butyl) biphenyl 4'-carboxylate	50 FR 14439(14441) (4-12-85)	Do.
P 85-747	4-Cyanophenyl-4-(2'-methylbutyl) biphenyl 4'-carboxylate	50 FR 14439(14441) (4-12-85)	Do.
P 85-748	4-n-octyloxyl 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439(14441) (4-12-85)	Do.
P 85-749	4-n-Hexyloxy 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439(14441) (4-12-85)	Do.
P 85-750	4-n-decyloxy 4'-(2-methylbutyl)-phenylbenzoate	50 FR 14439(14441) (4-12-85)	Do.
P 85-751	4-n-dodecyloxy 4'-(2-methylbutyl)-phenyl benzoate	50 FR 14439(14441) (4-12-85)	Do.
P 85-752	4-[2-methylbutyl)phenyl 4'-n-octylbiphenyl carboxylate	50 FR 14439(14441) (4-12-85)	Do.
P 85-753	4-n-propyl 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439(11442) (4-12-85)	Do.
P 85-754	4-n-Pentyl 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439(14442) (4-12-85)	Do.
P 85-755	4-[2-methylbutyl)phenyl 4'-n-heptylbiphenyl carboxylate	50 FR 14439(14442) (4-12-85)	Do.
P 85-756	4-n-heptyl 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439(14442) (4-12-85)	Do.
P 85-757	4-N-nonyl 4'-(2-methylbutyl) phenyl-benzoate	50 FR 14439(14442) (4-12-85)	Do.
P 85-758	4-[2-methylbutyl) 4'-pentylbiphenyl carboxylate	50 FR 14439(14442) (4-12-85)	Do.
P 85-759	Generic name: Reaction product of triglycidyl ether of substituted tri-(hydroxyphenyl) methane and substituted phenol	50 FR 14439(14442) (4-12-85)	July 2, 1985.
P 85-760	Generic name: Acrylate, methacrylate, styrene polymer	50 FR 14439(14442) (4-12-85)	Do.
P 85-761	Generic name: Diphenylmethane di-isocyanate-terminated polyol polyurethane prepolymer	50 FR 14439(14442) (4-12-85)	Do.
P 85-762	Generic name: Bis(disubstituted anthraquinone) heterocycle	50 FR 15629(4-19-85)	July 3, 1985.
P 85-763	Generic name: Polycarboxylic and polyheterocyclic compound with anthraquinone and carbazole substructures.	50 FR 15629(4-19-85)	Do.
P 85-764	Generic name: 4-(Trans-4-n-alkylcyclohexeyl)-n-alkylbenzene	50 FR 15629(15630) (4-19-85)	Do.
P 85-765	Generic name: 4-N-alkoxyphenyl-4-trans-n-pentyl cyclohexyl carboxylate	50 FR 15629(15630) (4-19-85)	Do.
P 85-766	Generic name: 4-(Trans-4-n-alkylcyclohexyl)-4'-Trans-4-n-alkyl cyclohexyl biphenyl	50 FR 15629(15630) (4-19-85)	Do.
P 85-767	Generic name: 4-n-alkoxyphenyl-trans-4-n-alkylcyclohexyl carboxylate	50 FR 15629(15630) (4-19-85)	Do.
P 85-768	Generic name: Trans-5-n-alkyl-2-[4-cyano-biphenyl]-1,3-dioxane	50 FR 15629(15630) (4-19-85)	Do.
P 85-769	Generic name: Trans-5-n-alkyl-2-[4-cyano-biphenyl]-1,3-dioxane	50 FR 15629(15630) (4-19-85)	Do.
P 85-770	Generic name: 4-n-alkoxyphenyl-trans-4-n-alkylcyclohexyl carboxylate	50 FR 15629(15630) (4-19-85)	Do.
P 85-771	Generic name: 4-n-alkoxyphenyl-4-trans-n-alkyl cyclohexyl carboxylate	50 FR 15629(15630) (4-19-85)	Do.
P 85-772	Generic name: 4-n-alkyl-4'[4-trans-n-alkyl') cyclohexyl biphenyl	50 FR 15629(15630) (4-19-85)	Do.
P 85-773	Generic name: 4-(Trans-4-n-alkylcyclo-hexyl)-n-alkoxybenzene	50 FR 15629(15630) (4-19-85)	Do.
P 85-774	Generic name: 4-(Trans-4-N-alkylcyclo-hexyl)-n-alkyl benzene	50 FR 15629(15630) (4-19-85)	Do.
P 85-775	Generic name: 5-n-alkyl-2-[4-n-alkoxy-phenyl]-1,3-pyrimidine	50 FR 15629(15630) (4-19-85)	Do.
P 85-776	Generic name: 5-n-alkyl-2-[4-n-alkoxy-phenyl]-1,3-pyrimidine	50 FR 15629(15631) (4-19-85)	Do.
P 85-777	Generic name: Trans-5-n-alkyl-2-[4-cyano-biphenyl]-1,3,-dioxine	50 FR 15629(15631) (4-19-85)	Do.
P 85-778	Generic name: 5-n-alkyl-2-[4-n-alkoxy-phenyl]-1,3-pyrimidine	50 FR 15629(15631) (4-19-85)	Do.
P 85-779	Generic name: 5-n-alkyl-2-[4-n-alkoxy phenyl]-1,3-pyrimidine	50 FR 15629(15631) (4-19-85)	Do.
P 85-780	Generic name: Condensed aminomethylated tannins	50 FR 15629(15631) (4-19-85)	July 7, 1985.
P 85-781	Generic name: Substituted polyglycol	50 FR 15629(15631) (4-19-85)	Do.
P 85-782	Generic name: Substituted polyglycol	50 FR 15629(15631) (4-19-85)	Do.
P 85-784	Generic name: Substituted polyglycol	50 FR 15629(15631) (4-19-85)	Do.
P 85-785	Generic name: Copolyacrylate	50 FR 15629(15631) (4-19-85)	Do.
P 85-786	Generic name: Fatty dibasic acids, amides from polyoxyalkylene amines	50 FR 15629(15631) (4-19-85)	July 8, 1985.
P 85-787	Generic name: Urea derivative	50 FR 15629(15631) (4-19-85)	Do.
P 85-788	Generic name: Substituted benzoate ester of polyphenylene oxide	50 FR 15629(15631) (4-19-85)	Do.
P 85-789	Generic name: Polyester polydiacylurea resin	50 FR 15629(15632) (4-19-85)	Do.
P 85-790	Generic name: Polyester polydiacylurea resin	50 FR 15629(15632) (4-19-85)	Do.
P 85-791	Generic name: Haloborane—aromatic phosphate complex	50 FR 15629(15632) (4-19-85)	Do.
P 85-792	Generic name: Substituted indole	50 FR 15629(15632) (4-19-85)	Do.
P 85-793	Generic name: Carboxyphenylcarbonylindole	50 FR 15629(15632) (4-19-85)	Do.
P 85-794	Generic name: Carboxyphenylcarbonylindole	50 FR 15629(15632) (4-19-85)	Do.
P 85-795	Generic name: Isobenzofuranone	50 FR 15629(15632) (4-19-85)	Do.
P 85-796	Generic name: Isobenzofuranone	50 FR 15629(15632) (4-19-85)	Do.
P 85-797	Generic name: Diamino-polydimethyl-siloxane	50 FR 15629(15632) (4-19-85)	July 9, 1985.
P 85-798	Generic name: Polyimide siloxane	50 FR 15629(15632) (4-19-85)	Do.
P 85-799	Generic name: Modified polyacrylate polymer	50 FR 15629(15632) (4-19-85)	Do.
P 85-801	Generic name: Adduct of polymeric 4,4'-phenylmethane diisocyanate and hydroxy-ester of terephthalic acid.	50 FR 16541(4-26-85)	July 10, 1985.
P 85-802	Generic name: Functionalized styrene methacrylic polymer	50 FR 16541(4-26-85)	July 13, 1985.
P 85-803	Generic name: 4,4'-phenylmethane diisocyanate adduct of polyether polyol	50 FR 16541(4-26-85)	Do.
P 85-804	2-methyl-6-quinolinamine hydrochloride	50 FR 16541(4-26-85)	July 14, 1985.
P 85-805	2-methyl-6-quinolinamine	50 FR 16541(4-26-85)	Do.
P 85-806	2-methyl-6-nitroquinoline	50 FR 16541(4-26-85)	Do.
P 85-807	Generic name: Polyperester of keto polycyclic polyacid	50 FR 16541(4-26-85)	Do.
P 85-808	Generic name: Polyester resin	50 FR 16541(4-26-85)	Do.
P 85-809	Generic name: Terpolymer with styrene and methyl methacrylate	50 FR 16541(16542) (4-26-85)	Do.
P 85-810	(Z)-1-bromo-3-hexene	50 FR 16541(16542) (4-26-85)	Do.
P 85-811	Generic name: Polyurethane polyol	50 FR 16541(16542) (4-26-85)	July 15, 1985.
P 85-812	Generic name: 2-[3',5'-disubstituted-2'-hydroxyphenyl]benzotriazole	50 FR 16541(17542) (4-26-85)	Do.
P 85-818	Generic name: Benzenesulfonic acid, 4-[[-substituted]-3-methyl-5-oxo-2-pyrazolin-1-yl]-, salt	50 FR 16541(16542) (4-26-85)	July 16, 1985.
P 85-819	Generic name: Tall oil fractions, unsaturated hydrocarbon resin dieneophile modified polymer with pentaerythritol	50 FR 16541(16542) (4-26-85)	Do.
P 85-820	Generic name: Carboxylic modified rosin	50 FR 16541(16542) (4-26-85)	Do.
P 85-821	Generic name: Alkyd resin	50 FR 18916 (5-3-85)	July 17, 1985.
P 85-823	Generic name: Alkene-methacrylate copolymer	50 FR 18916 (5-3-85)	Do.
P 85-824	Generic name: Acrylic modified alkyd resin	50 FR 18916 (5-3-85)	July 20 1985.
P 85-825	Generic name: 1-H-pyrazole-3-carboxylic acid, 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl)azo],-mixed salt.	50 FR 18916 (5-3-85)	Do.
P 85-826	Generic name: Polyfluoro substituted alkyl, N-substituted amino alcohol	50 FR 18916 (5-3-85)	July 21, 1985.
P 85-828	Generic name: Cycloalkenylpentenol	50 FR 18916 (5-3-85)	Do.
P 85-829	Generic name: Isothiocyanate of substituted polycyclic compound	50 FR 18916 (5-3-85)	Do.
P 85-830	Generic name: Thiocarbamate of substituted polycyclic compound	50 FR 18916 (5-3-85)	Do.
P 85-831	Generic name: Isothiocyanate of substituted polycyclic compound	50 FR 18916(18917) (5-3-85)	Do.
P 85-832	Generic name: Polyester resin	50 FR 18916(18917) (5-3-85)	Do.
P 85-833	Generic name: Urethane with blocked multifunctional isocyanates	50 FR 18916(18917) (5-3-85)	Do.
P 85-834	Generic name: Vinyl-substituted organosilicone copolymer	50 FR 18916(18917) (5-3-85)	Do.
P 85-835	Generic name: Organosilicone copolymer	50 FR 18916(18917) (5-3-85)	Do.

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PMN No.	Identity/generic name	FR citation	Expiration date
P 85-836	(+) 4-n-tetradecyl 4'-(2-methylbutyl) phenylbenzoate	50 FR 18916(18917) (5-3-85)	July 1, 1985.
P 85-837	(+) 4-n-hexyloxyphenyl 4-(2-methylbutyl) biphenyl 4' carboxylate	50 FR 18916(18917) (5-3-85)	Do.
P 85-838	(+) 4-(2-methylbutyl) phenyl 4-(2-methylbutyl) biphenyl 4'-carboxylate	50 FR 18916(18917) (5-3-85)	Do.
P 85-839	(+) 4-cyanophenyl-4-(2''-methylbutyl) biphenyl 4'-carboxylate	50 FR 18916(18917) (5-3-85)	Do.
P 85-840	(+) 4-n-octyloxyl 4'-(2-methylbutyl)phenylbenzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-841	(+) 4-n-hexyloxy 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-842	(+) 4-n-decyloxy 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-843	(+) 4-n-dodecyloxy 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-844	(+) 4(2-methylbutyl)phenyl 4'-octylbiphenyl carboxylate	50 FR 18916(18918) (5-3-85)	Do.
P 85-845	(+) 4-n-propyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-846	(+) 4-n-pentyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-847	(+) 4(2-methylbutyl)phenyl 4'-n-heptylbiphenyl carboxylate	50 FR 18916(18918) (5-3-85)	Do.
P 85-848	(+) -n-heptyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-849	(+) 4-n-nonyl 4'-(2-methylbutyl)phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-850	(+) 4-(2-methylbutyl) 4'-pentyloiphenyl carboxylate	50 FR 18916(18918) (5-3-85)	Do.
P 85-851	Generic name: Copolymer of vinyl acetate and olefins	50 FR 18916(18918) (5-3-85)	July 22, 1985.
P 85-852	Generic name: Alkyl ester of phosphorous acid	50 FR 18916(18918) (5-3-85)	July 29, 1985.
P 85-853	Generic name: Cycloaliphatic and cycloaromatic composite polyester	50 FR 18916(18918) (5-3-85)	July 22,1985.
P 85-854	Generic name: Triglycidyl ether of substituted tri(hydroxyphenyl)methane	50 FR 18916(18918) (5-3-85)	Do.
P 85-855	Generic name: Triglycidyl ether of substituted tri(hydroxyphenyl)methane	50 FR 18916(18918) (5-3-85)	Do.
P 85-856	Generic name: Oxime based polyurethane	50 FR 18916(18919) (5-3-85)	July 23, 1985.
P 85-857	Generic name: Alkylaluminum halide	50 FR 18916(18919) (5-3-85)	Do.
P 85-858	Generic name: Polyester	50 FR 18916(18919) (5-3-85)	Do.
P 85-859	Generic name: Acrylic resin	50 FR 19798 (5-10-85)	July 24, 1985.
P 85-860	Generic name: Functionally modified acrylate type polymer	50 FR 19798 (5-10-85)	Do.
P 85-861	Generic name: Ammonium salt	50 FR 19798 (5-10-85)	Do.
P 85-862	Generic name: Blocked aliphatic polyisocyanate	50 FR 19798 (5-10-85)	Do.
P 85-863	Polymer of ethylene, ethyl acrylate, and maleic anhydride	50 FR 19798(19799) (5-10-85)	Do.
P 85-864	Generic name: Dimethylhydrogen terminated polysiloxane	50 FR 19798(19799) (5-10-85)	July 27, 1985.
P 85-865	Generic name: Substituted phenyl acetonitrile	50 FR 19798(19799) (5-10-85)	Do.
P 85-866	Generic name: Substituted phenyl acetonitrile	50 FR 19798(19799) (5-10-85)	Do.
P 85-867	Generic name: Ketopolycyclic polyacid	50 FR 19798(19799) (5-10-85)	July 28, 1985.
P 85-868	Generic name: Diacetyl polycyclic hydrocarbon	50 FR 19798(19799) (5-10-85)	Do.
P 85-869	Generic name: Ketopolycyclic polyacidchloride	50 FR 19798(19799) (5-10-85)	Do.
P 85-870	Generic name: Isocyanate-terminated polyurethane	50 FR 19798(19799) (5-10-85)	Do.
P 85-871	Generic name: Hydroxy-terminated polyurethane	50 FR 19798(19799) (5-10-85)	Do.
P 85-872	Generic name: Fatty acid, resinous amidoamine	50 FR 19798(19799) (5-10-85)	Do.
P 85-873	Generic name: Resinous amidoamine	50 FR 19798(19799) (5-10-85)	Do.
P 85-874	3-thiahept-5-ene-1-ol	50 FR 19798(19799) (5-10-85)	Do.
P 85-875	Generic name: Alkylamidopropyl betaine	50 FR 19798(19799) (5-10-85)	Do.
P 85-876	Generic name: Alkylamidopropyl betaine	50 FR 19798(19800) (5-10-85)	Do.
P 85-877	Generic name: Alkylaminopropyl betaine	50 FR 19798(19800) (5-10-85)	Do.
P 85-878	Generic name: Alkylaminopropyl betaine	50 FR 19798(19800) (5-10-85)	Do.
P 85-879	Generic name: Alkylaminopropyl betaine	50 FR 19798(19800) (5-10-85)	Do.
P 85-880	Generic name: Sodium bisulfite reaction product with an epoxidized natural oil	50 FR 19798(19800) (5-10-85)	Do.
P 85-881	Generic name: 2,2,6,6-tetramethyl-4 N-(substituted)aminopiperidine	50 FR 19798(19800) (5-10-85)	Do.
P 85-883	Generic name: Polyurethane	50 FR 19798(19800) (5-10-85)	Do.
P 85-884	Generic name: Blocked-isocyanate polyurethane polyether	50 FR 19798(19800) (5-10-85)	Do.
P 85-885	Generic name: Unsaturated polyester resin	50 FR 19798(19800) (5-10-85)	Do.
P 85-886	Generic name: Brominated unsaturated polyester resin	50 FR 19798(19800) (5-10-85)	Do.
P 85-887	Indium orthoborate	50 FR 19798(19800) (5-10-85)	July 29, 1985.
P 85-888	Generic name: Modified polyglycol polymer	50 FR 19798(19800) (5-10-85)	Do.
P 85-889	Generic name: Copolymer of acrylic acid esters, vinyl acetate, acrylic acid amide, crotonic acid, and fumaric acid ester	50 FR 19798(19801) (5-10-85)	Do.
P 85-890	Generic name: Polypropylene glycol alkyl ether	50 FR 19798(19801) (5-10-85)	Do.
P 85-891	Generic name: Polypropylene glycol alkyl ether	50 FR 19798(19801) (5-10-85)	Do.
P 85-892	Generic name: Polypropylene glycol alkyl ether	50 FR 19798(19801) (5-10-85)	Do.
P 85-893	Generic name: Polyfluoro substituted alkyl-N-substituted amino alcohol acetate	50 FR 19798(19801)(5-10-85)	July 30, 1985.
P 85-894	Generic name: Epoxidized natural oil	50 FR 19798(19801) (5-10-85)	Do.
P 85-895	Generic name: Alkoxylated polyol, diacid adduct	50 FR 19798(19801) (5-10-85)	Do.
P 85-896	Cuprate(3-),(2-(((3-((4,6-dichloro-1,3,5-triazin-2-yl)amino)-2-hydroxy-5-sulfophenyl)azo)phenylmethyl)azo)-4-sulfobenzoato(5-))-, disodium hydrogen, (SP-4-3)-	50 FR 19798(19801) (5-10-85)	Do.
P 85-898	Generic name: Phosphoric acid, alkyl esters	50 FR 19798(19801) (5-10-85)	Do.
P 85-899	Generic name: Ethoxylated polyester	50 FR 19798(19801) (5-10-85)	Do.
P 85-900	Generic name: Polyamino-polyamide	50 FR 20596 (5-17-85)	July 31, 1985.
P 85-902	Generic name: N-substituted lauroylamide	50 FR 20596(20597) (5-17-85)	Do.
P 85-903	Generic name: Tetrasubstituted amine	50 FR 20596(20597) (5-17-85)	Do.
P 85-904	Generic name: Alkoxylated alcohol	50 FR 20596(20597) (5-17-85)	Do.
P 85-905	Sodium aluminum tetrahydride	50 FR 20596(20597) (5-17-85)	Do.
P 85-906	Generic name: Polymer reacted by a poly (aliphatic) isocyanate	50 FR 20596(20597) (5-17-85)	Do.
P 85-907	Generic name: Polymer reacted by a poly (aliphatic) isocyanate	50 FR 20596(20597) (5-17-85)	Do.
P 85-908	Generic name: Short oil alkyd resin	50 FR 20596(20597) (5-17-85)	Do.
P 85-909	Generic name: Aliphatic, cycloaliphatic polyester	50 FR 20596(20597) (5-17-85)	Do.
P 85-910	Generic name: Aliphatic, aromatic copolyester	50 FR 20596(20597) (5-17-85)	Do.
Y 85-88	Generic name: Polyester polymer	50 FR 24941(24941) (6-5-85)	June 25, 1985.
Y 85-89	Generic name: Polyester	50 FR 24941(24941) (6-5-85)	Do.
Y 85-90	Generic name: Hydroxy terminated polymer of an aromatic diisocyanate, alkane polyols, alkanolamine, alkanedioic acid.	50 FR 25777 (6-21-85)	June 30, 1985.
Y 85-91	Generic name: Ketoxime blocked urethane polymer of an aromatic diisocyanate, alkane polyols, alkanedioic acid.	50 FR 25777 (6-21-85)	Do.
Y 85-92	Generic name: Acrylic polymer	50 FR 25777 (6-21-85)	Do.
Y 85-93	Generic name: Styrene, acrylic polymer	50 FR 25777(25778) (6-21-85)	July 2, 1985.
Y 85-94	Polymer of phthalic anhydride, 2,2,4-trimethyl-1,3-pentanediol, 2,2'-oxybis (ethanol), 2-ethyl hexanol, triphenyl-phosphite and Fascat 4100.	50 FR 25777(25778) (6-21-85)	July 9, 1985.
Y 85-98	Generic name: Modified methyl methacrylate polymer	50 FR 26840 (6-21-85)	Do.
Y 85-99	Generic name: Dimethyl terephthalate, alkane diols and trimellitic anhydride polymer	50 FR 27848 (7-5-85)	Do.
Y 85-100	Generic name: Polymer of an aromatic diisocyanate, alkane polyols, alkanol-amine, alkanedioic acid, alkane alcohol.	50 FR 28467(28468) (7-12-85)	July 19, 1985.
Y 85-101	Acid terminated prepolymer polyester	50 FR 28467(28468) (7-12-85)	July 22, 1985.
Y 85-102	Ethylene-propylene styrene copolymer	50 FR 28467(28468) (7-12-85)	Do.

III. 191 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY.)—Continued

PMN No.	Identify/generic name	FR citation	Expiration date
Y 85-103	Ethylene styrene copolymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-104	Propylene-styrene copolymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-105	Generic name: Polyether polyurethane polymer	50 FR 28467(28468) (7-12-85)	July 23, 1985.
Y 85-106	Generic name: Polyether polyurethane polymer	50 FR 28467(28468) (7-12-85)	Do.
Y 85-107	Generic name: Ethylene, vinyl acetate methacrylic acid, hydroxy substituted hydrocarbon copolymer.	50 FR 29476 (7-19-85)	July 28, 1985.
Y 85-108	Generic name: Polysiloxane block copolymer	50 FR 29476 (7-19-85)	Do.

IV. 69 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Chemical identification	FR citation	Date of commencement
P 80-98	Generic name: Monsubstituted alkanimide acid, alkyl ester	45 FR 34998(35001) (5-23-80)	June 28, 1985.
P 81-372	Generic name: C.I. Direct Black 173	46 FR 40323(40325) (8-7-81)	June 4, 1985.
P 82-470	Generic name: Terephthalic acid modified unsaturated polyester resin	47 FR 30103 (7-12-82)	July 18, 1985.
P 83-762	Generic name: Octenal	48 FR 24967(24968) (6-3-83)	Jan. 1, 1985.
P 83-1049	Generic name: Alkoxy polyalkyleneoxy alkyl trialkoxy silane	48 FR 38869(38890) (8-26-83)	June 18, 1985.
P 83-1056	Generic name: Trisubstituted heteromonocycle	48 FR 38889(38890) (8-26-83)	July 16, 1985.
P 83-1218	Generic name: Monosubstitutedbenzene-sulfonylisocyanate	48 FR 43397(43398) (9-23-83)	June 13, 1985.
P 84-482	Urea, condensate with poly(oxy(methyl-1,2-ethanediyl)), alpha-(2-aminomethyl ethyl)-omega-(2-aminomethylethoxy).	49 FR 9954(9955) (3-16-84)	June 4, 1985.
P 84-492	Generic name: Substituted hydroxylamine	49 FR 11009(11010) (3-23-85)	June 17, 1985.
P 84-637	Generic name: Modified acrylic resin	49 FR 19110(19112) (5-4-84)	Do.
P 84-667	Generic name: Polyester from carbomono-cyclic acid and alkylene glycol	49 FR 19110(19114) (5-4-84)	July 17, 1985.
P 84-819	Generic name: Metallic alkyl alkoxide complex	49 FR 24782(24784) (6-15-84)	June 22, 1985.
P 84-927	Generic name: Carbopolycyclic alkenyl ether	49 FR 29451(29452) (7-20-84)	May 17, 1985.
P 84-968	Generic name: Alkyl ester	49 FR 30238(30240) (7-27-84)	June 19, 1985.
P 84-989	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-6-(4-chloro-3-sulfonatoanilino)-1,3,5-triazin-2-ylamino]-2-sulfonatophenyl-azo]-5-hydroxy-2, 7-naphthalene-disulfonate-hydroxid, hexasodium.	49 FR 31136(31137) (8-3-84)	July 1, 1985.
P 84-991	Cellulose, acetate propanoate, [(1-oxo-2-propenyl)amino] methyl ether	49 FR 31136(31137) (8-3-84)	Do.
P 84-1028	1,4-Dimethylol cyclohexane ethoxylate propoxylate	49 FR 32110(32112) (8-10-85)	May 10, 1985.
P 84-1117	Adipic acid, azelaic acid, phthalic anhydride, polymers with ethylene glycol, neopentyl glycol and 2-ethyl hexanol.	49 FR 35414(35416) (9-7-84)	May 25, 1985.
P 84-1132	Generic name: Heterocyclic substituted copper phthalocyanine	49 FR 36151(36152) (9-14-85)	May 30, 1985.
P 84-1192	Generic name: Functional aromatic polymer	49 FR 38356(38358) (9-26-85)	June 13, 1985.
P 85-8	Generic name: Polyether polyester urethane	49 FR 41100(41101) (10-19-84)	June 19, 1985.
P 85-25	Generic name: Methyl (aryl) indolylazo thiazolium, salt	49 FR 41102(41103) (10-19-85)	May 16 , 1985.
P 85-32	Generic name: Alkyl mercaptothiadiazole	49 FR 43105(43106) (10-26-84)	June 26, 1985.
P 85-90	Polymer of dimethyl terephthalate, ethylene glycol, dimethyl 5-sulfoiso-phthalate, sodium salt, and polyethylene glycol.	49 FR 44676(44677) (11-8-84)	June 17, 1985.
P 85-163	Generic name: Cyanoacetate ester	49 FR 47108(47109) (11-30-84)	July 15, 1985.
P 85-200	Generic name: Cyanoacrylate ester	49 FR 47921(47922) (12-7-84)	Aug. 1, 1985.
P 85-278	Generic name: Functionalized polyacrylic acid derivative	49 FR 49895(49897) (12-24-84)	June 3, 1985.
P 85-295	Generic name: Modified acrylic polymer	49 FR 49895(49898) (12-24-84)	March 11, 1985.
P 85-385	Generic name: Acrylic rubber dispersion in epoxy resin	50 FR 2712(2713) (1-18-85)	June 24, 1985.
P 85-386	Generic name: Acrylate functional epoxy resin urethane	50 FR 2712(2713) (1-18-85)	Do.
P 85-397	Generic name: Acrylated cellulosic	50 FR 3592 (1-25-85)	July 8, 1985.
P 85-479	2,5-Furandimethanol	50 FR 7640 (2-25-85)	July 10, 1985.
P 85-487	Generic name: Alkylalcohol ethoxylate, phosphate ester, sodium salt	50 FR 7640(7641) (2-25-85)	July 11, 1985.
P 85-503	Generic name: Substituted imidic acid, methyl ester, hydrochloride	50 FR 7640(7642) (2-25-85)	June 28, 1985.
P 85-526	Generic name: Modified acrylate terpolymer	50 FR 8390(8391) (3-1-85)	June 27, 1985.
P 85-529	Generic name: Trisubstituted naphthalene carboxamide	50 FR 8390(8391) (3-1-85)	June 4, 1985.
P 85-530	Generic name: Trisubstituted naphthalene carboxamide	50 FR 8390(8391) (3-1-85)	June 17, 1985.
P 85-551	3-Carbomethoxypropionyl chloride	50 FR 8390(8393) (3-1-85)	July 15, 1985.
P 85-596	Generic name: 1-Substituted-3-alkylhetero-monocyclic-4-hydroxybenzene	50 FR 9504(9507) (3-8-85)	June 20, 1985.
P 85-597	Generic name: 3-Alkylheteromonocyclic-4-hydroxy-1-substitutedbenzene	50 FR 9504(9507) (3-8-85)	June 13, 1985.
P 85-601	Generic name: Disubstituted phenol	50 FR 9504(9508) (3-8-85)	July 8, 1985.
P 85-602	Generic name: 2,4-Diheteromonocyclic phenol	50 FR 9504(9508) (3-8-85)	June 25, 1985.
P 85-606	Generic name:(3-Alkylheteromonocyclic-4-hydroxyphenyl-substituted)(3'-substituted-4'-hydroxyphenylsubstituted)alkyl.	50 FR 9504(9508) (3-8-85)	July 12, 1985.
P 85-607	Generic name: 2-Alkylheteromonocyclic-4-substitutedphenol	50 FR 9504(9508) (3-8-85)	July 8, 1985.
P 85-616	Generic name: Bromonated propanoic acid derivative	50 FR 10536(10537) (3-15-85)	June 4, 1985.
P 85-636	Generic name: Substituted epoxy resin	50 FR 10536(10539) (3-15-85)	June 20, 1985.
P 85-637	Generic name: Modified acrylic resin	50 FR 10536(10539) (3-22-85)	June 17, 1985.
P 85-647	Generic name: Trisubstituted naphthalene-carboxamide	50 FR 11557(11558) (3-22-85)	Do.
P 85-654	Generic name: Halogenated organometal complex	50 FR 11557(11558) (3-22-85)	Do.
P 85-661	Generic name: Alkylthiophenol	50 FR 11557(11559) (3-22-85)	July 15, 1985.
P 85-686	Generic name: Acrylate copolymer	50 FR 12623(12625) (3-29-85)	June 26, 1985.
P 85-687	Generic name: Acrylate copolymer	50 FR 12623(12625) (3-29-85)	Do.
P 85-688	Generic name: Acrylate copolymer	50 FR 12623(12625) (3-29-85)	Do.
P 85-689	Generic name: Acrylate copolymer	50 FR 12623(12625) (3-29-85)	Do.
P 85-726	Generic name: Alicyclic carboxylic acid	50 FR 14439 (4-12-85)	July 4, 1985.
P 85-741	Generic name: Acrylic acid-acrylamidosulfonic acid copolymer including phosphino groups	50 FR 14439(14441) (4-12-85)	July 2, 1985.
P 85-742	Generic name: Alkyl polyoxyalkylene phosphate esters	50 FR 14439(14441) (4-12-85)	July 16, 1985.
P 85-786	Generic name: Fatty dibasic acids, amides from polyoxyalkylene amines	50 FR 15629(15631) (4-19-85)	July 10, 1985.
P 85-791	Generic name: Haloborane-aromatic phosphate ester complex	50 FR 15629(15632) (4-19-85)	Do.
P 85-834	Generic name: Vinyl substituted organo silicone copolymer	50 FR 18915(18917) (5-3-85)	April 17, 1985.
P 85-835	Generic name: Organosilicone copolymer	50 FR 18915(19817) (5-3-85)	Do.
P 85-857	Generic name: Alkylaluminum halide	50 FR 18915(18919) (5-3-85)	Apr. 19, 1985.
P 85-859	Generic name: Acrylic resin	50 FR 19798 (5-10-85)	July 29, 1985.
Y 85-18	Polymer of acrylamide and maleic anhydride	50 FR 8390 (3-1-85)	July 5, 1985.
Y 85-20	Generic name: Vinyl modified alkyd resin	50 FR 8390 (3-1-85)	July 18, 1985.
Y 85-72	Generic name: Methacrylic tetrapolymer	50 FR 23187 (5-31-85)	June 18, 1985.
Y 85-89	Generic name: Polyester	50 FR 24941 (6-14-85)	June 27, 1985.
Y 85-95	Generic name: Hydroxy functional acrylic copolymer	50 FR 26840 (6-28-85)	Aug. 5, 1985.
Y 85-96	Generic name: Polyester resin	50 FR 26840 (6-28-85)	July 9, 1985.

V. 130 Premanufacture Notices for Which the Review Period has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10-18-82)	Oct. 22, 1982.
P 83-333	Generic name: Reaction product of polycyclesulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 72(73) (1-3-83)	Mar. 14, 1983.
P 83-418	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethylphenylazo-sulfonaphthalenazo.	48 FR 5304(5306) (2-4-83)	Feb. 19, 1983.
P 83-461	Generic name: Substituted alkoxy silane	48 FR 7299(7300) (2-18-83)	July 1, 1983.
P 83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4-22-83)	July 5, 1983.
P 83-569	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naphtholazosulfonaphthol.	48 FR 20490 (5-6-83)	Aug. 5, 1983.
P 83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenylpyrazolone.	48 FR 20490(20491) (5-6-83)	Do.
P 83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24967(24968) (6-3-83)	Aug. 15, 1983.
P 83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazo-sulfonaphthol.	48 FR 24967(24968) (6-3-83)	Do.
P 83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434(30435) (7-1-83)	Sept. 21, 1983.
P 83-875	4-[2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-[2-phenoxyethyl)amino]benzene	48 FR 31460(31462) (7-8-83)	May 24, 1983.
P 83-876	4-[2-cyano-4-nitrophenylazo)-[N,N-bis[2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31460(31462) (7-8-83)	Do.
P 83-913	Generic name: Copper sulfonylphenazo-polyhydroxy phenazobenzoate	48 FR 32381(32383) (7-15-83)	Oct. 1, 1983.
P 83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)-phenyl]derivative.	48 FR 36647(36649) (8-12-83)	Oct. 24, 1983.
P 84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863(48864) (10-21-83)	Feb. 9, 1985.
P 84-17	Generic name: Substituted heterocyclic metal complex	48 FR 48863(48864) (10-21-83)	Do.
P 84-18	1[1,1-dimethylethoxy)-propan-2-ol	48 FR 48863(48864) (10-21-83)	Feb. 28, 1985.
P 84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863(48866) (10-21-83)	Feb. 9, 1985.
P 84-50	Generic name: Substituted heterocyclic metal complex	48 FR 50951(50952) (11-4-83)	Do.
P 84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944(50946) (11-4-83)	Do.
P 84-375	Generic name: Sodium salt of alkyl dithiocarbamates	49 FR 4980(4981) (2-9-84)	Jan. 10, 1985.
P 84-376	Generic name: Aryl esters of alkyl dithiocarbamates	49 FR 4980(4981) (2-9-84)	Do.
P 84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)-phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amino)]-1,3,5-triazin-2-yl]amino]-6-[(2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalene-disulfonato(7)]-, pentasodium.	49 FR 6160(6162) (2-17-84)	Apr. 27, 1984.
P 84-392	Generic name: Alkoxylated cycloaliphatic diamine	49 FR 6160(6162) (2-17-84)	Do.
P 84-485	Generic name: Poly(oxy-1,2-ethanediyl) alpha-acyl-w-alkyl	49 FR 11009(11010) (3-23-84)	June 4, 1984.
P 84-591	Generic name: Sodium salt of an alkylated, sulfonated aromatic	49 FR 16833(16835) (4-20-84)	Aug. 21, 1984.
P 84-649	Generic name: Chromate, bis(substituted substituted phenolato) inorganic salts	49 FR 19110(19113) (5-4-84)	July 20, 1984.
P 84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl), sodium	49 FR 19110(19113) (5-4-84)	Do.
P 84-651	Generic name: Chromate, bis(substituted substituted naphthalenolato) sodium	49 FR 19110(19113) (5-4-84)	Do.
P 84-664	Generic name: Chromate, (substituted substituted phenolato) (substituted substituted substituted substituted phenolato) sodium.	49 FR 20060(20061) (5-11-84)	Do.
P 84-665	Generic name: Chromate, bis(substituted substituted substituted phenolato), sodium	49 FR 20060(20061) (5-11-84)	Do.
P 84-669	Oleic, linoleic, palmitic acid ester of ethoxylated C_{12}-C_{14} alcohols	49 FR 20060(20061) (5-11-84)	May 17, 1985.
P 84-673	Generic name: Chromate (substituted substituted substituted naphthalenolato)- inorganic salts.	49 FR 20060(20061) (5-11-84)	July 20, 1984.
P 84-703	Oxo-octyl acetate	49 FR 22128(22130) (5-25-84)	Oct. 29, 1984.
P 84-737	Generic name: Glycol ether	49 FR 22865(22866) (6-1-84)	Mar. 21, 1985.
P 84-738	Generic name: Glycol ether	49 FR 22865(22866) (6-1-84)	Do.
P 84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22865(22866) (6-1-84)	Aug. 22, 1984.
P 84-881	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28614(28615) (7-13-84)	May 15, 1985.
P 84-900	1,3,5-Triazine-2,4,6 (1H,3H,5H)-trione, 1,3,5-tris(2,3-dibromopropyl)-	49 FR 28616(28617) (7-13-84)	Mar. 26, 1985.
P 84-954	Generic name: Substituted aromatic	49 FR 30238(30239) (7-27-84)	Apr. 29, 1985.
P 84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8-10-84)	Oct. 24, 1984.
P 84-1053	Generic name: Ethoxylated vegetable fatty acids, end-capped	49 FR 33718(33720) (8-24-84)	Oct. 26, 1984.
P 84-1128	Generic name: Isoalkyleneoxy alkanol	49 FR 35414(35417) (9-7-84)	Nov. 26, 1984.
P 84-1129	Acetic acid, ester with C_9-C_{11} iso alcohols, C_{10}—rich	49 FR 35414(35417) (9-7-84)	Jan. 10, 1985.
P 84-1130	Acetic acid, ester with C_9-C_{11} alcohols, C_{10}—rich	49 FR 35414(35417) (9-7-84)	Do.
P 84-1131	Acetic acid, ester with C_{11}-C_{14} iso alcohols, C_{13}—rich	49 FR 35414(35417) (9-7-84)	Do.
P 84-1136	Generic name: Substituted aromatic amide	49 FR 36151(36152) (9-14-84)	Feb. 4, 1985.
P 84-1137	Generic name: Cycloaliphatic epoxide	49 FR 36151(36152) (9-14-84)	Do.
P 84-1144	Generic name: Isoalkyleneoxy alkanoate	49 FR 36151(36152) (9-14-84)	Feb. 11, 1985.
P 84-1182	Generic name: Aminopolyamide-epichloro-hydrin resin	49 FR 38356(38357) (9-28-84)	Jan. 11, 1985.
P 84-1183	Generic name: Aminopolyamide-epichloro-hydrin polymer	49 FR 38356(38357) (9-28-84)	Do.
P 84-1219	Generic name: Substituted pyridine	49 FR 39379(39380) (10-5-84)	Feb. 5, 1985.
P 84-1228	Generic name: Polyisoalkoxyalkanol	49 FR 39379(39381) (10-5-84)	Jan. 8, 1985.
P 84-1229	Generic name: Polyisoalkoxyalkanol	49 FR 39379(39381) (10-5-84)	Do.
P 85-18	Generic name: Substituted amino anthranquinone	49 FR 41102(41103) (10-19-84)	May 23, 1985.
P 85-36	Generic name: Substituted pyridine	49 FR 43105(43106) (10-26-84)	Feb. 5, 1985.
P 85-67	2,2'-dially-4,4'-sulfonyl diphenol	49 FR 44139(44140) (11-2-84)	Jan. 23, 1985.
P 85-109	Generic name: Arylthiodialkanoylhydrazide	49 FR 45857 (11-19-84)	Apr. 17, 1985.
P 85-141	Generic name: Polyester acrylate	49 FR 46852(46853) (11-26-84)	Feb. 12, 1985.
P 85-142	Generic name: Aromatic epoxy ester	49 FR 46852(46853) (11-26-84)	Do.
P 85-159	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108(47109) (11-30-84)	Feb. 11, 1985.
P 85-160	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108(47109) (11-30-84)	Do.
P 85-161	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108(47109) (11-30-84)	Do.
P 85-162	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108(47109) (11-30-84)	Do.
P 85-194	Generic name: Acid amide salt	49 FR 47921 (12-7-84)	Feb. 20, 1985.
P 85-198	Generic name: Alkylated aromatic diamine	49 FR 47921(47922) (12-7-84)	Mar. 8, 1985.
P 85-216	Generic name: Substituted pyridine	49 FR 47921(47922) (12-7-84)	Feb. 19, 1985.
P 85-234	Generic name: Disubstituted sulfide	49 FR 47921(47924) (12-7-84)	Apr. 25, 1985.
P 85-236	Generic name: Substituted pyridine	49 FR 48801(48802) (12-14-84)	Apr. 16, 1985.
P 85-265	Amines, tri (C_{13-16}-iso-C_{13} rich)	49 FR 49895(49896) (12-24-84)	Mar. 5, 1985.
P 85-296	Generic name: Silicone ester polyacrylate	49 FR 49895(49898) (12-24-84)	Mar. 13, 1985
P 85-298	Generic name: Amino acrylate monomer	49 FR 49895(49898) (12-24-84)	Do
P 85-317	Phosphine oxide, diphenyl (2,4,6-tri-methyl-benzoyl)-	49 FR 50444(50445) (12-28-84)	Mar. 14, 1985.
P 85-360	Generic name: Partial metal complex of aminomethylene phosphonic acid	50 FR 1630(1631) (1-4-85)	Mar 22, 1985
P 85-367	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1631) (1-11-85)	Mar. 25, 1985.
P 85-368	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1631) (1-11-85)	Do.
P 85-369	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1631) (1-11-85)	Do.
P 85-383	Phenol, 2,4-bis[(dimethylamino)methyl] 5-methyl	50 FR 2719 (1-18-85)	Apr. 5, 1985
P 85-395	Generic name: Substituted polyester resin	50 FR 2719(2720)(1-18-85)	Apr. 1, 1985
P 85-428	Generic name: Ester modified phenolic resin	50 FR 4896(4898) (2-4-85)	Apr. 17, 1985
P 85-433	1-Propanol, 3-mercapto-	50 FR 4896(4898) (2-4-85)	Apr. 22, 1985

V. 130 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 85-444	Generic name: Aromatic amidoamine	50 FR 5416 (2-8-85)	Apr. 19, 1985.
P 85-458	Generic name: Alkyl ester of a trialkoxy silane	50 FR 6383(6384) (2-15-85)	Apr. 29, 1985.
P 85-463	Generic name: Silane	50 FR 6383(6384) (2-15-85)	Apr. 25, 1985.
P 85-468	Generic name: Polycyclic sulfonic acid salt	50 FR 6383(6384) (2-15-85)	May 21, 1985.
P 85-527	Generic name: Vinyl-epoxy ester	50 FR 8390(8391) (3-1-85)	June 4, 1985.
P 85-528	Generic name: Anthranilate schiff base	50 FR 8390(8391) (3-1-85)	May 20, 1985.
P 85-535	Generic name: Substituted pyridine	50 FR 8390(8392) (3-1-85)	May 17, 1985.
P 85-536	Generic name: Substituted pyridine	50 FR 8390(8392) (3-1-85)	Do.
P 85-543	2-Butenedioic acid (Z)-, mono [2-[(1-oxo-2-propenyl)oxy]ethyl]-ester	50 FR 8390(8392) (3-1-85)	July 9, 1985.
P 85-544	2-Butenedioic acid (Z)-, mono [2-[(1-oxo-2-propenyl)oxy]ethyl]-ester	50 FR 10536(10537) (3-15-85)	Do.
P 85-545	2-Propenoic acid-3-(dimethylamino)-2,2-dimethyl-propylester	50 FR 10536(10537) (3-15-85)	Do.
P 85-546	2-Propenoic acid, 2-methyl-, 3,3,5-trimethyl-cyclo hexylester	50 FR 8390(8393) (3-1-85)	Do.
P 85-547	2-Propenoic acid, 3,3,5-trimethylcyclo hexylester	50 FR 8390(8393) (3-1-85)	Do.
P 85-562	Generic name: Alkanolalkane triacrylate octylamine adduct	50 FR 9504(9505) (3-8-85)	May 14, 1985.
P 85-567	Generic name: Silyl ketene acetal	50 FR 9504(9505) (3-8-85)	May 15, 1985.
P 85-612	Generic name: Polymer of substituted aryl olefin	50 FR 9504(9508) (3-8-85)	July 26, 1985.
P 85-619	Generic name: Tetra substituted amino-carboxylic acid	50 FR 10536(10537) (3-15-85)	June 12, 1985.
P 85-627	Generic name: Alkenyloxysilane	50 FR 10536(10538) (3-15-85)	May 17, 1985.
P 85-630	Ammonium, 1-n-Tetradecyl sulfonate	50 FR 10536(10538) (3-15-85)	June 20, 1985.
P 85-631	Sodium, 1-n-Tetradecyl sulfonate	50 FR 10536(10538) (3-15-85)	Do.
P 85-632	Ammonium, 1-n-Hexadecyl sulfonate	50 FR 10536(10538) (3-15-85)	Do.
P 85-633	Generic name: Aminoalkanoic acid	50 FR 10536(10538) (3-15-85)	July 2, 1985.
P 85-637	Generic name: Substituted polyglycol	50 FR 10536(10539) (3-15-85)	June 17, 1985.
P 85-648	Generic name: Isopropyiidene-bis-(1,1-dimethylpropyl)derivative	50 FR 11557(11558) (3-22-85)	June 5, 1985.
P 85-660	Generic name: Fatty acids, esters with alkanolamine, alkoxylated	50 FR 11557(11559) (3-22-85)	June 21, 1985.
P 85-676	Generic name: Functional polyester	50 FR 12623(12624) (3-29-85)	June 16, 1985.
P 85-680	Generic name: 1,1-Dimethylpropyl peroxyester	50 FR 12623(12624) (3-29-85)	Do.
P 85-693	Generic name: Acrylated urethane resin	50 FR 12623(12625) (3-29-85)	July 30, 1985.
P 85-703	Polymer of hydroxy ethyl acrylate, isophorone diisocyanate and Melpol 125	50 FR 13651(13652) (4-5-85)	June 17, 1985.
P 85-706	Generic name: Substituted pyridine	50 FR 13651(13652) (4-5-85)	July 3, 1985.
P 85-710	Generic name: Poly acrylate/methacrylate ester	50 FR 13651(13653) (4-5-85)	June 22, 1985.
P 85-718	Generic name: Polyol polyacrylate	50 FR 13651(13653) (4-5-85)	June 19, 1985.
P 85-719	Generic name: Polymer of styrene and methacrylates	50 FR 13651(13653) (4-5-85)	June 25, 1985.
P 85-720	Generic name: Polyacrylate	50 FR 13651(13653) (4-5-85)	July 9, 1985.
P 85-732	Generic name: Halogenated aromatic substituted alkane	50 FR 14439(14440) (4-12-85)	July 29, 1985.
P 85-733	Generic name: Halogenated aromatic polymer	50 FR 14439(14440) (4-12-85)	Do.
P 85-734	Generic name: Halogenated aromatic alkene	50 FR 14439(14440) (4-12-85)	Do.
P 85-735	Generic name: Substituted pyridine disazo dye	50 FR 14439(14440) (4-12-85)	June 30, 1985.
P 85-783	Generic name: Adduct of chlorinated olefin/polydiene	50 FR 15629(15631) (4-19-85)	July 1, 1985.
P 85-800	Generic name: Sodium salt of polycarboxylic acid	50 FR 16541 (4-26-85)	July 16, 1985.
P 85-813	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541(16542) (4-26-85)	July 10, 1985.
P 85-814	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541(16542) (4-26-85)	Do.
P 85-815	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541(16542) (4-26-85)	Do.
P 85-816	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541(16542) (4-26-85)	Do.
P 85-817	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541(16542) (4-26-85)	Do.
P 85-822	Generic name: Substituted alkyl alkanol	50 FR 18916 (5-3-85)	July 3, 1985.
P 85-827	Generic name: Phenoxazinium, bis (substituted amino), salt	50 FR 18916 (5-3-85)	July 11, 1985.
P 85-882	Octadecenamide, N-[2-[(2-hydroxyethyl) amino]ethyl]-, monohydrochloride (salt)	50 FR 19798(19800) (5-10-85)	July 19, 1985.
P 85-901	Generic name: Polyamino-polyamide-epichlorohydrin polymer	50 FR 20596(20597) (5-17-85)	July 29, 1985.

[FR Doc. 86-1816 Filed 3-13-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59756, (FRL-2983-1)]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of ten such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86-86, 86-87, 86-88, 86-89—March 23, 1986.

Y 86-90 and 86-91—March 24, 1986.

Y 86-92, 86-93, 86-94, 86-95—March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-86

Importer. Confidential.

Chemical. (G) Polyurethane.

Use/Import. (S) Industrial breathable coating for textile fabrics. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 2 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. Nil to air. Disposal by vapor extraction.

Y 86-87

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester resin.

USE/Production. (G) Fiberglass mat binder. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Y 86–88

Manufacturer. Confidential.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (G) Plastics. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86–89

Importer. Confidential.
Chemical. (S) Castor oil, ethylene glycol, pentaerythritol, phthalic anhydride, benzoic acid, dehydrated castor oil.
Use/Import. (S) Industrial polymer for industrial coastings. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 6 workers, up to 1 hr/da, up to 110 da/yr.
Environmental Release/Disposal. No release.

Y 86–90

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Resin converted to paint. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86–91

Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (S) Resin converted to paint. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86–92

Manufacturer. Confidential.
Chemical. (G) Tall oil fatty acid modified alkyd resin.
Use/Production. (G) Industrial protective coatings. Prod. range: 28,000–56,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 5 workers, up to 3 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 22 kg/batch released to land. Disposal by landfill and sawdust.

Y 86–93

Importer. Confidential.
Chemical. (G) Styrene-N-butylacrylate-dimethylaminoethylacrylate copolymer.
Use/Import. (S) Commercial and consumer binder resin of toner for electrophotographic coplier. Import range: Confidential.
Toxicity Data. Ames test; Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–94

Importer. Confidential.
Chemical. (G) 2-propenioc acid, -2-methyl-2-(dimethylamino) ethyl ester polymer with ethenyl benzene.
Use/Import. (G) Open, non-dispersive use. Import range: Confidential.
Toxicity Data. Ames test: Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–95

Importer. Confidential.
Chemical. (G) Bisphenol A type polyester resin.
Use/Import. (G) Open, non-dispersive use. Import range: Confidential.
Toxicity Data. No data submitted on the PMN substance.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: March 10, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86–5498 Filed 3–13–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51614, (FRL–2982–9)]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of forty-two PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86–592, 86–593 and 86–594—May 28, 1986.

P 86–595, 86–596, 86–597, 86–598, P 86–599, 86–600 and 86–601—May 31, 1986.

P 86–602, 86–603, 86–604, 86–605, 86–606, 86–607, 86–608, 86–609, 86–610, 86–611, 86–612, 86–613, 86–614, 86–615, 86–616, 86–617, 86–618, 86–619, 86–620, 86–621 and 86–622—June 1, 1986.

P 86–623, 86–624, 86–625, 86–626, 86–627, 86–628, 86–629, 86–630 and 86–631—June 2, 1986.

P 86–632 and 86–633—June 3, 1986.

Written comments by:

P 86–592, 86–593 and 86–594—April 28, 1986.

P 86–595, 86–596, 86–597, 86–598, 86–599, 86–600 and 86–601—May 1, 1986.

P 86–602, 86–603, 86–604, 86–605, 86–606, 86–607, 86–608, 86–609, 86–610, 86–611, 86–612, 86–613, 86–614, 86–615, 86–616, 86–617, 86–618, 86–619, 86–620, 86–621 and 86–622—May 2, 1986.

P 86–623, 86–624, 86–625, 86–626, 86–627, 86–628, 86–629, 86–630 and 86–631—May 3, 1986.

P 86–632 and 86–633—May 4, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS–51514]" and the specific PMN number should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street, SW., Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer of the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86–592

Importer. Confidential.

Chemical. (G) 1,3,5-naphthalenetrisulfonic acid-7[[4-[[4-[(4-substituted-6-halo-,1,3,5-triazin-2-yl]amino]phenyl]azo] substituted phenyl]azo]-, mixed sodium and potssium salts.

Use/Import. (S) Industrial and consumer fiber reactive dye for cellulosic fibers. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant; Eye—Non-irritant.

Exposure. Use: dermal, a total of 3 persons/shift.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW) and municipal landfill.

P 86–593

Importer. American Hoechst Corporation.

Chemical. (G) Modified formal polymer.

Use/Import. (S) Industrial injection, extrusion, compression and flow molding. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–594

Importer. American Hoechst Corporation.

Chemical. (G) Modified formal polymer.

Use/Import. (S) Industrial injection, extrusion, compression and flow molding. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–595

Importer. Kay-Fries, Inc.

Chemical. (G) Linear saturated polyester resin containing hydroxyl groups.

Use/Import. (S) Industrial coatings for building products, food application and decorative coating for metal. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Import: a total of 5–10 workers.

Environmental Release/Disposal. No release expected.

P 86–596

Manufacturer. Confidential.

Chemical. (G) Alkenoate-terminated poly(dimethylsiloxane).

Use/Production. (G) A component of formulations for open, non-dispersive use. Prod. range: 3,000–10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 16 workers.

Environmental Release/Disposal. 0.04 to 2 kg released to land. Disposal by landfill.

P 86–597

Manufacturer. Confidential.

Chemical. (S) Isooctadecanoic acid, compound with 1-amino-2-propanol (1:1).

Use/Production. (G) Additive. Prod. range: 8,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 4 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. 0.2 to 50 kg/batch released to air and land. Disposal by secondary fuel blenders who use it in industrial fuels.

P 86–598

Manufacturer. Confidential.

Chemical. (S) Isooctadeconic acid, compound with 1,1'-iminobis-2-propanol (1:1).

Use/Production. (G) Additive. Prob. range: 8,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 6 workers, up to 4 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. 0.2 to 50 kg/batch release to air and land. Disposal by secondary fuel blenders who use it in industrial fuels.

P 86–599

Manufacturer. Confidential.

Chemical. (S) Isooctadecanoic acid, compound with 1,1',1''-nitrilotris-2-propanol (1:1).

Use/Production. (G) Additive. Prod. range: 1,900 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 4 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. 0.2 to 50 kg/batch released to air and land. Disposal by secondary fuel blenders who use it in industrial fuels.

P 86–600

Manufacturer. Confidential.

Chemical. (G) Isocyanate-capped polyols.

Use/Production. (S) Industrial coatings, architectural sealants, adhesives and asphalt modifiers. Prod. range: 350,000–1,500,000 kg/yr.

Toxicity Data. Acute oral: >5 g/kg; Irritation: Skin—Severe, Eye—Minimal; Skin sensitization: Positive.

Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 1 kg/batch released. Disposal by incineration.

P 86–601

Manufacturer. Confidential.

Chemical. (G) Dialkyl ether.

Use/Production. (G) Isolated intermediate, destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Disposal by chemical sewer.

P 86–602

Importer. Confidential.

Chemical. (G) Monoalkylfluorane.

Use/Import. (G) Dye for paper coating. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Not mutagenic; Skin sensitization: Non-sensitizer; LC_{50} 96 hr: 90 mg/l; Biodegradability test: Not biodegradable.

Exposure. Import: inhalation, a total of 3 workers, up to 1 hr/da, up to 15 da/yr.

Environmental Release/Disposal. No release.

P 86–603

Manufacturer. The C.P. Hall Company.

Chemical. (G) (Polyethylene) glycol ether ester.

Use/Production. (S) Industrial plasticizer. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by wastewater treatment facility.

P 86–604

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester.

Use/Production. (G) Coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Disposal by POTW.

P 86–605

Importer. P–S Chemicals, Inc.

Chemical. (G) Aryl phenol ethoxylated, phosphated.

Use/Import. (S) Industrial additive for printing inks and color concentrates for paints. Prod. range: 5,000–10,000 kg/yr.

Toxicity Data. Acute oral: 7,150 mg/kg; Irritation: Skin—Slight, Eye—Moderate.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–606

Manufacturer. Confidential.

Chemical. (G) Poly(siloxyurea).

Use/Production. (G) Intermediate to manufacture organofunctional siloxane. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Irritant.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-607

Manufacturer. Confidential.
Chemical. (G) Poly(silyurethanesiloxyurea).
Use/Production. (G) Organofunctionalsiloxane intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-608

Manufacturer. Confidential.
Chemical. (G) Alkylsilyurethane.
Use/Production. (S) Organosilane monomer intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential

P 86-609

Importer. American Hoechst Corporation.
Chemical. (S) Benzenediazonium, 4,4'-bis(3-chloro)-, coupling product with N-(2,4-dimethylphenyl)-3 -oxobutanamide and N-(4-chloro-2,5-dimethoxyphenyl)-3-oxobutanamide.
Use/Import. (S) Pigment for printing inks. Import range: Confidential.
Toxicity Data. Acute oral: 10,000 mg/kg; Irritation: Skin—Non-irritant, Mocous membrane compatibility test: Slight; Ames test: Non-mutagenic.
Exposure. Import: dermal and inhalation, 1 manhour/yr, 250 lbs.
Environmental Release/Disposal. No data submitted.

P 86-610

Manufacturer. Polymer Applications Inc.
Chemical. (G) Aromatic urethane polymer.
Use/Production. (S) Industrial polymer-rubberr adhesion promoter. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. 25 kg/batch released to land. Disposal by landfill.

P 86-611

Importer. Albright and Wilson Limited.
Chemical. (G) Fatty acid amines condensate.
Use/Import. (S) Industrial formulating emulsifiers for emulsifying water in oil. Prod. range: Confidential.
Toxicity Data: No data submitted.
Exposure. Import: dermal, a total of 2–3 workers, up to 2–6 hrs/da.
Environmental Release/Disposal. Disposal by sawdust absorption at an authorized site.

P 86-612

Importer. Marubeni America Corporation.
Chemical. (G) Molecular weight branched saturated polyester.
Use/Import. (S) Coating for metal sheet. Import range: 30,000–100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-613

Importer. Austin Chemical Company, Inc.
Chemical. (S) Acetamide, N-(1,2-dihydro-2-oxo-4-pyrimidinyl)-.
Use/Production. (S) Industrial pharmaceutical intermediate. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-614

Importer. Dow Corning Corporation.
Chemical. (S) Siloxanes and silicones, me hydrogen, reaction products with vinyl terminated di-me siloxanes and allyl glycidyl ether.
Use/Import. (G) Plastic additive. Import range: 1,500–5,000 kg/yr.
Toxicity Data. Acute oral: 5,000 kg/yr; Acute dermal: 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-615

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. (S) Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds. Import range: 160,000–1,000,000 kg/yr.
Toxicity Data: No data submitted.
Exposure. Import: dermal, a total of 2 workers, up o 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resin spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidfy in light and harden and by rain drainage.

P 86-616

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds. Import range: 160,000–1,00,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resin spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-617

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Exposure. Import: dermal, a total of 2 workers, up to 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resin spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-618

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. (S) Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds shell molds. Import range: 160,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resin spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-619

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. (S) Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds. Import range: 160,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resin spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-620

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. (S) Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds. Import range: 160,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resind spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-621

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. (S) Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds. Import range: 160,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resin spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-622

Importer. Sunrez Corporation.
Chemical. (G) Diarylaroylphosphine oxide.
Use/Import. (S) Site-limited and industrial top coat for lowering styrene emissions, rapid small FRP part manufacture and coating for thin shell molds. Import range: 160,000–1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import: dermal, a total of 2 workers, up to 4 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. 200/yr resind spillage released to air and land with 300/yr user styrene loss to air. Disposal material will solidify in light and harden and by rain drainage.

P 86-623

Importer. Confidential.
Chemical. (G) Dibutyltin borate.
Use/Import. (G) Open, non-dispersive use. Import range: Confidential.
Toxicity Data. Acute oral: 1,037 mg/kg; Irritation: Skin—Non-irritant; Ames test: Non-mutagenic.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-624

Manufacturer. Andrews Paper and Chemical Company, Inc.
Chemical. (S) 4-(N-ethyl, N-hydroxyethyl) aminobenzene diazonium, 5-sulfoisophthalate.
Use/Production. (S) Industrial and commerical dizao reproduction paper and film. Prod. range: 500–2,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 2 hrs/da, up to 7 da/yr.
Environmental Release/Disposal. 2.5 kg released to air and water. Disposal by POTW and Passaic Valley water authority.

P 86-625

Manufacturer. Kay-Fries Inc.
Chemical. (S) Methacrylic acid, 3-(cholorodimethylsily) propyl ester.
Use/Production. (S) Coupling agent. Prod. range: 1,000–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 12 workers, up to 1 hr/da, up to 42 da/yr.
Environmental Release/Disposal. 45 kg/batch released to land. Disposal by Resource Conservation and Recovery Act (RCRA).

P 86-626

Manufacturer. American Hoechst Corporation.
Chemical. (G) Ethanol, 2,2'-[[3-chloro-4-[[4-[functionalize alkenyl]phenyl]azo]phenyl]imino]bis-, bis(hydrogen suflate) ester, sodium salt.
Use/Production. (S) Indsustrial reactive dye for textitle fibers. Prod. range: Confidential.
Toxicity Data. Ames test: Negative.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 2 hrs/da.
Environmental Release/Disposal. Traces.

P 86-627

Manufacturer. American Hoechst Corporation.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-1-oxo-isononyl-omega hydroxy.
Use/Production. (S) Industrial cohesive agent for fiber lubricant and textile overspray. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 2 workers, up to 3 hrs/da.
Environmental Release/Disposal. 10 to 20 pounds released to water. Disposal by NPDES wastewater facility.

P 86-628

Importer. Confidential.
Chemical. (G) Unsaturated dimer acids, polyester, expoxidized.
Use/Import. (G) Automotvie adhesive. Import range: Confidential.
Toxicity Data. Acute oral: 10,000 mg/kg; Acute dermal: 3,100 mg/kg; Irritation; Skin—Moderate, Eye—Slight.
Exposure. Processing: dermal.
Environmental Release/Disposal. Release to air and land. Disposal by incineration.

P 86-629

Importer. Confidential.
Chemical. (G) Aminocarboxylic acid, alkaline salt.
Use/Import. (G) Scale dissolver. Import range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-630

Manufacturer. Petroferm USA.
Chemical. (G) Dodecenyl succinamide.
Use/Production. (S) Industrial, commerical and consumer cream, emulsion stabilizer for oil/water mixtures. Prod. range: 1,000–4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-631

Manufacturer. Petroferm USA.
Chemical. (G) Protein associated dodecenyl succinamide.
Use/Production. (S) Industrial, commercial and consumer cream, emulsion stabilizer for oil/water mixtures. Prod. range: 5,800–19,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-632

Manufacturer. Confidential.
Chemical. (G) Urethane oligomer.
Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da.
Environmental Release/Disposal. No release.

P 86-633

Importer. DeVoe-Holbein Inc.

Chemical. (G) Trialkoxypropyl metallic oxide.

Use/Import. (G) Component in wastewater treatment systems, contain use. import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

Dated: March 10, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-5499 Filed 3-13-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180691; FRL-2985-3]

Pesticide Programs; Illinois and Kentucky Departments of Agriculture; Receipt of Applications for Specific Exemptions To Use A Pesticide for an Unregistered Use; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Illinois and Kentucky Departments, of Agriculture (hereafter referred to individually by state or collectively as "Applicants") for use of the unregistered product Harmony to control wild garlic in wheat. Harmony, manufactured by E.I. duPont deNemours and Company, contains the unregistered active ingredient methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate. EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before March 24, 1986.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180691," should be submitted—

By mail to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of the information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Rm. 236 at the address given above from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION:

By mail: Jack E. Housenger, Registration Division (TS-767C) Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicants have requested the Administrator to issue specific exemptions to permit the use of the unregistered product, Harmony, to control wild garlic in wheat. Information in accordance with 40 CFR Part 166 was submitted as part of these requests.

The Applicants have requested a maximum of one postemergence application of Harmony. Applications will be made between the 2-leaf and boot stage of wheat. A maximum of 0.67 pound of product is proposed to be applied per acre. A maximum of 96,000 acres of wheat is proposed to be treated in 46 counties in southern and southwestern Illinois and a maximum of 100,000 acres throughout Kentucky. If all of the acreage were treated, a maximum of 3,000 pounds of product would be needed in Illinois and a maximum of 3,125 pounds of product would be needed in Kentucky.

Applications are proposed to be made using either aerial or ground equipment. All applications are proposed to be made by or under the direct supervision of certified applicators. The Applicants have requested authorization to make treatments from March 1, 1986, to May 1, 1986.

The Applicants claim that emergency conditions exist due to new regulations under the U.S. Grain Standards Act which lower by two-thirds the amounts of wild garlic allowable in marketed wheat. If these new standards cannot be met, prices will be docked severely or the grain may be refused altogether. In any event, the economic consequences could be substantial if growers are unable to control wild garlic in wheat to meet this new standard.

The Applicants claim that the registered alternatives currently available do not provide the level of control of wild garlic sufficient to meet the more stringent grading standards. The Applicants claim that wheat growers have traditionally used 2,4-D and dicamba to control this weed. Specifically, Kentucky states that 2,4-D and dicamba provide only 60 to 70 percent control of wild garlic and Illinois claims that due to the cool, spring weather in that state, these chemicals provide only 25 to 40 percent control of wild garlic.

This notice does not constitute a decision by EPA on the application itself. It is the Agency's policy to solicit public comment on applications involving unregistered active ingredients. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above. The comments must be received on or before March 24, 1986 and should bear the identifying notation "OPP-180691." All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Illinois and Kentucky Departments of Agriculture.

Dated: February 26, 1986.

James W. Akerman,

Acting Director, Registration Division.

[FR Doc. 86-5748 Filed 3-13-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/47A; FRL-2985-2]

Pesticide Programs; Special Review of Certain Pesticide Products Containing Diazinon; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is extending the period for submittal of comments concerning the Notice announcing that EPA is

initiating a Special Review for all pesticide products that contain the active ingredient diazinon and that may be used on golf courses and sod farms. The Notice also announced the preliminary determination to cancel registrations and to deny application for diazinon products that may be used on golf courses and sod farms. These actions are based on the risks posed to avian species by the use of diazinon on these two sites.

DATE: The comment period will now close on March 28, 1986.

ADDRESS: Written comments identified as "OPP-30000/47A" should be sent—

By mail to: Information Services Section, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Ingrid M. Sunzenauer, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm: 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7416).

SUPPLEMENTARY INFORMATION: EPA issued a Notice initiating the Special Review of all pesticide products that contain the active ingredient diazinon and that may be used on golf courses and sod farms, which was published in the **Federal Register** on January 15, 1986 (51 FR 1842). The Notice also presented the basis for the issuance of the Preliminary Determination proposing to cancel registrations and deny applications for diazinon products that may be used on golf courses and sod farms. The Notice also informed the public of the availability of the Support Document, which discussed the Agency's analysis of the risks and benefits associated with diazinon use on golf courses and sod farms. The deadline for submitting comments on the Notice was March 3, 1986.

EPA has received numerous requests for additional time to submit comments from environmental groups, State personnel, and other agenices, who did not receive the Notice and the accompanying Support Document in time to comment.

The Agency concludes that the additional time would be beneficial to ensure the submission of complete responses to the Notice. Therefore, all registrants, applicant for registration, and other interested persons shalll have until March 28, 1986 to submit comments. These submissions should be sent to the Document Control Officer at the address given above. All comments should bear the identifying notation "OPP-30000/47A." Comments received on or before March 28, 1986, will be considered. Comments received after March 28, 1986, will be considered to the extent possible. All written comments filed will be available for public inspection in the office of the Document Control Officer at the above address from 8 to 4 p.m. Monday through Friday, excluding legal holidays. See the January 15, 1986 Notice for additional guidance on submitting comments, including instructions on submitting confidential business information.

Dated: March 7, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 86-5745 Filed 3-13-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-471]

Los Angeles Federal Savings Bank, Los Angeles, CA and Great American First Savings Bank, San Diego, CA; Final Action; Approval of Conversion Application

Dated: March 10, 1986.

Notice is hereby given that on February 12, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Los Angeles Federal Savings Bank, Los Angeles, California ("Los Angeles Federal") and Great American First Savings Bank, San Diego, California, for permission to convert Los Angeles Federal to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94108.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-5594 Filed 3-13-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-472]

Western Savings & Loan Association, Phoenix, AZ; Approval of Application To Withdraw Securities From Listing and Registration on the American Stock Exchange

Dated: March 10, 1986.

Notice is hereby given that on February 28, 1986, the General Counsel approved pursuant to delegated authority, the application filed on December 16, 1985, by Western Savings and Loan Association (the "Association") pursuant to Securities Exchange Act ("Exchange Act") section 12(d) and Exchange Act Rule 12d2-2(d), to withdraw from listing and registration on the American Stock Exchange (the "Exchange") its Permanent Reserve Guarantee Stock. Notice of this application was published in the **Federal Register** on February 6, 1986 and open for comment from the public until February 20, 1986. As noted in the earlier notice, the common stock of the Association will continue to be registered under the Exchange Act and is also listed and registered on the New York Stock Exchange. Copies of the application are available for inspection at the Public Information Services Section Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-5595 Filed 3-13-86; 8:45 am]

BILLING CODE 6720-01-M

[86-213]

FSLIC Insurance Premium

Dated: March 6, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), has adopted a resolution pursuant to which the Corporation ordered the assessment against each insured institution of an additional premium for FSLIC insurance in an amount equal to one-thirty-second of one percent of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1985.

EFFECTIVE DATE: March 6, 1986.

FOR FURTHER INFORMATION CONTACT: Mary A. Creedon, Director, Insurance Division, Office of the FSLIC, (202) 377–6620; or Terrill Rupp, Attorney, Office of General Counsel (202) 377–6773, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Assessment of Additional Insurance Premium

Whereas, The Federal Home Loan Bank Board ("Bank Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or "FSLIC"), may authorize the Corporation, pursuant to 404(c) of the National Housing Act, as amended ("NHA"), 12 U.S.C. 1727(c) (1982), to assess against each institution the accounts of which are insured by the Corporation pursuant to 403 of the NHA, 12 U.S.C. 1726 (1982) ("insured institution"), additional premiums for such insurance until the amount of such premiums equals the amount of all losses and expenses of the Corporation, *provided* that the total amount so assessed in any one year against any insured institution shall not exceed one-eighth of one per centum of the total amount of the accounts of the insured members of such institution; and

Whereas, The Bank Board, as operating head of the Corporation, by Resolution No. 85–142, dated February 22, 1985, by Resolution No. 85–437, dated June 5, 1985, by Resolution No. 85–770, dated August 28, 1985, and by Resolution No. 85–1142, dated December 9, 1985, ordered assessments against each insured institution of an additional premium for insurance in an amount equal to one-thirty-second of one per centum of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1984, for the first assessment, as of March 31, 1985, for the second, as of June 30, 1985, for the third, and as of September 30, 1985 for the fourth; and

Whereas, The Bank Board, as operating head of the Corporation, Resolution No. 85–142, expressed its intention to consider the assessment of further additional premiums in amounts equal to one-thirty-second of one per centum on a quarterly basis during 1986, not to exceed an aggregate of one-eighth of one per centum of the total amount of the accounts of the insured members of each insured institution; and

Whereas, The Bank Board has considered memoranda of the Corporate Accounting Branch and the Chief Financial and Administrative Officer, Office of the FSLIC, (a copy of which memoranda are in the Minute Exhibit file), describing the impact of the collection of the additional premiums for insurance assessed pursuant to Resolution No. 85–142, dated February 22, 1985, Resolution No. 85–437, dated June 5, 1985, Resolution No. 85–770, dated August 28, 1985, and Resolution No. 85–1142, dated December 9, 1985, upon the Corporation's insurance reserves:

Now, Therefore, It is Resolved, That on the basis of the administrative record, the Bank Board finds and determines that the Corporation has incurred substantial losses during calendar years 1981 through 1985; and

Resolved, Further, That the Bank Board finds and determines that:

1. Losses and expenses incurred by the Corporation, as defined in Resolution No. 85–142, require the assessment of additional insurance premiums pursuant to 404(c) of the NHA in addition to the additional insurance premiums assessed pursuant to Resolutions No. 85–142, No. 85–437, No. 85–770, and No. 85–1142, in order to maintain the insurance reserves of the Corporation at a level adequate to meet in part the Corporation's losses and expenses and to protect the insured members of insured institutions;

2. It appears that the Corporation will incur further substantial losses and expenses in calendar year 1986;

3. It is appropriate, therefore, to provide for the assessment of an additional insurance premium at this time, pursuant to 404(a)(2) of the NHA, by order of the Corporation; and

Resolved Further, That the Corporation hereby orders the assessment against each insured institution of an additional premium for insurance for the first quarter of 1986, in an amount equal to one-thirty-second of one per centum of the total amount of the accounts of the insured members of each insured institution determined as of December 31, 1985; and

Resolved Further, That the additional insurance premium assessed pursuant to this Resolution shall be payable on or about March 31, 1986; and

Resolved Further, That the Director or Deputy Director, Office of the FSLIC ("Director"), shall determine the amount of the additional premium due to be paid on March 31, 1986, by each insured institution and shall notify each insured institution of such amount at least twenty (20) days prior to the date such amount is due; and

Resolved Further, That the Director, on behalf of the Corporation, is hereby authorized to take all other actions necessary or appropriate to determine and collect the additional insurance premium authorized and ordered by this Resolution; and

Resolved Further, That the Secretary shall forward this Resolution for publication in the **Federal Register**.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–5593 Filed 3–13–86; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

Banc One Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 2, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President), 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to merge with Money Management Corporation, Merrillville, Indiana, thereby indirectly acquiring Bank of Indiana, N.A., Gary, Indiana.

Applicant has also applied to acquire British Swiss Trust Company of Charlottetown, Prince Edward Island, Canada, and thereby engage in administration of Canadian Pension Trusts, pursuant to section 4(c)(13) of the Bank Holding Company Act and § 211.5 of Regulation K. These activities would be conducted in Canada.

Board of Governors of the Federal Reserve System, March 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5577 Filed 3-13-86; 8:45 am]

BILLING CODE 6210-01-M

Citizens and Southern Georgia Holding Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 USC § 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR § 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 USC 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securites or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 5, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Citizens and Southern Georgia Holding Corporation*, Atlanta, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens and Southern National Bank, Atlanta, Georgia.

Applicant also proposes to acquire each of the following bank holding companies and engage in the listed activities: Citizens and Southern Mortgage Company, Atlanta, Georgia (real estate mortgate lending; loan sales and servicing); The Citizens and Southern Agency, Inc., Atlanta, Georgia (general insurance agency activities; pursuant to section 4(c)(8)(D) of the Bank Holding Company and § 225.25(b)(8) of Regulation Y); Citizens and Southern Data Processing, Inc., Atlanta, Georgia (data processing); Family Credit Services, Inc., Atlanta, Georgia (and its three wholly-owned subsidiaries, Family Credit Services, Inc., (Ala.), Family Credit Services, Inc., (Fla.), and Family Mortgage Services, Inc., (Ga.) (consumer finance; mortgage lending and related activities); The Citizens and Southern Life Insurance Company, Atlanta, Georgia (underwriting credit life and credit disability insurance; reinsuring similar risks; pursuant to § 225.25(b)(9) of Regulation Y); Citizens and Southern Securities, Inc., Atlanta, Georgia (discount brokerage); Citizens and Southern Investment Advisors, Inc., Atlanta, Georgia (portfolio investment advice).

Board of Governors of the Federal Reserve System, March 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5580 Filed 3-13-86; 8:45 am]

BILLING CODE 6210-01-M

CNB Corp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 5, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *CNB Corp, Inc.*, Windber, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank in Windber, Windber Pennsylvania. Comments on this application must be received not later than April 6, 1986.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F&M Bankshares of Reedsburg, Inc.*, Reedsburg, Wisconsin; to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers and Merchants Bank, Reedsburg, Wisconsin.

Board of Governors of the Federal Reserve System, March 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5579 Filed 3-13-86; 8:45 am]

BILLING CODE 6210-01-M

N.B.W.P., Inc., et al.;

Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage in *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 2, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *N.B.W.P., Inc.*, Berlin, Pennsylvania; to engage *de novo* through its subsidiary, Laurel Highland Life Insurance Company, Phoenix, Arizona, in acting as a reinsurer of credit life, accident and health insurance issued by Security of America Life Insurance Company in connection with extensions of credit made by the Applicant's subsidiary bank. These activities would be conducted as pursuant to § 225.25(b)(9) of Regulation Y. The extensions of credit will be conducted from the office of National Bank of Western Pennsylvania, located in Somerset and Fayette Counties of southwestern Pennsylvania.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Commerce Banchares, Inc.*, Houston, Texas; to engage *de novo* through its subsidiary, Texas Commerce Capital Markets, Inc., Houston, Texas, in underwriting and dealing in government obligations and money market instruments, pursuant to § 225.25(b)(16) of Regulation Y. This would include, for securities that member banks are authorized to underwrite and deal in under 12 U.S.C. 24 and 335, the buying and selling of such instruments for the account of and as agent for customers; trading for its own account; and underwriting such bank-eligible securities and money market instruments, under the same limitations as would be applicable to member banks. Texas Commerce Capital Markets will offer also portfolio investment advice to any person and financial advice to state and local governments, pursuant to §§ 225.25(b)(4)(iii), (iv), and (v) of Regulation Y with respect to the securities to be underwritten or brokered under § 225.25(b)(16).

Board of Governors of the Federal Reserve System, March 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5578 Filed 3-13-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on March 7, 1986.

Social Security Administration

(Call 301-594-5706 for copies of packages)

Subject: Disability Hearing Officer's Decision—Existing Collection
Respondents: Individual or households

Subject: Disability Hearing Officer's Report of Disability Hearing—Existing Collection
Respondents: State or local governments

Subject: Annual Survey of Refugees—Revision—(0960-0308)
Respondents: Individuals or households

Subject: Final Regulation Payment of Certain Travel Expenses—New
Respondents: Individuals or households
OMB Desk Officer: Judy A. McIntosh.

Office of Human Development Services

(Call 202-472-4415 for copies of packages)

Subject: Standard Setting Requirements for Medical and Non-Medical Facilities Where SSI Recipients Reside—Extension—(0980-0154)
Respondents: State or local governments
OMB Desk Officer: Judy A. McIntosh

Subject: Information Collection Requirements in **Federal Register** Notice on Family Violence Prevention and Services—NEW
Respondents: States, Indian Tribes
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

(Call 301-594-8650 for copies of packages)

Subject: Requests for Medicare Payment by Municipal Health Services Program Clinics—Extension—(0938-0091)
Respondents: State or local governments; Non-profit institutions
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

(Call 202-245-6511 for copies of packages)

Subject: Survey of Influences on the Supply of Long Term Care Services—New
Respondents: State or local governments
OMB Desk Officer: Judy A. McIntosh

Public Health Service

(Call 202-245-2100 for copies of packages)

Centers for Disease Control

Subject: Center for Disease Control Reproductive Outcome Surveillance—New
Respondents: Individuals or households

Food and Drug Administration

Subject: Follow Up of Growth Hormone Recipients—Extension—(0910-0221)
Respondents: Business or other for-profit; Non-profit institutions
OMB Desk Officer: Bruce Artim.

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the numbers shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: (name of OMB Desk Officer).

Dated: March 10, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-5655 Filed 3-13-86; 8:45 am]

BILLING CODE 4150-04-M

Private/Public Sector Advisory Committee on Catastrophic Illness; Notice of Establishment

Pursuant to Pub. L. 92-463, the Federal Advisory Committee Act, the Office of the Secretary, DHHS, announces the establishment by the Secretary of the Private/Public Sector Advisory Committee on Catastrophic Illness.

The Committee shall serve as a forum for the presentation of the views of the interested parties among the health care industry, the insurance industry, consumers, and others regarding the issues of catastrophic health care. Members will be called upon to analyze, evaluate and synthesize those views.

The Committee shall terminate on March 11, 1987, unless the Secretary, DHHS, formally determines that continuance is in the public interest.

Dated: March 12, 1986.

Thomas R. Burke,

Chief of Staff.

[FR Doc. 86-5737 Filed 3-13-86; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 86N-0039]

Color Additives: D&C Red No. 8, 9, 19, and 37; D&C Orange No. 17; and FD&C Red No. 3; Report Availability

Correction

In FR Doc. 86-4956, beginning on page 7856 in the issue of Thursday, March 6, 1986, make the following correction:

On page 7857, in the first column, the name appearing after "**FOR FURTHER INFORMATION CONTACT:**" should read "Paul D. Lepore".

BILLING CODE 1505-01-M

[Docket No. 86F-0075]

Allied Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Allied Corp. has filed a petition proposing to amend the food additive regulations to provide for the safe use of Nylon 6/66 copolymer resins as the non-food-contact layer in film constructions in which ionomeric resins are the food-contact surface. The multi-layer film construction is intended for cooking and holding food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3913) has been filed by Allied Corp., Morristown, NJ 07960, proposing that the food additive regulations be amended to provide for the safe use of Nylon 6/66 copolymer resins as the non-food-contact layer in multilayer film constructions in which ionomeric resins complying with 21 CFR 177.1330 of the food additive regulations are the food-contact surface. The multilayer film construction is intended for cooking and holding food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: March 3, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-5586 Filed 3-13-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86F-0059]

Velsicol Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Velsicol Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of dipropylene glycol dibenzoate in articles intended to contact food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3893) has been filed by Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to provide for the safe use of dipropylene glycol dibenzoate in polyvinyl acetate coating intended to contact food. The petition also requests the correction of the Chemical Abstracts Registry Number currently affixed to the listing of dipropylene glycol dibenzoate in § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) to read "CAS Reg. No. 27138-31-4."

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(2).

Dated: March 3, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-5587 Filed 3-13-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85M-0513]

Akorn, Inc.; Premarket Approval of the AK-Salt Tablet System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Akorn, Inc., Metairie, LA, for premarket approval, under the Medical Device Amendments of 1976, of the AK-Salt Tablet System (250-milligram salt tablets) for use with soft (hydrophilic) contact lenses. The AK-Salt Tablet System is intended for use in the preparation of 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by April 14, 1986..

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration Rm,. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard E. Lippman, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On June 4, 1985, Akron, Inc., Metairie, LA 70002, submitted to CDRH an application for premarket approval of the AK-Salt Tablet System (250-milligram salt tablets). The device is indicated for use in the rinsing and heat disinfection of soft (hydrophilic) contact lenses.

On July 15, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 19, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectivness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Richard E. Lippman (HFZ-460), address above.

The labeling of the AK-Salt Tablet System states that the solution prepared from the salt tablets is intended for use in heat disinfection of soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of the approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solution at the next printing or at such other time as CDRH prescribes by letter to the applicant. Such labeling informs new users of soft contact lenses that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41-58), as amended.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under §10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before April 14, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: March 6, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-5588 Filed 3-13-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0052]

CTL,. Inc.; Premarket Approval of CustomEyes™-38 S (Polymacon) Tinted Hydrophilic Bifocal Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by CTL, Inc., Raleigh, NC, for the premarket approval, under the Medical Device Amendments of 1976, of the CustomEyes™-38 S (polymacon) Tinted Hydrophilic Bifocal Contact Lens. The lens are to be tinted under an agreement with Bausch & Lomb, Inc., Rochester, NY, which has authorized CTL, Inc., to incorporate by reference information contained in its approved premarket approval application supplements for the Soflens® (polymacon) Bifocal Contact Lens P.A.1™ Lens Series. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the supplemental application.

DATE: Petitions for administrative review by April 14, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460),

Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On August 12, 1985, CTL, Inc., Raleigh, NC 27612, submitted to CDRH a supplemental application for premarket approval of the CustomEyes™-38 S (polymacon) Tinted Hydrophilic Bifocal Contact Lens. The lens is indicated for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic or hyperopic presbyopes requiring up to 1.50 diopters (D) of nominal functional add or 2.00 D of refractive add. The lens ranges in powers from −6.00 D to +6.00 D. It is to be disinfected using either a heat or chemical lens care system. The supplemental application provides for Bausch & Lomb, Inc., Rochester, NY, to supply the clear (untinted) finished lens to CTL, Inc. CTL, Inc., will tint the lens blue, green, aqua, brown, or yellow with one or more of the four color additives listed in 21 CFR 73.3117, 73.3118, 73.3119, or 73.3120 for use as a color additive in contact lenses. The application includes authorization from Bausch & Lomb, Inc., Rochester, NY, to incorporate by reference the information contained in its approved premarket approval application supplements for the Soflens® (polymacon) Bifocal Contact Lens P.A.1™ Lens Series (Docket No. 82M–0366). On October 17, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed the supplemental application and recommended approval of it. On January 27, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the CustomEyes™–38 S (polymacon) Tinted Hydrophilic Bifocal Contact Lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, the applicant shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before April 14, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: March 6, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–5589 Filed 3–13–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

National Strategic Materials and Minerals Program Advisory Committee Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that the National Strategic Materials and Minerals Program Advisory Committee (NSMMPAC) will meet on Tuesday, April 1, 1986, from 9:00 a.m. until 12:00 noon, or until business is concluded. The meeting will convene at the Department of the Interior, 18th and C Streets, NW, Washington, DC in Rooms 7000 A&B.

It will be open to the public.

The proposed agenda is:

9:00–9:30 Welcome and introductory remarks by the Chairman.

9:30–10:30 Subcommittee reports; recommendations for consideration by the Committee.

10:30–11:30 Assessment Report Task Force. Discussion and consideration of the Report to the Secretary.

11:30–Conclusion New business; discussion of future agenda.

Statements are invited from groups and members of the general public who have an interest in mining, minerals or materials issues. To ensure that time will be available to hear such statements, prospective witnesses are requested to notify the Committee Executive Director (see below) of their intention to appear.

For further information contact: Gully Walter, Department of the Interior, Washington, DC, Room 6650, (202) 343–2136.

Dated: March 6, 1986.

Gully Walter,

Executive Director.

[FR Doc. 86–5590 Filed 3–13–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT FES 86-4]

DEPARTMENT OF AGRICULTURE

Forest Service

Availability of Legislative Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior. Forest Service, Agriculture.

ACTION: Notice of availability of a legislative environmental impact statement (LEIS) for the proposed Bureau of Land Management-Forest Service Interchange.

SUMMARY: This LEIS assesses probable environmental consequences of a legislative action to transfer jurisdiction over certain Federal lands and minerals between the Department of the Interior, Bureau of Land Management and the Department of Agriculture, Forest Service.

The Interchange proposals (Proposed Action and alternatives) are expected to enhance public service, improve efficiency of the management of natural resources, and reduce agency costs. The following alternatives are analyzed:

Proposed Action (preferred alternative for which legislation is being submitted to Congress)
June 7 Alternative (original proposal released on June 7, 1985)
Intermingled Lands Alternative
Individual State Legislation Alternative
No-Action Alternative (continuation of present management).

Legislation would be needed to implement the Proposed Action or other alternatives except No Action.

FOR FURTHER INFORMATION CONTACT:

R. Max Peterson, Chief, USDA, Forest Service, P.O. Box 2417, Room 3008, South Building, Washington, DC 20013.

Robert F. Burford, Director, USDI, Bureau of Land Management 18th and C Streets, NW., Main Interior, Room 5660, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the LEIS may be obtained from the above offices, from State Offices of the Bureau of Land Management or Regional Offices of the Forest Service. Copies are also available for inspection at all field offices of the Forest Service and Bureau of Land Managment.

Dated: March 11, 1986.

Bruce Blanchard,

Director, Environmental Project Review, Department of the Interior.

Robert H. Tracy,

Assistant to the Chief, Forest Service, Department of Agriculture.

[FR Doc. 86-5653 Filed 3-13-86; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-18-85]

California; Filing of Plat of Survey

March 5, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mono County

T. 3 S., R. 27 E.

2. This supplemental plat of the SW ¼ section 36, Township 3 South, Range 27 East, Mount Diablo Meridian, California was accepted December 12, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management and the United States Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86-5584 Filed 3-13-86; 8:45 am]

BILLING CODE 4310-40-M

[C-1-86]

California; Filing of Plat of Survey

March 5, 1986.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mono County

T. 4S., R. 28 E.

2. This supplemental plat of section 2, Township 4 South, Range 28 East, Mount Diablo Meridian, California was accepted January 22, 1986.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management and the United States Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86-5583 Filed 3-13-86; 8:45 am]

BILLING CODE 4310-40-M

[Group 850]

California; Filing of Plat of Survey

March 5, 1986.

1. The plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 4 S., R. 7 W.

2. This plat, representing the dependent resurvey of a portion of the boundaries of Rancho La Sierra, Lot 37, a portion of the north boundary, and a portion of the subdivisional lines in Township 4 South, Range 7 West, San Bernardino Meridian, Califorina, under Group No. 850, California, was accepted February 20, 1986.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management and the United States Forest Service.

5. All inquires relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 86-5585 Filed 3-13-86; 8:45 am]

BILLING CODE 4310-40-M

Bureau of Reclamation

Garrison Diversion Unit, ND; Public Hearing on Draft Supplemental Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior hs prepared a draft supplemental environmental statement. This statement (INT–DES 86–9, dated March 6, 1986) was made available to the public on March 11, 1986.

This statement discusses impacts associated with modifications as proposed in the Garrison Diversion Unit Commission *Final Report* of December 20, 1986. Major modifications addressed in this draft supplemental environmental statement are (1) constructing and operating a 113,360-acre irrigation project; (2) developing lands for wildlife mitigation and enhancement; (3) restricting irrigation to lands that drain or can be drained into the Missouri River Basin; (4) deferring construction of Lonetree Reservoir and building Sykeston Canal; (5) constructing Glover Reservoir while preserving Kraft Slough; (6) providing water level control features for national wildlife refuges; and (7) providing for new and improved recreation areas. A public hearing will be held at 9:30 a.m., CST, April 15, 1986, at the Doublewood Ramada Inn, Bismarck, North Dakota.

Oral statements at the hearings will be limited to a period of 15 minutes. Speakers will not be allowed to trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to make comments have been heard.

Organizations or individuals desiring to present a statement at the hearing should contact the Regional Director, Bureau of Reclamation, Missouri Basin Region, P.O. Box 36900, Billings, Montana 59107–6900, telephone (406) 657–6605, or Project Manager, Missouri-Souris Projects Office, Bureau of Reclamation, P.O. Box 1017, Bismarck, North Dakota 58502, telephone (701) 255–4011, ext. 541, and announce their intention to participate prior to April 19, 1986.

Speakers will be scheduled according to the time preference mentioned in their letter to telephone request whenever possible. Any scheduled speaker not present when called will lose his or her privilege in the scheduled order and his or her name will be recalled at the end of the scheduled speakers. The final date for receipt of material submitted for the record will be 60 days after filing.

Comments will be received from other parties present following the presentation of scheduled testimony if time permits.

If further information is needed, phone (701) 255–4011, ext. 541.

Dated: March 6, 1986.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 86–5591 Filed 3–13–86; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30766]

Ashland Railway, Inc., Exemption From 49 U.S.C. 10901, 11301 and 11343

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission under 49 U.S.C. 10505 exempts from the requirement of prior approval, under 49 U.S.C. 10901, 11301, and 11343, the lease, operation, and future purchase by Ashland Railway, Inc. (AR) of 37.1 miles of track from Community Improvement Corporation of Ashland, Ohio, an Ohio non-profit corporation, the issuance by AR of securities and the holding of common control by G. David Crane of AR and Pocono Northeast Railway, Inc., subject to standard employee protective conditions, respectively. A petition for exemption from 49 U.S.C. 11322 to hold interlocking directorships was dismissed as moot.

DATES: This decision is effective on March 13, 1986. Petitions to reopen must be filed April 2, 1986.

ADDRESSES: Send petitions referring to Finance Docket No. 30766 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Ellen M. Burger, 1350 New York Avenue, NW., Suite 800, Washington, DC 20005–4797.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: March 10, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley dissented in part with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86–5645 Filed 3–13–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket 30784]

Evansville Connecting Railroad Co.; Merger Exemption; Seaboard System Railroad, Inc.

The Evansville Connecting Railroad Company (ECR) and Seaboard System Railroad, Inc. (SBD), jointly filed a notice of exemption for ECR to merge into SBD.

ECR is a wholly-owned subsidiary of SBD and is currently operated and managed by SBD as an integral part of the SBD system. Consummation of the merger will promote corporate simplification and eliminate the expenses and burdens associated with maintaining ECR's separate corporate entity. ECR will be dissolved as a separate corporate entity, and all of its assets and liabilities will be visited in SBD. No reduction in transportation facilities are contemplated.

This is a transaction within a corporate family of the type specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to the use of this exemption, any employees affected by the merger will be protected pursuant to *New York Dock Ry.—Control—Brooklyn Eastern District*, 360 I.C.C. 60 (1979).

Decided: February 26, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86–5646 Filed 3–13–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30790]

Indiana Harbor Belt Railroad Co.; Trackage Rights; Baltimore and Ohio Railroad Co.

The Baltimore and Ohio Railroad Company will agree to grant local trackage rights to The Indiana Harbor Belt Railroad Company between Hick

and Whiting, IN, a distance of approximately 2.6 miles. The trackage rights will be effective upon the commencement date specified in their trackage rights agreement.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at anytime. A filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: March 3, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-5647 Filed 3-13-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-52 (Sub-No. 46)]

The Atchison, Topeka and Santa Fe Railway Company—Abandonment in Beauregard, Vernon, and Allen Parishes, LA; Findings

The Commission has issued a certificate authorizing the Atchison, Topeka and Santa Fe Railway Company to abandon its 42.06-mile rail line between DeRidder (milepost 39.36) and Oakdale (milepost 81.42), in Beauregard, Vernon, and Allen Parishes, LA. The abandonment certificate will beome effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in boldface on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 86-5835 Filed 3-13-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Act of 1984; Petroleum Environmental Research Forum

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98-462 ("the Act"), Petroleum Environmental Research Forum ("PERF") has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to PERF and (2) the nature and objectives of PERF. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to PERF, and its general areas of planned activity, are given below.

PERF is an unincorporated association not organized for profit formed by and comprised of the following entities:

Amoco Oil Company, P.O. Box 400, Mail Station H-9, Naperville, Illinois 60566;
Atlantic Richfield Company, 515 South Flower St., AP 3325, Los Angeles, California 90071;
Champlin Petroleum Company, P.O. Box 7 (MS 2803), Fort Worth, Texas 76102;
Chevron Research Co., P.O. Box 1627, Richmond, California 94802-0627;
Conoco Inc., Petroleum R&D, P.O. Box 1267, Ponca City, Oklahoma 74603;
Exxon Research and Engineering Co., Route 22 East, Clinton Township, Annandale, New Jersey 08801;
Koch Refining Company, P.O. 64596, St. Paul, Minnesota 55164;
Mobil Research & Development Corp., Paulsboro Research Laboratory, Billingsport Road, Paulsboro, New Jersey 08066;
Murphy Oil USA, Inc., 200 Peach St., El Dorado, Arkansas 71730;
Occidental Petroleum Corporation, 10889 Wilshire Blvd., Suite 1500, Los Angeles, California 90024;
Pennzoil Company, Pennzoil Place, P.O. Box 2967, Houston, Texas 77252-2967;
Shell Development Company, P.O. Box 1380, Houston, Texas 77251-1380;
Standard Oil Company of Ohio, 4440 Warrensville Center Rd., Cleveland, Ohio 44128;
Sun Company, Inc., Sun Refining and Marketing Co., P.O. Box 1135, Marcus Hook, Pennsylvania 19061-0835;
Tenneco Inc., P.O. Box 2511, Houston, Texas 77001;
Texaco Refining & Marketing Inc., Port Arthur Research Laboratories, P.O. Box 1608, Port Arthur, Texas 77641;
Union Oil Company of California, 376 South Valencia Ave., P.O. Box 76, Brea, California 92621.

The objectives of PERF and its members and the area of planned activity in this project are to provide a forum for the collection, exchange, and analysis of research information relating to the development of technology for environmental pollution control and waste treatment for the U.S. Petroleum Industry, to disseminate such information, and to stimulate cooperative research and development in this field. PERF will continue in existence for an indefinite period of time. Any individual, firm, partnership, association or corporation that is engaged in the petroleum industry may apply for membership in PERF.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-5622 Filed 3-13-86; 8:45 am]

BILLING CODE 4410-01-M

Parole Commission

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: Parole Commission, Justice.

ACTION: Notice.

SUMMARY: The U.S. Parole Commission is implementing an experimental program to provide a substitute for Community Treatment Center residence for the 60 day period preceding the otherwise scheduled parole release date. This program, a joint effort of the U.S. Bureau of Prisons, the Probation Service of the U.S. Courts and the Parole Commission, is designed for prisoners who would otherwise qualify for Community Treatment Center residence but who have acceptable release plans and who do not require the support services provided by the Community Treatment Center. Pursuant to this program, a qualified and approved prisoner will have his parole release date advanced for up to 60 days on the condition that he remain at his place of residence during a specified period of time each night. This Special Curfew Parole Program will provide a significant resource savings to the Bureau of Prisons currently necessitated by budgetary constraints and deficit reduction legislation.

DATE: This program was put into effect on March 3, 1986.

FOR FURTHER INFORMATION CONTACT: Alan J. Chaset, Deputy Director of Research and Program Development, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, Telephone (301) 492-5980.

SUPPLEMENTARY INFORMATION: The U.S. Parole Commission is implementing an

experimental program for advancing the parole release dates for certain prisoners on the condition that, once released, they remain in their places of residence during a specified period of time each night. This Special Curfew Parole Program is intended to serve as a substitute for Community Treatment Center residence for a period of up to 60 days for those prisoners who qualify for and are accepted into the program. The program represents the joint efforts of the Parole Commission, the Bureau of Prisons and the U.S. Probation Service.

To be considered for the program, a prisoner (A) must apply on a form provided by the Bureau, (B) must have an effective parole release date and an acceptable release plan, and (C) be deemed by the Bureau as qualified for Community Treatment Center residence but not requiring further Community Treatment Center support services. Prisoners who meet these criteria will be referred by the Bureau to the Commission for placement in the program.

The Parole Commission has provided the Regional Commissioners with the authority, pursuant to 28 CFR 2.28(e), to approve placement in the program. Upon approval of the Bureau's referral, the Commission will advance the parole release date by up to 60 days and process the case in an expedited manner.

The Parole Certificate issued in these cases will contain the special condition that, during the first up to 60 days of parole the parolee will remain at his place of residence between the hours of 9:00 p.m. and 6:00 a.m. each night unless he is given permission in advance by his Probation Officer to be elsewhere. Further, he will maintain a telephone without a call forwarding device at his place of residence for the above period.

The Probation Service will provide high activity supervision of the parolee during the Special Curfew Parole period, including at least weekly contact with the parolee as well as monitoring this special condition by random, periodic telephonic contacts. The U.S. Probation Officer supervising the case is to promptly report to the Commission violations of this special condition. Failure to comply with this special condition may result in imposition of Community Treatment Center residence as a condition of parole, or revocation of parole and return to prison, as the circumstances warrant.

The U.S. Probation Officer supervising the case will be authorized to grant exceptions to the special condition for good cause (e.g., to permit overtime work, or an evening for shopping) consistent with the response of the parolee to supervision.

The Parole Commission is implementing this program as a cost reduction procedure through which the Bureau of Prisons is provided the opportunity to reduce the number and expense of inmates confined in Community Treatment Centers. This scaling down of Community Treatment Centers is necessitated by current budgetary constraints imposed by deficit reduction legislation. The Special Curfew Parole Program will provide considerable savings to the Bureau without reducing the control and supervision over these prisoners. Combining the screening process for identifying participants with the high activity supervision to be provided to those accepted will result in no diminishment to the protection of the public. Currently, prisoners residing in Community Treatment Centers, who do not require the support services there provided, leave the facilities each morning and do not have to return until, in some instances, as late as 11:00 p.m. Further, residents may be eligible for unsupervised weekend passes. Thus, those accepted into the Special Curfew Parole Program will be receiving at least as much scrutiny as they would if they resided in the Community Treatment Centers.

Dated: March 3, 1986.

Benjamin F. Baer,

Chairman, U.S. Parole Commission.

[FR Doc. 86-5486 Filed 3-13-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Allen Steel Co. et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretay of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later then March 24, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than March 24, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Aministration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 28th day of February 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner/union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Allen Steel Co. (union)	Salt Lake, UT	1-28-86	1-21-86	TA-W-17,241	Structural steel fabrication.
ASARCO, Inc. New Market Mine (union)	New Marker, TN	2-21-86	2-19-86	TA-W-17,242	Zinc mining.
Carol Company, Div. of Shaer Shoe Corp. (workers)	Lowell, MA	2-27-86	2-21-86	TA-W-17,243	Women dress shoes.
Duti Duds (workers)	Huddleston, VA	2-24-86	2-20-86	TA-W-17,244	Ladies suits, dresses and maternity tops.
Fieldcrest-Cannon, Inc. (workers)	Concord, NC	2-24-86	2-19-86	TA-W-17,245	Bedspreads, drapery material.
International Coal Processing Corp. (workers)	Slickville, PA	1-17-86	1-13-86	TA-W-17,246	Washes coal.
Jack Rogers, Inc. (workers)	Miami, FL	1-7-86	12-29-85	TA-W-17,247	Shoes-womens.
John L. Renninger (union)	Quakertown, PA	2-24-86	2-21-86	TA-W-17,248	Ladies slacks and shirts.
Lake Region Lumber Co. (workers)	Casco, ME	2-21-86	2-18-86	TA-W-17,249	Lumber products.
On Site Machine Service, Inc. (company)	Farmington, NM	2-24-86	2-1-86	TA-W-17,250	Uranium mining.

APPENDIX—Continued

Petitioner/union workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Ramco Enterprises (workers)	Puyallup, WA	2-26-86	2-21-86	TA-W-17,251	Telephones, switches, jacks, etc.
Ree Bee Sportswear Inc. (workers)	New York, NY	2-20-86	2-13-86	TA-W-17,252	Swim suits
Silver King Mines Inc. North and South Morton Ranch Uranium Project (workers).	Casper, WY	2-25-86	2-13-86	TA-W-17,253	Uranium mine and milling.
UNC, Mining and Milling (workers)	Gallup, NM	2-24-86	2-21-86	TA-W-17,254	Uranium mining and milling.
Wismer Clothing Co. (union)	Silverdale, PA		2-21-86	TA-W-17,255	Ladies slacks and shirts.

[FR Doc. 86-5666 Filed 3-13-86; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-16, 568]

Amtex, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 21, 1985 in response to a worker petition received on October 15, 1985 which was filed on behalf of workers at Amtex, Incorporated, Cleveland, Tennessee.

A negative determination applicable to the petitioning group of workers was issued on September 18, 1985 (TA-W-15, 857). No new information is evident which would result in a reversal of the Department's previous determination. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 28th day of February 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-5669 Filed 3-13-86; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-16, 512]

AT&T Technologies, Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 7, 1985, in response to a worker petition which was filed by the Communications Workers of America on behalf of workers at AT&T Technologies, Inc., Berkeley Heights, New Jersey.

The Berkeley Heights, New Jersey location is the corporate headquarters for AT&T Technologies, Inc.

In the course of the investigations, it was ascertained that it was not the union's, and petitioner's intent to file a trade adjustment assistance petition on behalf of the headquarters staff of AT&T Technologies, Inc. The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 28th day of February 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-5667 Filed 3-13-86; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-16,233]

Martin Marietta Energy Systems, Inc.; Negative Determination Regarding Application for Reconsideration

By an application dated January 22, 1986 the Oil, Chemical & Atomic Workers (OCAW) requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of former workers at Martin Marietta Energy Systems, Incorporated, Oak Ridge, Tennessee. The notice of negative determination was published in the **Federal Register** on January 7, 1986 (51 FR 694).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous.

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The union claims that the subject uranium enrichment plant is being phased out because of its inability to compete with enriched uranium prices of foreign countries and production is being curtailed. The union also claims that two domestic customers will be purchasing enriched uranium from Europe in January, 1986.

The findings in the Department's investigation for adjustment assistance did not substantiate that increased imports contributed importantly to worker separations. U.S. imports of enriched uranium were negligible in 1983, 1984 and 1985. The Department of Energy (DOE) controls the uranium enrichment production in the U.S. through contracts with private companies like Martin Marietta Energy Systems. A substantial amount of DOE's uranium enrichment sales was lost to the European market in recent years. Loss of sales to the export market would not be a basis for certification.

The findings also show that purchases by the two domestic customers who have allegedly contracted with foreign countries for enriched uranium were insignificant in relation to domestic production.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 3rd day of March 1986.

James D. Van Erden,

Acting Deputy Director, Office of Program Management, UIS.

[FR Doc. 86-5668 Filed 3-13-86; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-16, 298]

Oneida, Ltd.; Affirmative Determination Regarding Application for Reconsideration

By an application dated February 12, 1986, the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of workers and former workers at the Executive Offices of Oneida Ltd., Oneida, New York. The determination was published in the **Federal Register** on January 28, 1986 (51 FR 3523).

The application claims that the Department did not take into consideration all the employment at the

Executive Offices of Oneida Ltd., Oneida, New York.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is therefore granted.

Signed at Washington, DC, this 5th day of March 1986.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 86-5670 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications, Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The additions to the annual list are effective on March 1, 1986.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, 601 D Street, NW., Attention: TEESS, Washington, DC 20213. Telephone: 202-376-6191.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce susbstantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981, (46 CFR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on October 11, 1985 (50 FR 41606).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor suprlus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) and are added to the annual list of labor surplus areas, effective March 1, 1986.

The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, DC on March 7, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

Additions to the Annual List of Labor Surplus Areas (March 1, 1986).

Labor surplus area	Civil jurisdiction included
Arkansas: Calhoun County	Calhoun County.
Florida: Franklin County	Franklin County.

[FR Doc. 86-5665 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-30-M

State Employment Security Agency System Administrative Financing; Roundtable Workgroup Meeting

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and purpose for a meeting of the Roundtable workgroup on the administrative financing mechanism for the State Employment Security Agency programs.

DATE: March 25, 1986, 9:00 a.m. to 4:00 p.m..

ADDRESS: Frances Perkins Building, Room S2217, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, 601 D Street, NW., Washington, DC 20213 (202/376-6636).

SUPPLEMENTARY INFORMATION: The Department of Labor has initiated a thorough policy review of the current administrative financing of State Employment Security Agency programs. As part of this review, four public meetings were held in January and written comments were solicited by notice published in the **Federal Register** on December 20, 1985 (50 FR 51955). As part of the comment process, a Roundtable workgroup has also been established, composed of thirteen members: Four public sector members and three members each from the business, labor and State government sectors. The purpose of this first meeting of the Roundtable workgroup is to review the results of the public consultation process and to formulate recommendations to the Department on principles and options for responding to problems raised by the comments received.

Signed at Washington, DC, on March 7, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86-5661 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-30-M

Summary of Public Comments on State Employment Security, Agency System Administrative Financing

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of summary of public comments.

SUMMARY: This notice announces the summary of public comments received in response to notices published in the **Federal Register** on December 20, 1985, (50 FR 51955) concerning State Employment Security Agency administrative financing issues.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, 601 D Street, NW., Washington, DC 20213 (202/376-6636).

SUPPLEMENTARY INFORMATION: Public meetings were held by the Department of Labor in Dallas, Texas, Chicago, Illinois, Washington, DC, and San

Francisco, California, in January 1986. There were 198 registered attendees at the meetings, of whom forty-nine provided oral comments. Additionally, written comments from eighty-four respondents were received by the Department. Comments were received from a wide variety of parties interested in administrative financing of the State Employment Security Agency system, including State agencies, State governors, business and labor groups, and other parties. Respondents identified problems in the administrative financing process and made recommendations for short-term and long-term solutions

The following tables provide a summary of these comments, indicating the type of group responding. The Department of Labor will review these comments in consultation with a Roundtable workgroup established for this purpose.

Notice of the Department's decisions will be published in the **Federal Register.**

Signed at Washington, DC, on March 7, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

State Employment Security Agency, Administrative Financing Initiative Summary Analysis of Comments

	Total	SESAs	Governors	Business	Labor	Other
Table A: Problem Identification						
Disincentives for productivity	48	32	11	1	1	3
Insufficient funding for program/projects	39	23	7	2	3	4
Quarterly recapture of unused funds	34	22	10		2	
Cost Model MPU reductions	31	21	7		1	2
No fixed cost recognition for NPS, AS&T, support	31	21	7		2	1
Not responsive to actual SESA needs	23	10	5	3	1	4
Too much federal intervention/monitoring	18	9	8			1
Use of "Low Quarter" workload in budget formulation/allocation	16	11	5			
Too much detail and complexity in budget process	16	10	5	1		
Questionable accuracy of federal workload forecasts	13	7	5		1	
Wide variation in Cost Model MPUs	12	9	3			
Not enough SESA participation	10	8	1			1
ESAA reserves too high	9	2	3	1		3
Trust Funds part of the unified budget	8	3	2		1	2
No recognition of FUTA contributions in allocation formula	8	1	2	4		1
Lack of flexibility for SESAs	7	1	2	3		1
Lower funding rate of contingency resources	7	5	2			
Inadequate/fluctuating funds for Benefit Payment Control	7	5	2			
Slow response on supplemental budget requests	7	6	1			
Contingency funding on lesser of earned/used resources	6	4			2	
Different fiscal years among programs	5	4	1			
No recognition of administrative funding impact on Trust Fund	5	3				2
Taxable wage base too low	2	2				
Compartmentalization of UI/JS	1					1
Instability of resources from year to year	1			1		
Table B: Short-Term Solutions						
No recapture/annual carry-over of unused funds	59	38	15	2	2	2
Give SESAs more flexibility; bottom-line authority	45	22	13	3	2	5
Recognize fixed costs in NPS, AS&T, support, etc	37	23	11		1	2
Use more realistic workload forecasts	29	16	10	2		1
Higher funding of contingency resources	28	19	8			1
Fully fund MPUs	28	17	9	1	1	
Adequate funding for administrative financing as whole	23	16	3	1	2	1
Incentives for productivity	17	12	4			1
Pay for above-base resources earned but not used	17	10	7			
Minimum level of funding	13	6	4	2	1	
Less federal monitoring	10	8	1			1
SESA participation in allocation/execution of budget	8	4	3			1
Reflect realistic SESA variations in allocation	8	7				1
Improve Cost Model Management System	7	5	2			
Simplification of program provisions	5	4				1
Fund new cost accounting system	5	4	1			
Training and technical assistance for SESAs	3	1			1	1
Consistency between formulation and allocation methods	3	1	2			
Better timeliness on SBR's	3	2				1
Exempt UI from OMB ruling on paying interest on leases	3	3				
ETA play advocate role with Congress	1	1				
Reduce number of contingency categories	1	1				
Determine adequate cost-effective measures for JS	1		1			
Table C: Long-Term Solutions						
Oppose devolution	33	17	8	2	4	2
Exempt Trust Funds/FUTA from unified budget	27	14	7	2	1	3
Block-grant allocation	19	14	4	1		
SESA participation in budget formulation	19	8	6	1	1	3
Provide separate sinking/loan fund for automation	18	13	5			
Fiscal Year July 1 to June 30; fund UI on 2-year cycle	11	8	3			
Devolution	10	6	2	2		
Lower ESAA reserves held	9	5	2		1	1
Continue discussion on devolution	8	5	3			
Relate FUTA contributions to SESA funding	6	2	2	2		
Give FUTA credits in SESAs exceeding performance standards	5	1	4			
Reduce performance standards; let SESAs set standards	5	4				1
Fund TAA from general revenues	4	4				
Reimbursable employers to contribute administrative costs	3	3				
Recognize integration of JS and UI	3		1		1	1
Form national commission to study UI reform	3	1	1	1		
Increase taxable wage base	2	2				
Federal/SESA matching grants for UI administration	2	1				1
Develop national plan/network for automation	2					2
Use Penalty & Interest funds for additional resources	1	1				

—Continued

	Total	SESAs	Governors	Business	Labor	Other
Increase general revenue share of JS, VES, LMI	1	1				
Cap ESAA with excess funds to JS or employers	1					1
Devolution with modifications	1	1				
Alternative funding sources: payroll/employee tax, state source	1					1
Reduction of employer taxes if SESA administrative funds cut	1	1				

Footnote: Definition of Acronyms Used: AS&T Administrative Staff and Technical Services, ESAA Employment Security Administration Account, ETA Employment and Training Administration, FUTA Federal Unemployment Tax Act, JS Job Service, LMI Labor Market Information, MPU Minutes Per Unit, NPS Nonpersonal Services, OMB Office of Management and Budget, SBR Supplemental Budget Request, SESA State Employment Security Agency, TAA Trade Adjustment Assistance, UI Unemployment Insurance, VES Veteran Employment Service.

[FR Doc. 86-5662 Filed 3-13-86; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration Wage and Hour Division

Mimimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decisions, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GOP) document entitled "General Wage Determinations Issued Under The Davis-Bacon Act Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume II:		
Ohio	OH86-30	pp. 795a-795b.
Ohio	OH86-31	pp. 795c-795d.
Volume III:		
North Dakota	ND86-3	pp. 212a-212b.
North Dakota	ND86-4	pp. 212c-212f.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I:		
New York	NY86-1 (Jan. 3, 1986).	p. 642.
New York	NY86-10 (Jan. 3, 1986).	pp. 725-728.
New York	NY86-12 (Jan. 3, 1986).	pp. 743-745.
New York	NY86-17 (Jan. 3, 1986).	pp. 776-779.
West Virginia	WV86-2 (Jan. 3, 1986).	pp. 1116-1137.
West Virginia	WV86-3 (Jan. 3, 1986).	pp. 1139-1150.
Volume II:		
Iowa	IA86-6 (Jan. 3, 1986).	p. 52.
Indiana	IN86-1 (Jan. 3, 1986).	pp. 220, 222.
Indiana	IN86-2 (Jan. 3, 1986).	pp. 226-227. pp. 234-235. p. 237. pp. 243-244.
Indiana	IN86-3 (Jan. 3, 1986).	pp. 251-253. pp. 256-257.
Indiana	IN86-4 (Jan. 3, 1986).	pp. 263-264.
Indiana	IN86-5 (Jan. 3, 1986).	pp. 274-276. pp. 279-280.
Indiana	IN86-6 (Jan. 3, 1986).	p. 284, pp. 286-287, p. 292.
Ohio	OH86-3 (Jan. 3, 1986).	p. 698.
Ohio	OH86-12 (Jan. 3, 1986).	p. 719.
Ohio	OH86-18 (Jan. 3, 1986).	p. 731.

Ohio	OH86-20 (Jan. 3, 1986).	p. 735.
Ohio	OH86-23 (Jan. 3, 1986).	p. 741.
Texas	TX86-14 (Jan. 3, 1986).	p. 852.
Listing by decision (index).		p. liv.
Listing by location (index).		p. xxxi. pp. xxxvi-xxxix.
Volume III:		
Alaska	AK86-1 (Jan. 3, 1986).	pp. 2-5, p. 8.
California	CA86-2 (Jan. 3, 1986).	pp. 44-47. pp. 50-52.
Hawaii	HI86-1 (Jan. 3, 1986).	pp. 120-123.
Washington	WA86-3 (Jan. 3, 1986).	p. 340.
Washington	WA86-7 (Jan. 3, 1986).	p. 362.
Listing by decision (index).		p. xxvii.
Listing by location (index).		p. xxii, pp. xxiv-xxvi.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 7th day of March 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-5387 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated August 23, 1985, from Jim Robison, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State Standards Amendment comparable to Table Z-1 (Ethylene Oxide), 29 CFR 1910.1000, as published in the **Federal Register** (49 FR 25796) dated June 22, 1984. These State standards, which are contained in AAC 04.010(a), Table 1-1, were amended after publication on April 15, 1985, in Statewide media. The public comment period was open for thirty days by Jim Robison, Commissioner, under authority vested by AS 19.60.020. No requests for public hearings were received.

2. Decision

The above State standard has been reviewed and compared with the relevant Federal standard and OSHA has determined that the State standard is identical. OSHA therefore approves this standard amendment.

3. Location of supplement for inspection and copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law which included public comments and further public participation would be unnecessary.

This decision is effective March 14, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 20th day of February 1986.

James W. Lake,

Regional Administrator.

[FR Doc. 86-5671 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-26-M

Arizona State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator-OSHA) under a delegation of authority from the Assistant Secretary of Labor for

Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On October 29, 1974, notice was published in the **Federal Register** (39 FR 39037) of the approval of the Arizona plan and adoption of Subpart CC to Part 1952 containing the decision.

The Arizona plan provides for the adoption of Federal standards as State Standards after public hearing. In response to Federal Standard changes, the State has submitted its changes by letter, with attachments, dated October 1, 1985, from Larry Etchechury, Director, to Russell B. Swanson, Regional Administrator, and incorporated as part of the plan. The State standards reflect Federal standard changes to 29 CFR 1910.1047, Ethylene Oxide (June 22, 1984, 50 FR 25796 and March 12, 1985, 50 FR 9800) and 29 CFR 1910.241, definitions (February 1, 1985, 50 FR 4648). These standards are contained in the Arizona Occupational Safety and Health Standards, which were adopted after public hearings and the resolution adopted by the Industrial Commission of Arizona, Division of Occupational Safety and Health Act of 1972.

2. Decision

Having reviewed the State submission in comparison with Federal standards, it has been determined that the State Standards are identical to the comparable Federal standards and accordingly should be approved.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco, California 94102; and Director, Division of Occupational Safety and Health, 800 W. Washington, Phoenix, AZ 85007; and Directorate of Federal/State Operations, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite/the review process or for other cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Arizona plan as a proposed change and making the OSHA Regional Administrator's approval effective upon publication for the following reasons:

The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

The standards were adopted in accordance with the procedural requirements of State law which include public comment and further public participation would be repetitious.

The decision is effective March 14, 1986.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at San Francisco, California, this 17th Day of October, 1985.

Hamilton H. Fairburn,

Acting Regional Administrator.

[FR Doc. 86–5672 Filed 3–13–86; 8:45 am]

BILLING CODE 4510-26-M

Oregon State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Admininstrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards that are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the "at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letters dated January 9, 1985, January 10, 1985, and June 11, 1985, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, amendments to State standards comparable to: Occupational Exposure to Ethylene Oxide, 29 CFR 1910.1047 as published in the **Federal Register** (49 FR 25734) on June 22, 1984; Table Z–1 (Ethylene Oxide), 29 CFR 1910.1000 as published in the **Federal Register** (49 FR 25734) on June 22, 1984; Special Provisions for Air Contaminants (Ethylene Oxide), 29 CFR 1910.19 as published in the **Federal Register** (49 25734) on June 22, 1984; Change in Effective Date and Approval of Information Collection Requirements (Ethylene Oxide), 29 CFR 1910.1047 as published in the **Federal Register** (50 FR 9800) March 12, 1985.

On November 1, 1984, November 20, 1984, and April 16, 1985, Notices of Proposed Amendment of Rules were mailed to those persons on the State's mailing list established pursuant to OAR 436–90–505. The Notices were published in the State Administrative Rules Bulletin on November 1, 1984, November 15, 1984, and April 15, 1985. These actions failed to elicit requests for public hearings. The State's rules pertaining to Occupational Exposure to Ethylene Oxide and Special Provisions for Air Contaminants (Ethylene Oxide), contained in OAR Chapter 437, Division 156, were adopted on December 20, 1984, and become effective December 21, 1984. The State's rule pertaining to Table Z–1 (Ethylene Oxide), contained in OAR Chapter 437, Division 114, was adopted on December 20, 1984, and became effective January 1, 1985. The State's rule pertaining to a change in the Effective Date and Approval of Information Collection Requirements (Ethylene Oxide), contained in OAR Chapter 437, Division 156, was adopted and became effective May 21, 1985.

2. Decision

Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards amendments are substantially identical to the comparable Federal standards amendments. The State has included Special Provisions for Air contaminants (Ethylene Oxide), comparable to 29 CFR 1910.19(h), within the scope of Occupational Exposure to Ethylene Oxide, OAR Chapter 437, Division 156. Other differences are the incorporation of the State's rule numbering system, references to other State rules, and editorial changes. The above State standards have been reviewed and

compared with the relevant Federal standards and OSHA has determined that the State standards are at least as effective as the comparable Federal standards as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standards are minimal and that the standards are thus substantially identical. OSHA therefore approves these standards; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workers' Compensation Department, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N-3476, 200 Constitution Avenue NW., Washington DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expdite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with the procedural requirements of State law and further participation would be unnecessary.

This decision is effective March 14, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 11th day of February 1986.

James W. Lake,

Regional Administrator.

[FR Doc. 86-5673 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Application No. 5764 et al.]

Proposed Exemptions; North Dakota Automobile and Implement Dealers Insurance Trust et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC. 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

North Dakota Automobile and Implement Dealers Insurance Trust (the Trust) Located in Fargo, North Dakota

[Application No. L-5764]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b) (1), and (b) (2) of the Act shall not apply to the proposed sale of certain tangible personal property (the Property) by the Trust to Association Services Inc. (ASI), a wholly-owned subsidiary of the Automobile Dealers Association of North Dakota (ADAND) and the North Dakota Implement Dealers Association (NDIDA, collectively, the Associations), provided that the sales price is not less than fair market value of the Property at the time of the sale.

Summary of Facts and Representations

1. The Trust was created in 1949 by ADAND and by NDIDA for the purpose of providing health and welfare benefits. Some of the members of ADAND and NDIDA are automobile and implement dealerships (the Dealerships) who are employers who maintain separate plans (the Separate Plans) the assets of which are held in the Trust.[1] There are

[1] See Advisory Opinion 85-42A dated December 16, 1985, which held that the Trust was not a plan itself but that each employer member of ADAND and NDIDA which has elected to provide benefits for its employees through a subscription agreement with the trustees of the Trust would be maintaining its own separate employee welfare benefit plan for pusposes of Title I of the Act.

currently 2,300 participants in the Separate Plans. Individual owners of the Dealerships may be participants under the Separate Plans. As of September 30, 1984, the Trust held plan assets totalling $1,830,904.

2. Nine individuals serve as trustees of the Trust (the Trustees). Four Trustees are appointed by the board of directors of ADAND, four are appointed by the board of directors of NDIDA, and one additional Trustee is elected by the other eight Trustees. Four of the nine Trustees, as of November 16, 1984, are officers and/or directors of ADAND; two others are either an officer or a member of the executive committee of NDIDA; and the three remaining Trustees are not currently officers or directors of either of the Associations. All of the Trustees are owners and/or officers of the Dealerships.

3. Prior to October 1, 1982, the Trust oprated on an uninsured or only partially insured basis and developed claim reserves (the Reserves). After October 1, 1982, the Trust became fully insured. Because it is represented that there is no need for the Reserves and that the Reserves should not be allowed to further accumulate, the Trustees have determined to liquidate the Trust. To accomplish liquidation, the Trust must dispose of the Property, which consists of office furniture (the Furniture), an IBM System 34 office computer (the Computer), and certain software (the Software). The Software is currently used with the Computer to process the billing of premiums to participants and their employers, to keep the records of claims received and paid, and to prepare financial reports on the operations of the Trust. The transaction for which an exemption is requested is the cash sale by the Trust of the Property to ASI, which will be created as a wholly-owned subsidiary of the Associations.[2] The proposed purchase price for the Property totals $60,421, which represents approximately 3.3% of the Trust's assets.

4. The Furniture was inventoried and appraised on November 26, 1984, by Mr. Jerry Olmstead, Vice President of the Pierce Company, a dealer in office equipment and supplies in Fargo, North Dakota, at a retail fair market value which totals $31,720. It is represented that ASI will pay the Trust the retail price, even though the Furniture is used, because the convenience of purchasing the existing Furniture will save ASI the time and money which would otherwise be expended in searching for new furnishings. It is represented that neither of the Associations, ASI, nor any one of the Dealerships have any ownership interest in the Pierce Company, nor is the Pierce Company a member of the Associations.

5. Mr. Bruce Duncomb, representative for Midland Financial in Minneapolis, Minnesota, Mr. Jack DeRosa, account executive of Source Data Products, Inc. in Santa Cruz, California, and Mr. Terrence P. Lyne, purchasing representative of the Datacomp Group in Hinsdale, Illinois, each offered written estimates of the fair market value of the Computer at $4,050, $3,000, and between $2,100 to $2,500, respectively. It is represented that ASI will pay the Trust $3,525 for the Computer which is the average of the two highest estimates. The Associations, the member Dealerships in the Associations, the individual owners of Dealerships which are members in the Associations, and the Trustees do not own directly or indirectly any interest in any of the three companies which offered estimates, of the value of the Computer, nor are they responsible for more than 1% of the annual business revenues of any of the three companies.

6. The Software was appraised on November 21, 1984, by Mr. Dennis Lowther (Mr. Lowther) of the Lowther Corporation Computer Services (the Lowther Corp.), located in Fargo, North Dakota, at a total value of $25,176. This amount includes the original developmental cost to the Trust for system design, programming, and operator training. It is represented that the Software has no resale value to a third party other than ASI. ASI would have to pay replacement costs in order to duplicate the existing Software. According to Mr. Lowther, the investment required to replace the Software would be considerably less than $25,176, because the operators are already trained, and the system has been designed. Therefore, to the extent that the Trust is reimbursed the original developmental cost of the Software, the Trust will realize an amount in excess of the replacement value of the Software. It is represented that neither of the Associations, ASI, nor the Dealerships have any ownership interest in the Lowther Corp., nor is the Lowther Corp. a member of the Associations.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (1) it is a one time cash sale that will require no on-going supervision; (2) it is necessary to facilitate the liquidation of the Trust; (3) the sale to ASI will save the Trust the costs and delays associated with locating other pruchasers; and (4) the price to be paid by the Trust for the Property represents the total of the retail value of the Furniture, the fair market value of the Computer, and the developmental value of the Software.

For Further Information Contact: Ms. Angelena C. Le Blanc of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Johnson & Swanson Cash or Deferred Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Application No. D-6351]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed purchases, from time to time during a five-year period, for participant-directed accounts (the Directed Accounts) under the Plan from such participants (the Requesting Individuals) of notes or undivided interests in notes (collectively, the Notes) evidencing loans made by the Requesting Individuals to Johnson & Swanson (the Employer), in which the Requesting Individuals are either general partners or officers and employees, provided the purchase price is not more than the fair market value of the Notes on the date of each purchase; and (2) the continued holding for the Directed Accounts of such Notes until they are fully paid, provided the terms of such transactions are at least as favorable to the Directed Accounts as the terms the Directed Accounts could obtain in similar transactions with an unrelated party.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant with respect to the purchase of any Note. Subsequent to the expiration of this exemption, Notes purchased during this five-year period may be held for the Directed Accounts until the Notes are fully paid. Should the applicants wish to continue the proposed purchase transactions beyond

[2] The Department currently has under consideration an advisory opinion request from the applicants herein concerning, among other things the distribution of the assets of the Trust upon liquidation. This exemption, however, extends relief solely for the sale of the Property by the Trust to ASI.

the five-year period, they may submit another application for exemption.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan providing benefits to self-employed individuals, as well as common-law employees. As of September 30, 1984, the Plan covered 249 participants. The amount of the aggregate vested account balances under the Plan of all Requesting Individuals was $2,792,052.46 as of September 30, 1985. RepublicBank Dallas, N.A. (the Trustee) is the trustee of the Plan, but an investment committee (the Investment Committee), appointed by the Employer, directs Plan investments. However, the Plan expressly provides, in pertinent part, for individual accounts and that each participant whose aggregate vested account balances under the Plan equal at least $5,000 may direct the Investment Committee to transfer all or part of the vested amounts credited to his accounts under the Plan to a Directed Account, to be invested by the Trustee in accordance with such participant's direction, provided such transfers exceed specified amounts. The Plan further requires the Investment Committee to allocate and credit solely to a participant's Directed Account the income, losses, appreciation, and depreciation attributable to such account and to charge all expenses associated with a transaction directed by a participant regarding his Directed Account to such participant.

2. The Requesting Individuals are: Mr. Jay E. Markley, Manager of Planning of the Employer; Mr. Gary W. Eden, Business & Finance Manager of the Employer; and 58 of the general partners of the Employer (named in an attachment to the exemption application). As of May 31, 1985, the Employer had 69 active partners. All of the Requesting Individuals participate in the Plan and none of them are owner-employees within the meaning of section 401(c)(3) of the Code. As general partners and officers of the Employer, they are fully informed of the economics and financial outlook for the Employer, according to the applicants.

3. Information submitted by the applicants shows that the Trustee is not related in any way to most of the Requesting Individuals and has only *de minimus* relationships with the remaining Requesting Individuals and the Employer. For example, seven Requesting Individuals have loans from the Trustee aggregating less than 0.0035% of the Trustee's total outstanding loans as of September 30, 1985; four Requesting Individuals and the Employer maintain checking or other accounts with the Trustee, aggregating less than 0.0001% of the Trustee's total deposits as of September 30, 1985; one Requesting Individual owns less than 0.003% of the shares outstanding of RepublicBank Corporation, the parent corporation of the Trustee. During its fiscal year ended September 30, 1985, the Employer performed legal services for the Trustee in the amount of $63,000 and also performs legal services for various business entities invloving an outside director of RepublicBank Corp., Mr. David Florence. The other *de minimums* relationships described by the applicant are even less substantial.

4. In July 1983, renovation construction began on a Dallas historical land market at 900 Jackson Street, in which the Employer intended to lease space to house its main business offices. The Employer, as principal lessee, undertook to furnish on its own the leasehold improvements for its new offices. To raise cash to fund the leasehold improvements for its new offices, the Employer borrowed certain amounts from InterFirst Bank Dallas, N.A. (InterFirst) and additional amounts from the Requesting Individuals. Each of the partners of the Employer, Mr. Gary W. Eden, and Mr. Jay E. Markley made funds available to the Employer and received in return four Notes. The Notes are unsecured, bear interest on their original stated principal amounts at the rate of 14% per annum, and are amortized over 10 years in equal quarterly installments of principal and interest, begining September 13, 1984 and ending August 31, 1995, when all Notes must be fully paid. The Notes range in original principal amount from $2453 to $17,709 and the aggregate principal under the Notes equals $1,993,613.

5. Because of the high yield on the Notes and the Requesting Individuals' confidence in the credit of the Employer as payer of the Notes, the Requesting Individuals wish to sell, from time to time, some of all or their Notes to the Trustee for allocation to their Directed Accounts. Such sales would be limited so that at no time would more than 25% of a Requesting Individual's Plan accounts be invested, immediately after such a sale, in the Notes. If the proposed exemption is granted, sale of all Notes will occur on the same date, no more freqently than quarterly, as determined by the Plan's Investment Committee; all such sales will occur during the five-year period following the date the exemption is granted. No partner or employee of the Employer who holds Note will in any sense be required to sell any such Notes to the Plan. All such sales will be entirely voluntary. All sales will be made on the basis of the fair market value of the Notes on the date of each purchase. The purchase price of a Notes will be paid in cash in a single sum on the date of the purchase. Pursuant to section 14.05 of the Plan, the expenses associated with the making of this directed investment will be charged to the Requesting Individuals.

6. The Trustee will determine the fair market value of the Notes on the dates of purchase for the Directed Accounts. InterFirst, which has detailed current and historical records of the financial status of the Employer, the maker of the Notes, will be permitted, but not required, to perform an initial valuation of the Notes, as would the Plan's investment manager, Brown Brothers Harriman & Co. Either such initial valuation would be subject to final approval of the Trustee, who will have final responsibility for the valuation of the Notes. The applicants expect this arrangement to reduce valuation costs somewhat.

7. InterFirst, an independent lender, has been willing to lend to the Employer to fund its capital expenditures for furnishing its new offices on terms substantially identical to those contained in the Notes. InterFirst has represented that it continues to rate the Employer's credit worthiness as excellent. The Trustee will be responsible for monitoring the Notes that are purchased for the Directed Accounts and for enforcing collection thereon.

8. In order to secure adequately any Notes purchased for the Directed Accounts, as described above, the following procedures will apply:

(a) With respect to the initial purchase of Notes for the Directed Accounts, the Employer and/or the Requesting Individuals shall secure a single letter of credit from InterFirst in an amount equal to the sum (the Secured Sum) of (i) 100% of the principal of the Notes actually to be purchased for the Directed Accounts, plus (ii) the amount of interest accruable for two months on such Notes.

(b) If additional Notes are purchased at any time for the Directed Accounts, either the existing letter of credit described in (a), above, shall be increased or additional letters of credit shall be obtained, if necessary, so that immediately after each purchase of additional Notes, the letter(s) of credit securing all Notes held for the Directed Accounts shall equal the Secured Sum computed by reference to all such Notes. If possible, additional Notes purchased for the Directed Accounts shall also be secured by the same letter of credit

described in (a), above, through an increase in the coverage thereof or through a renewal and increase thereof. If such additional Notes cannot be secured by said letter of credit, the Employer and the affected Requesting Individuals shall secure additional letter(s) of credit securing such additional Notes as described above. Such additional letter(s) of credit may have terms of less than one year so that (i) their expirations may conincide with the expiration(s) of previously issued letter(s) of credit, and (ii) all letters of credit expiring on the same date can be renewed in the form of a single letter of credit. Any additional letters of credit may be obtained from banking institutions other than InterFirst which are insured by the Federal Deposit Insurance Corporation (FDIC). (InterFirst is insured by the FDIC.)

(c) In all events, the letter(s) of credit shall provide that upon the occurrence of a default in the payment of principal or interest on any Note secured thereby, and upon the failure of the Employer to cure such default within 21 days, the issuer of the letter of credit shall, upon notice from the Trustee, immediately pay the Trustee the amount then due upon such Notes, including any and all principal accelerated in consequence of the default. Each letter of credit shall adequately identify the Notes secured thereby.

(d) Except in the case of a letter of credit with an initial term of less than one year, as described in (b), above, the letter(s) of credit shall be renewed annually. Letters of credit with an initial term of less than one year shall be renewed upon expiration. Renewal letters of credit may be obtained from banking institutions other than InterFirst which are insured by the FDIC. If as a result of purchases of Notes for the Directed Accounts during a year more than one letter of credit is outstanding with any single banking institution, the Requesting Individuals and the Employer may, if permitted by such banking institution, and as described in (b), above, combine the letters of credit into a single letter of credit.

(e) Each Requesting Individual shall individually be charged his pro rata part of the cost of obtaining the letter(s) of credit, and no part of the assets of the Plan shall be used to cover any part of such cost.

9. In summary, the applicants represent that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the purchase price will equal the fair market value of the Notes on the purchase dates as determined by the Trustee, an independent bank; (b) InterFirst, an otherwise substantially unrelated commercial bank, has been willing to lend to the Employer on terms substantially identical to those provided in the Notes; (c) no commissions or other selling expenses will be charged to the Plan; (d) no more than 25% of a Requesting Individual's aggregate account balances under the Plan immediately after a purchase of Notes will be invested in Notes; (e) the Trustee will be responsible for monitoring the Notes that are purchased for the Directed Accounts and for enforcing collection thereon; and (f) all Notes that will be purchased for the Directed Accounts will be secured by letter(s) of credit, issued by InterFirst and/or other banking institution(s) insured by the FDIC, in an aggregate amount equal to the sum of the principal amounts of such Notes plus interest accruable thereon for two months; and (g) the only Plan participants affected by the proposed transaction will be the Requesting Individuals and they desire the proposed transaction to be effected.

Notice to Interested Persons

Since the only Plan assets involved in the proposed transaction are those in the Requesting Individuals' accounts under the Plan and they are the only Plan participants affected by the proposed transaction, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

John R. Johnson, P.C. Cash or Deferred Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Application No. D–6361]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The proposed purchases, from time to time during a five-year period, by the Plan from John R. Johnson, P.C. (the Employer) of notes or undivided interests in notes (collectively, the Notes) evidencing loans made by the Employer to Johnson & Swanson (the Partnership), in which the Employer is a general partner, provided the purchase price is not more than the fair market value of the Notes on the date of each purcahse; and (2) the continued holding by the Plan of such Notes until they are fully paid, provided the terms of such transactions are at least as favorable to the Plan as the terms it could obtain in similar transactions with an unrelated party.

Because Mr. Johnson R. Johnson (Mr. Johnson) is the sole owner of the Employer and the sole participant in the Plan, the Plan is subject to Title II of the Act only, and is not subject to Title I (see 29 CFR 2510.3–3(b) and (c)).

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant with respect to the purchase of any Note. Subsequent to the expiration of this exemption, Notes purchased during this five-year period may be held by the Plan until the Notes are fully paid. Should the applicant wish to continue the proposed purchase transactions beyond the five-year period, he may submit another application for examption.

Summary of Facts and Representations

1. The Plan is an individual account plan in which only Mr. Johnson participants and which had assets totalling approximately $275,923 as of December 6, 1985. Mr. Johnson is the sole owner and sole employee of the Employer and the trustee of the Plan. The Employer receives services from certain employees of the Partnership who are eligible to participant in the Partnership's Cash or Deferred Profit Sharing Plan (the Partnership Plan). The Employer is a general partner in the Partnership, which is a Texas general partnership engaged in the practice of law and which had 69 active partners as of May 31, 1985. As the sole owner and sole employee of the Employer, a general partner of the Partnership, Mr. Johnson is fully informed of the economics and financial outlook of the Partnership, according to the applicant.

2. In July 1983, renovation construction began on a Dallas historical landmark at 900 Jackson Street, in which the Partnership intended to lease space to house its main business offices. The Partnership, as principal lessee, undertook to furnish on its own the leasehold improvements for its new offices. To raise cash to fund the leasehold improvements for its new offices, the Partnership borrowed certain amounts from InterFirst Bank

Dallas, N.A. (InterFirst) and additional amounts from the partners and managerial employees of the Partnership, including the Employer. Each of the partners and such managerial employees of the Partnership made funds available to the Partnership and received in return four Notes. The Notes are unsecured, bear interest on their original stated principal amounts at the rate of 14% per annum, and are amortized over 10 years in equal quarterly installments of principal and interest, beginning September 13, 1984 and ending August 31, 1995, when all Notes must be fully paid. The Notes range in original principal amount from $2,454 to $17,709.

3. Because of the high yield on the Notes and Mr. Johnson's confidence in the credit of the Partnership as payer of the Notes, Mr. Johnson wishes the Employer to sell, from time to time, some or all of its Notes to the Plan. Such sales would be limited so that at no time would more than 25% of the Plan's assets be invested, immediately after a sale, in the Notes. The purchase price of each Note will be paid in cash in a single sum on the date of the purchase. InterFirst, an independent lender, has been willing to lend to the Partnership to fund its capital expenditures for leasehold improvements for its new offices on terms substantially identical to those contained in the Notes. InterFirst represents that it continues to rate the Partnership's credit worthiness as excellent.

4. All sales to the Plan will be made on the basis of the fair market value of the Notes on the date of each sale. Such fair market value will be determined by either (a) InterFirst or Brown Brothers Harriman & Company (Brown), subject, in either case, to the approval of RepublicBank Dallas, N.A. (RepublicBank), or (b) RepublicBank, which is not related to the Employer, Mr. Johnson, or the Partnership.

The Partnership, the maker of the Notes, has long maintained its primary commercial banking relationship with InterFirst and performs substantial legal services for InterFirst. Brown is the investment manager of the Partnership Plan, which will purchase notes (the Other Notes) identical to the Notes in this case (except that the payees are different). Mr. Johnson has loans outstanding from and a money market account and certificate of deposit with InterFirst, representing, respectively, less than 0.012% of InterFirst's total outstanding loans and less than 0.02% of InterFirst's total deposits as of September 30, 1985. The Plan has a $3,000 checking account with InterFirst, representing less than 0.00005% of InterFirst's total deposits as of that date. Neither Mr. Johnson nor the Employer has any other commercial or familial relationship with InterFirst, RepublicBank, or Brown.

InterFirst or Brown may perform an initial valuation subject to approval by RepublicBank, the trustee of the Partnership Plan, of the Other Notes to be purchased by the Partnership Plan. If InterFirst or Brown performs such a valuation on behalf of the Partnership Plan and such valuation is approved by RepublicBank, InterFirst or Brown will value the Notes for the Plan, using the identical criteria it used in valuing the Other Notes for the Partnership Plan. However, if RepublicBank alone values the Other Notes to be purchased by the Partnership Plan, RepublicBank alone will also value the Notes to be purchased by the Plan. No Note will be purchased by the Plan unless the purchase of Other Notes by the Partnership Plan and the valuation of such Other Notes is approved by RepublicBank, which will have the final responsibility for valuing both the Other Notes to be purchased by the Partnership Plan and the Notes to be purchased by the Plan. If the proposed exemption is granted, the Notes will be purchased by the Plan only on the date(s) that the Other Notes are purchased by the Partnership Plan (see notice of proposed exemption re. application no. D–6351, in this issue); all such purchases will occur during the five-year period following the date the exemption is granted.

5. In order to secure adequately any Notes purchased by the Plan, as described above, the following procedures will apply:

(a) With respect to the initial purchase of Notes by the Plan, the Employer or Mr. Johnson shall secure a single letter of credit from InterFirst in an amount equal to the sum (the Secured Sum) of (i) 100% of the principal of the Notes actually to be purchased by the Plan, Plus (ii) the amount of interest accruable for two months on such Notes.

(b) If additional Notes are purchased at any time by the Plan, either the existing letter of credit described in (a), above, shall be increased or additional letters of credit shall be obtained, if necessary, so that immediately after each purchase of additional Notes, the letter(s) of credit securing all Notes held by the Plan shall equal the Secured Sum computed by reference to all such Notes. If possible, additional Notes purchased by the Plan shall also be secured by the same letter of credit described in (a), above, through an increase in the coverage thereof or through a renewal and increase thereof. If such additional Notes cannot be secured by said letter of credit, the Employer or Mr. Johnson shall secure additional letter(s) of credit securing such additional Notes as described above. Such additional letter(s) of credit may have terms of less than one year so that (i) their expirations may coincide with the expiration(s) of previously issued letter(s) of credit, and (ii) all letters of credit expiring on the same date can be renewed in the form of a single letter of credit. Any additional letters of credit may be obtained from banking institutions other than InterFirst which are insured by the Federal Deposit Insurance Corporation (FDIC). (InterFirst is insured by the FDIC.)

(c) In all events, the letter(s) of credit shall provide that upon the occurrence of a default in the payment of prinicpal or interest on any Note secured thereby, and upon the failure of the Partnership to cure such default within 21 days, the issuer of the letter of credit shall, upon notice from the trustee of the Plan, immediately pay said trustee the amount then due upon such Note, including any and all principal accelerated in consequence of the default. Each letter of credit shall adequately identify the Notes secured thereby.

(d) Except in the case of a letter of credit with an initial term of less than one year, as described in (b), above, the letter(s) of credit shall be renewed annually. Letters of credit with an initial term of less than one year shall be renewed upon expiration. Renewal letters of credit may be obtained from banking institutions other than InterFirst which are insured by the FDIC. If as a result of purchases of Notes by the Plan during a year more than one letter of credit is outstanding with any single banking institution, the Employer and Mr. Johnson may, if permitted by such banking institution and as described in (b), above, combine the letters of credit into a single letter of credit.

(e) The Employer of Mr. Johnson shall individually pay the cost of obtaining the letter(s) of credit, and no part of the assets of the Plan shall be used to cover any part of such cost.

6. In summary, the applicant represents that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the purchase price of each Note will equal its fair market value on the purchase date as determined by a qualified appraiser who is not related to the Employer, Mr. Johnson, or the Partnership; (b) an otherwise substantially unrelated commercial bank, InterFirst, has been

willing to lend to the Partnership, the maker of the Notes, on terms substantially identical to those provided in the Notes and continues to rate the Partnership's credit worthiness as excellent; (c) no commissions or other selling expenses will be charged to the Plan; (d) no more than 25% of the Plan's assets will be invested in the Notes after each purchase; (e) all Notes that will be purchased by the Plan will be secured by letter(s) of credit, issued by InterFirst and/or other banking institution(s) insured by the FDIC, in an aggregate amount equal to the sum of the principal amounts of such Notes plus interest accruable thereon for two months; and (f) the only Plan participant is Mr. Johnson, and he desires the proposed transaction to be effected.

Notice to Interested Persons: Because Mr. Johnson is the only participant in the Plan and the sole shareholder of the Employer, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Ernest E. Figari, Jr., P.C. Cash or Deferred Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Application No. D-6362]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to: (1) The proposed purchases, from time to time during a five-year period, by the Plan from Ernest E. Figari, Jr., P.C. (the Employer) of notes or undivided interests in notes (collectively, the Notes) evidencing loans made by the Employer to Johnson & Swanson (the Partnership), in which the Employer is a general partner, provided the purchase price is not more than the fair market value of the Notes on the date of each purchase; and (2) the continued holding by the Plan of such Notes until they are fully paid, provided the terms of such transactions are at least as favorable to the Plan as the terms it could obtain in similar transactions with an unrelated party.

Because Mr. Ernest E. Figari, Jr. (Mr. Figari) is the sole owner of the Employer and the sole participant in the Plan, the Plan is subject to Title II of the Act only, and is not subject to Title I (see 29 CFR 2510.3-3 (b) and (c)).

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant with respect to the purchase of any Note. Subsequent to the expiration of this exemption, Notes purchased during this five-year period may be held by the Plan until the Notes are fully paid. Should the applicant wish to continue the proposed purchase transactions beyond the five-year period, he may submit another application for exemption.

Summary of Facts and Representations

1. The Plan is an individual account plan in which only Mr. Figari participates and which has assets totalling $286,302.76 as of December 31, 1984. Mr. Figari is the sole owner and sole employee of the Employer and the trustee of the Plan. The Employer receives services from certain employees of the Partnership who are eligible to participate in the Partnership's Cash or Deferred Profit Sharing Plan (the Partnership Plan). The Employer is a general partner in the Partnership, which is a Texas general partnership engaged in the practice of law and which had 69 active partners as of May 31, 1985. As the sole owner and sole employee of the Employer, a general partner of the Partnership, Mr. Figari is fully informed of the economics and financial outlook of the Partnership, according to the applicant.

2. In July 1983, renovation construction began on a Dallas historical landmark at 900 Jackson Street, in which the Partnership intended to lease space to house its main business offices. The Partnership, as principal lessee, undertook to furnish on its own the leasehold improvements for its new offices. To raise cash to fund the leasehold improvements for its new offices, the Partnership borrowed certain amounts from InterFirst Bank Dallas, N.A. (InterFirst) and additional amounts from the partners and managerial employees of the Partnership, including the Employer. Each of the partners and such managerial employees of the Partnership made funds available to the Partnership and received in return four Notes. The Notes are unsecured, bear interest on their original stated principal amounts at the rate of 14% per annum, and are amoritized over 10 years in equal quarterly installments of principal and interest, beginning September 13, 1984 and ending August 31, 1995, when all Notes must be fully paid. The Notes range in original principal amount from $2,454 to $17,709.

3. Because of the high yield on the Notes and Mr. Figari's confidence in the credit of the Partnership as payer of the Notes, Mr. Figari wishes the Employer to sell, from time to time, some or all of its Notes to the Plan. Such sales would be limited so that at no time would more than 25% of the Plan's assets be invested, immediately after a sale, in the Notes. The purchase price of each Note will be paid in cash in a single sum on the date of the purchase. InterFirst, an independent lender, has been willing to lend to the Partnership to fund its capital expenditures for leasehold improvements for its new offices on terms substantially identical to those contained in the Notes. InterFirst represents that it continues to rate the Partnership's credit worthiness as excellent.

4. All sales to the Plan will be made on the basis of the fair market value of the Notes on the date of each sale. Such fair market value will be determined by either (a) InterFirst or Brown Brothers Harriman & Company (Brown), subject, in either case, to the approval of RepublicBank Dallas, N.A. (RepublicBank), or (b) RepublicBank, which is not related to the Employer, Mr. Figari or the Partnership.

The Partnership, the maker of the Notes, has long maintained its primary commercial banking relationship with InterFirst and performs substantial legal services for InterFirst. Brown is the investment manager of the Partnership Plan, which will purchase notes (the Other Notes) identical to the Notes in this case (except that the payees are different). Mr. Figari has loans outstanding from and a checking account and certificate of deposit with InterFirst representing, respectively, less than 0.0084% of InterFirst's total outstanding loans and less than 0.00045% of InterFirst's total deposits as of September 30, 1985. The Plan holds shares in InterFirst Corporation, the parent of InterFirst, representing less than 0.0075% of the total of such shares outstanding. Neither Mr. Figari not the Employer has any other commercial or familial relationship with InterFirst, RepublicBank, or Brown.

InterFirst or Brown may perform an initial valuation subject to approval by RepublicBank, the trustee of the Partnership Plan, of the Other Notes to be purchased by the Partnership Plan. If InterFirst or Brown performs such a valuation on behalf of the Partnership

Plan and such valuation is approved by RepublicBank, InterFirst or Brown will value the Notes for the Plan, using the identical criteria it used in valuing the Other Notes for the Partnership Plan. However, if RepublicBank alone values the Other Notes to be purchased by the Partnership Plan, RepublicBank alone will also value the Notes to be purchased by the Plan. No Note will be purchased by the Plan unless the purchase of Other Notes by the Partnership Plan and the valuation of such Other Notes is approved by RepublicBank, which will have the final responsibility for valuing both the Other Notes to be purchased by the Partnership Plan and the Notes to be purchased by the Plan. If the proposed exemption is granted, the Notes will be purchased by the Plan only on the date(s) that the Other Notes are purchased by the Partnership Plan (see notice of proposed exemption re. application no. D–6351, in this issue); all such purchases wil occur during the five-year period following the date the exemption is granted.

5. In order to secure adequately any Notes purchased by the Plan, as described above, the following procedures will apply:

1(a) With respect to the initial purchase of Notes by the Plan, the Employer or Mr. Figari shall secure a single letter of credit from InterFirst in an amount equal to the sum (the Secured sum) of (i) 100% of the principal of the Notes actually to be purchased by the Plan, plus (ii) the amount of interest accruable for two months on such Notes.

(b) If additional Notes are purchased at any time by the Plan, either the existing letter of credit described in (a), above, shall be increased or additional letters of credit shall be obtained, if necessary, so that immediately after each purchase of additional Notes, the letter(s) of credit securing all Notes held by the Plan shall equal the Secured Sum computed by reference to all such Notes. If possible, additional Notes purchased by the Plan shall also be secured by the same letter of credit described in (a), above, through an increase in the coverage thereof or through a renewal and increase thereof. If such additional Notes cannot be secured by said letter or credit, the Employer or Mr. Figari shall secure additional letter(s) of credit securing such additional Notes as described above. Such additional letter(s) of credit may have terms of less than one year so that (i) their expirations may coincide with the expiration(s) of previously issued letter(s) of credit, and (ii) all letters of credit expiring on the same date can be renewed in the form of a single letter of credit. Any additional letters of credit may be obtained from banking institutions other than InterFirst which are insured by the Federal Deposit Insurance Corporation (FDIC). (InterFirst is insured by the FDIC.)

(c) In all events, the letter(s) of credit shall provide that upon the occurrence of a default in the payment of principal or interest on any Note secured thereby, and upon the failure of the Partnership to cure such default within 21 days, the issuer of the letter of credit shall, upon notice from the trustee of the Plan, immediately pay said trustee the amount then due upon such Note, including any and all principal accelerated in consequence of the default. Each letter of credit shall adequately identify the Notes secured thereby.

(d) Except in the case of a letter of credit with an initial term of less than one year, as described in (b), above, the letter(s) of credit shall be renewed annually. Letters of credit with an initial term of less than one year shall be renewed upon expiration. Renewal letters of credit may be obtained from banking institutions other than InterFirst which are insured by the FDIC. If as a result of purchases of Notes by the Plan during a year more than one letter of credit is outstanding with any single banking institution, the Employer and Mr. Figari may, if permitted by such banking institution and as described in (b), above, combine the letters of credit into a single letter of credit.

(e) The Employer of Mr. Figari shall individually pay the cost of obtaining the letter(s) of credit, and no part of the assets of the Plan shall be used to cover any part of such cost.

6. In summary, the applicant represents that the proposed transaction satisfies the exemption criteria set forth in section 408(a) of the Act because (a) the purchase price of each Note will equal its fair market value on the purchase date as determined by a qualified appraiser who is not related to the Employer, Mr. Figari, or the Partnership; (b) an otherwise substantially unrelated commercial bank, InterFirst, has been willing to lend to the Partnership, the maker of the Notes, on terms substantially identical to those provided in the Notes and continues to rate the Partnership's credit worthiness as excellent; (c) no commissions or other selling expenses will be charged to the Plan; (d) no more than 25% of the Plan's assets will be invested in the Notes after each purchase; (e) all Notes that will be purchased by the Plan will be secured by letter(s) of credit, issued by InterFirst and/or other banking institution(s) insured by the FDIC, in an aggregate amount equal to the sum of the principal amounts of such Notes plus interest accruable thereon for two months; and (f) the only Plan participant is Mr. Figari and he desires the proposed transaction to be effected.

Notice to Interested Persons

Because Mr. Figari is the only participant in the Plan and the sole shareholder of the Employer, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and hearing requests on the proposed exemption are due 30 days after the date of publication in the **Federal Register.**

For Further Information Contact: Ms. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Forwarders List Money Purchase Pension Plan (the Money Purchase Plan) and Forwarders List Defined Benefit Pension Plan (the Pension Plan, collectively, the Plans Located in Baltimore, MD

[Application Nos. D–6428 and D–6429]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to loans (the Loans) of the lesser of $64,000 by the Money Purchase Plan and $64,000 by the Pension Plan, or 25 percent of each of the Plans' assets, to the Ten Church Lane Partnership (the Partnership), a party in interest with respect to the Plans, provided the terms and conditions of the Loans are at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plans consist of a money purchase pension plan and a defined benefit pension plan. As of July 8, 1985, the Money Purchase Plan and the Pension Plan has total assets having a fair market value of $408,786 and $394,851, respectively. On July 1, 1985, each of the Plans had seven

participants. Stephen and Leah Baer (Mr. and Mrs. Baer) are trustees of and participants in the Plans. Eli Baer, the father of Mr. Baer, also serves as the trustee of the Money Purchase Plan.

2. The Forwarders List of Attorneys is the sponsor of the Plans (the Employer). The Employer maintains offices in Baltimore, Maryland, Chicago, Illinois, and New York, New York and is engaged in the publication of legal directories in the commercial collection field. Mr. Baer is the president and sole shareholder of the Employer.

3. Mr. and Mrs. Baer are the only general partners of the Partnership, a Maryland general partnership, which was formed for the purpose of owning, developing, operating, and leasing real property. The Partnership has no limited partners. On August 19, 1985, the Partnership acquired a parcel of real property (the Property) located at 10 Church Lane, Pikesville, Baltimore County, Maryland, from an urelated third party. The Property is improved with an office building that is presently leased to unrelated third parties. Mr. and Mrs. Baer, as the general partners of the Partnership, are personally liable for a first mortgage (the First Mortgage) on the Property which, as of August 19, 1985, had an outstanding principal balance of $362,000. Union Trust Co. of Maryland, an unrelated party, is the mortgagor on the First Mortgage.

4. The Loans to the Partnership will be in the amounts of the lesser of $64,000 by the Money Purchase Plan and $64,000 by the Pension Plan or 25 percent of the assets of each of the Plans. The applicants represents that the proceeds from the Loans will be transferred by the Partnership to the general partners, Mr. and Mrs. Baer, as a partial return of their capital contributions to the Partnership.[3] The Loans will be evidenced by promissory notes and will provide for interest only payments at a rate of 12% per annum on the Loans in the amount of $1,920 payable quarterly. Total annual interest payments to both Plans will be $15,360. The principal of $64,000 on each of the Loans will be payable no later than the end of the ten year term of the Loans. In addition, it is represented that Mr. and Mrs. Baer have outstanding loans from the Plans (the Participant Loans), pursuant to section 408(b)(1) of the Act. Mr. Baer has an outstanding loan in the amount of $50,000 from the Money Purchase Plan, and Mrs. Baer has a loan in the amount of $50,000 from the Pension Plan.[4]

5. The Loans will be secured by a second mortgage (the Second Mortgage) on the Property which the applicants represent will be recorded. At no expense to the Plans, the Partnership will insure the Property against fire and other loss in an amount not less than the outstanding balance on the First Mortgagè plus the amount of the Loans and will name the Plans as loss payees of such insurance policy. In addition, Mr. and Mrs. Baer, as general partners of the Partnership, will guarantee full amount of the Loans. Currently, Mr. and Mrs. Baer own assets which are valued at approximately $642,935 and are liable for no indebtedness other than the First Mortgage on the Property and a mortgage on their residence located at 2 Mandel Court, Baltimore, Maryland, amounting to approximately $100,000.

6. On September 24, 1985, Jerome J. Wilen, A.S.A. (Mr. Wilen), an attorney and partner since 1966 in Philip E. Klein & Associates, real estate appraisers and consultants, located at 6229 Charles Street, Baltimore, Maryland, appraised the fair market value of the Property to be approximately $735,000. Mr. Wilen's qualifications as an appraiser include his membership in the American Society of Appraisers, his experience in buying, selling, managing, and appraising real property in the city of Baltimore, Maryland, and his attendance at special courses and seminars in appraising sponsored by the University of Maryland and various professional societies. Mr. Wilen further asserts that he is independent as he has no present or contemplated future interest in the Property.

7. Mr. William J. Marsico (Mr. Marsico), Executive Vice-President of Fairfax Savings Association (Fairfax) of Baltimore, Maryland, on October 18, 1985, acknowledged and agreed on behalf of Fairfax to act as the independent fiduciary with respect to the proposed transactions. It is represented that Fairfax has general investment and management expertise that qualifies it to serve as fiduciary for the Plans. Mr. Marsico represents that no director or officer of the Employer or the Partnership is involved in the management of Fairfax nor is any director or officer of Fairfax involved in the management or directorship of the Employer. While the Partnership maintains an account at Fairfax, Fairfax has no loan commitment nor has it issued letters of credit for the benefit of the Employer. It is represented that Fairfax's commercial involvement with the Employer and the Partnership represents less than 1% of its total deposits and is not sufficient to affect Fairfax's ability to act as independent fiduciary with respect to the subject transactions.

8. As independent fiduciary for the Plans, Fairfax has reviewed the terms of the Loans and has detemined the following:

(a) That the proposed transactions are appropriate and suitable investments for the Plans and that the transactions are in the interests of and protective of the Plans and their participants and beneficiaries;

(b) That the transactions will be reviewed and monitored by Fairfax until their completion, and Fairfax will take all steps necessary and proper to protect the interest of the Plans, their participants and beneficiaries.

In addition, Fairfax states that it would make loans to the Partnership under the same terms and conditions as the subject Loans. Fairfax represents that the terms of the transactions satisfy commercial standards, and are similar to and at least as favorable to the Plans as those obtainable in an arm's-length transaction with an unrelated third party; and are typical of loan transactions presently being entered into in Baltimore, Maryland.

9. Fairfax has reviewed the value of the Property based on the independent appraisal of Mr. Wilen and believes that such collateral is adequate to secure the Loans. It is represented that the amount of the Loans together with the outstanding balance on the First Mortgage has a loan to value ratio of 150%. Further, it is represented that Fairfax will insure that the Partnership will maintain security which is valued in an amount at least 150% of the balance on the Loans.

10. Fairfax has determined that the interest rate of the Loans is an appropriate interest rate and that the investments of the Plans' assets in the Loans presents an excellent opportunity for the Plans to acquire assets providing a rate of return which is substantially greater than the average rate of return of the current assets of the Plans.

11. Fairfax represents that the Loans will be proper in light of the Plans' cash flow and liquidity needs and states that both of the Plans' portfolios, even including the Loans, will be sufficiently liquid and diversified in view of the overall investment scheme of the Plans. Further, Fairfax has determined that the Loans fit well with the investment objectives of the Plans.

[3] The Department herein makes no determination regarding the applicability of section 72(p) of the Code with respect to the Loans.

[4] The Department expresses no opinion as to whether these Participants Loans satisfy the conditions of section 408(b)(1).

12. Finally, Fairfax agrees that it will monitor prompt payment on the Loans to both Plans, and enforce the obligations of the Partnership under the Loans.

13. In summary, it is represented that the proposed Loans will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The Loans will not represent more than 25 percent of the assets of each of the Plans;

(b) Fairfax, the independent fiduciary for the Plans, represents that the interest rate and the Property pledged as collateral for the Loans are appropriate for the subject transactions and typical of arm's-length loan transactions presently being entered into in Baltimore, Maryland; further, Fairfax represents that it would make the same loans on the same terms to the Partnership;

(c) The Loans will be secured by the Property which has a current fair market value as determined by a qualified independent appraiser that will be at least 150% percent of the total amount of the Loans and the balance of the First Mortgage on the Property;

(d) Fairfax has determined that the Loans are in the best interest of the Plans and their participants and beneficiaries; and

(e) Fairfax will monitor the repayment of the Loans by the Partnership.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 11th day of March 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-5581 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-29-M

Wage and Hour Division

Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and Admininstrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 552.9, as amended and 552.20 to 552.25, as amended). The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Flushing Shirt Mfg. Co., Inc., Frostburg, MD; 10-24-85 to 10-23-86 10 learners for normal labor turnover purposes; and 10-24-85 to 4-23-86; 15 learners for plant expansion purposes. (Men's shirts.)

McCreary Mfg. Co., Stearns, KY; 12-8-85 to 12-7-86. (Men's and boy's shirts.)

Monticello Mfg. Co., Inc. Monticello, KY; 12-8-85 to 12-7-86. (Men's and boys' shirts.)

The following certificate was issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended.)

Junior Form Lingerie Inc., Boswell, PA; 10-11-85 to 10-10-86. 5 percent of the total number of factory production workers for normal labor turnover purposes. (Ladies' underwear and sleepwear.)

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learners' occupations are not available.

The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before March 31, 1986.

Signed at Washington, DC, this 11th day of March 1986.

Arthur H. Korn,

Authorized Representative of the Administrator.

[FR Doc. 86-5574 Filed 3-13-86; 8:45 am]

BILLING CODE 4510-27-M

Assistant Secretary for Veterans' Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veteran's Employment was established under section 308, Title III, Pub. L. 97-306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, problems and issues relating to veterans' employment.

Notice is hereby given that Secretary of Labor's Committee on Veterans' Employment will meet on Tuesday, April 8, 1986, at 10:00 a.m., in the

Secretary's Conference Room, S–2508, FPB.

Items to be discussed are:

- Private Sector Involvement
- Public Sector Coordination

Homeless Veterans

The public is invited.

Signed at Washington, DC, this 7th day of March 1986.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 86–5664 Filed 3–13–86; 8:45 am]

BILLING CODE 4510-79-M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities Under Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: Extension.

2. The title of the information collection: Survey of Users of Devices Under General License.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time.

5. Who will be required or asked to report: A sample of persons that use devices containing byproduct material under general license.

6. An estimate of the number of responses: 480.

7. An estimate of the total number of hours needed to complete the requirement or request: 280.

8. An indicationof whether section 3504(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: Devices containing radioactive byproduct material are used in a number of industrial applications, under a general license established by the Commission, for producing light, performing analytical measurements, or elimination of static. NRC will conduct a survey of a sample of users to acquire data for a study of the effectiveness of the general license in protecting public health and safety.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill, (202) 395–7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 10th day of March 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–5683 Filed 3–13–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–346–ML; ASLBP No. 86–525–01–ML]

Toledo Edison Co., et al., (Davis-Besse Nuclear Power Station, Unit No. 1; Memorandum and Order; Informal Hearing and Opportunity To Become a Party

March 10, 1986.

I. Introduction

On February 20, 1986, the U.S. Nuclear Regulatory Commission issued an Order instituting an informal hearing in this matter. Pursuant to the Commission's Order the undersigned was appointed presiding officer for this matter on February 25, 1986 by the Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

The Commission instituted this proceeding in response to petitions for a hearing filed by Save Our State from Radioactive Waste (SOS), Toledo Coalition for Safe Energy (TCSE) and Susan A. Carter, the Western Reserve Alliance (WRA), the Consumers League of Ohio (CLO), Ohio Citizens for Responsible Energy (OCRE), and City of Mentor, Ohio. The hearing will concern the application of Toledo Edison Company (TEC) for authorization under 10 CFR 20.302(a) to dispose of by product material on the site of its Davis-Besse Nuclear Power Station, Unit 1. The materials in question are radioactively contaminated resins from the plant's secondary system denumeralizer.

II. How To Participate

The Commission's Order directed the presiding officer to request from SOS, TCSE, Susan A. Carter,[1] WRA, CLO, OCRE, and City of Mentor, Ohio filings detailing their standing to participate and their complaints concerning the license amendment. The Order also directed the presiding officer to provide a similar opportunity to petition to be heard of other interested persons. The Order authorized the presiding officer to request written submissions and documents; set schedules; entertain limited appearance statements on any issue in the proceeding from persons who do not desire to become parties or cannot fulfill the requirements for party status at times specified by the presiding officer; and to entertain oral presentations at the presiding officer's discretion.

The Commission directed that those who wish to become parties, (other than the NRC Staff and TEC), must set forth with particularity and in writing (1) the interest of that person in the proceeding; (2) how that interest may be affected by the results of the proceeding, including a delineation of the reasons why that person should be permitted to intervene that makes particular reference to (a) the nature of the person's right under the Atomic Energy Act to be made a party, (b) the nature of the extent of the person's property, financial, or other interest in the proceeding, and (c) the possible effect of any order that may be entered in the proceeding on the person's interest; (3) the *specific* aspect or aspects of the subject matter of the proceeding that the person seeks to have litigated; and (4) relief sought with respect to each complaint. Each of the foregoing points shall be addressed in separate, concisely stated paragraphs.

In submitting the information called for in items 3 and 4 above, petitioners are to describe *specifically* any deficiences in the application, cite particular sections or portions of the application which relate to the deficiency, and state in detail the reasons why a particular section or portion of the application is deficient. Petitioners must also submit all data and material in their possession which supports or illustrates each of the deficiences complained of. Data and material from generally available publications may be cited rather than furnished. Petitioners must also state what relief they seek with respect to each of their complaints. A broad statement requesting denial or recision of the license or its amendment without stating why such extreme relief is appropriate will not satisfy the requirement to state the relief sought.

A determination that petitioners have standing to participate as parties to the proceeding will be governed by existing

[1] The Petition of TCSE and Susan A. Carter dated November 6, 1985 properly detailed standing to participate. By this order, revisions of complaints to that Petition, if deemed to contribute to the record, may be filed.

agency precedents pursuant to 10 CFR 2.714(d). See the Commission's Order and *Rockwell International Corp.* (Energy Systems Group Special Nuclear Materials License No. SNM–21), LBP–83–65, 18 NRC 774 (1983). The *Rockwell* case relied on *Nuclear Engineering* (Sheffield, Illinois Low Level Radioactive Waste Disposal Site) ALAB–473, 7 NRC 737 (1978), and stated at page 3 that:

> * * * The practical tests are that the petition must show (1) that the petitioner will or might be injured in fact by one or more of the possible outcomes of the proceeding, and (2) that the asserted interest of the petitioner in achieving a particular result is at least arguably within the zone of interests protected by the statute involved.

(10) If the presiding officer finds that the hearing petitions or any intervention petition should be denied *in toto* for lack of standing or any other reason, that determination, which must be in writing, will become the final agency action within thirty days unless the Commission, on its own initiative, undertakes a review of that decision.

On or before April 14, 1986, SOS, TCSE Susan A. Carter, WRA, CLO, OCRE, City of Mentor, Ohio, and anyone else, including governmental entities, who wishes to become a party shall file the information called for above. On or before April 28, 1986, the NRC Staff, if it wishes to participate as a party, shall so notify the petitioners, TEC, and the presiding officer in writing.

III. How and Where To File

A. Information Called for by This Notice and Order

The original and two copies of information called for by this Notice and Order is to be filed with the Docketing and Service Branch of the Office of the Secretary, U.S. Nuclear Regulatory Commission, 1717 H Street, NW., Washington, DC 20555. Single copies of such filings shall also be served on TEC, Charles A. Barth—NRC Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and the presiding officer by either personally delivering it or mailing it, properly addressed and stamped, by April 14, 1986.

B. Other Written Submissions

The original and two copies of all other written submissions made by a party shall also be filed with Docketing and Service Branch with single copies mailed or personally delivered to the presiding officer, TEC, Mr. Barth, and all other parties on or before the due date. Attorneys representing a party or petitioner must file the original and two copies of their notice of appearance with the Docketing and Service Branch, with service on all other parties, upon being retained.

C. Service List

In Memorandum and Order identifying the parties to this proceeding, the presiding officer will establish an official service list of parties who are to receive copies of written submissions in this proceeding.

IV. Duty of the Applicant

In order to permit petitioners to comply with the 30-day deadline to submit the information required, TEC must ensure that the application, the license sought to be amended, and all correspondence pertaining to its application, are immediately upon receipt of this Notice and Order: (1) Made available to petitioners for inspection and copying, and (2) forwarded to the Presiding Officer. This material shall be made available at a convenient location in the vicinity of the TEC facility and at such other locations as may be indicated by requests. The material shall be available for inpsection and copying during business hours and during reasonable periods in evenings and during weekends. This material, together with the material submitted by petitioners, and any other material called for by the presiding officer, will form the Hearing File on which the presiding officer will base her decision.

V. Presiding Officer's Initial Ruling

Upon receipt of petitioner's submissions, the presiding officer will evaluate the material in the Hearing File. The presiding officer will then rule on each petitioner's rights to become a party to this proceeding. The presiding officer will also review petitioners' complaints and supporting material. In making this review, the presiding officer may rule that the petitioners' complaints: (1) Are admissible for consideration; (2) are beyond the scope of this proceeding; (3) constitute requests for relief which the presiding officer lacks the power to grant; (4) are too vague to permit consideration; or (5) are otherwise inadmissible. If necessary, the presiding officer will call for additional submissions prior to making the rulings contemplated by this paragraph. In the absence of such a request, no further submissions are to be made.

Petitioners are hereby put on notice that the presiding officer may rule on the merits of the entire matter based on petitioners' initial submission.

VI. Informal Hearing

To the extent the presiding officer finds petitioners' complaints admissible, he either may order additional submissions from the parties, or schedule an oral presentation, or both. If an oral presentation is scheduled, it will take place in the vicinity of the TEC facility. The parties will be permitted to present testimony and argument, but cross-examination will not be permitted. The parties may, however, suggest questions to the presiding officer to be posed by her. Discovery is not permitted.

If the NRC Staff does not elect to participate as a party to this proceeding, the presiding officer may seek information from the Staff directly. In that event, any information received will be served on the parties to the proceeding by the presiding officer.

VII. Limited Appearances

Those who do not wish to become parties but wish to submit a statement to the presiding officer may do so by mailing their statement to the Commission's Secretary, properly addressed and stamped, on or before April 14, 1986. Should the presiding officer determine that a petitioner may not be a party to this proceeding, the material submitted by that petitioner will be treated as a limited appearance statement. Limited appearance statements are not part of the Hearing File.

VIII. Schedule for Decision

The presiding officer intends to issue a decision in this proceeding as promptly as feasible following receipt of petitioners' submissions, with a goal of 120 days if additional submissions are required following receipt of initial petitions. No petition for review will be entertained by the Commission regarding the presiding officer's decision. However, the Commission may review the decision on its own initiative.

Order

For all the foregoing reasons and upon consideration of the entire record in this matter, it is, this 10th day of March 1986.

Ordered

1. That on or before April 14, 1986, SOS, TCSE, Susan A. Carter, WRA, CLO, OCRE and the City of Mentor, Ohio shall file a petition to participate as described in the foregoing memorandum;

2. That any other person wishing to participate shall file a similar petition by the same date;

3. That on or before April 28, 1986, the NRC Staff shall notify the presiding officer if it wishes to participate as a party to this proceeding; and

4. That this informal hearing shall be conducted in accordance with the procedures described in the foregoing memorandum.

Bethesda, Maryland, March 10, 1986.

Helen F. Hoyt,

Administrative Judge.

[FR Doc. 86-5685 Filed 3-13-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-412]

Duquesne Light Co. et al.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an extension of Construction Permit No. CPPR-105 to Duquesne Light Company, Cleveland Electric Illuminating Company, Ohio Edison Company and Toledo Edison Company (the Permittees), for the Beaver Valley Power Station, Unit No. 2 located in Shippingport, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The extension would extend the expiration date of the Construction Permit CPPR-105 from December 31, 1984, to December 31, 1986.

The extension is responsive to Duquesne Light Company's application for extension dated November 8, 1984.

The Need for the Proposed Action

The proposed extension is needed because the completion date of Beaver Valley Unit 2 has been postponed for the following reasons:

(1) Reduced projected electric power need;

(2) Increased regulatory requirements;

(3) The permittees' financial problems;

(4) Additional time needed to fully test and evaluate portions of the project.

Environmental Impacts of the Proposed Action

The proposed extension will not allow any work to be performed that is not already allowed by the existing construction permit. The probability of accidents has not been increased and post-accident radiological releases will not be greater than previously determined, nor does the proposed extension otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed extension.

With regard to potential non-radiological impacts, the proposed extension involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with this proposed extension.

Alternatives to the Proposed Action

As required by section 102(2)(E) of NEPA (42 U.S.C. 4332(20(E)), the staff has considered possible alternatives to the proposed action. The only possible alternative to the proposed action is not to renew the construction permit. This alternative would have led to a change in status and would result in a greater impact on Duquesne Light personnel and the environment (the project is currently more than 90% complete).

Therefore, there is no appropriate alternative to the proposed action.

Alternative Use of Resource

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the Beaver Valley Power Station, Unit No. 2.

Agencies and Persons Consulted

The NRC staff reviewed the permittees' request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed extension.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quaity of the human environment.

For further details with respect to this action, see the request for the extension dated November 8, 1984, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Dated at Bethesda, Maryland, this 6th day of March 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing-A.

[FR Doc. 86-5684 Filed 3-13-86; 8:45 am]

BILLING CODE 7590-01-M

Nuclear Waste Policy Act; Availability of Draft Technical Position in Low-Level Waste Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of a "Draft Branch Technical Position on Standard Format and Content of License Applications for Near Surface Disposal of Radioactive Waste."

DATE: The comment period expires May 13, 1986.

ADDRESSES: Send comments to R. John Starmer, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop 623-SS, Washington, DC 20555. Copies of this document may be obtained free of charge upon, written request to Linda Luther, Docket Control Center, Division of Waste Management, U.S. Nuclear Regulatory Commission, Mail Stop 623-SS, Washington, DC 20555, Telephone 1/800/368-5642, Ext. 74426 or 427-74426 for Washington area callers.

FOR FURTHER INFORMATION CONTACT: Clayton L. Pittiglio, Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 427-4793.

SUPPLEMENTARY INFORMATION: This announcement notices availability and solicits comments on the "Branch Technical Position on Standard Format and Content of License Applications for Near Surface Disposal of Radioactive Waste."

The Branch Technical Position on Standard Format and Content of License Applications for Near Surface Disposal of Radioactive Waste represents a format for license applications that is acceptable to NRC staff. However, conformance with the Standard Format is not required. License applications with different formats will be accepted by the staff if they provide an adequate basis for the findings requisite to issuing a license.

The purpose of the Branch Technical Position on Standard Format and Content of License Applications for Near Surface Disposal of Radioactive Waste is to explain in more detail the information to be provided in the application for a license. Use of the standard format will (1) aid the applicant and NRC staff in ensuring that the information is complete, (2) help

persons reading the application to locate information, and (3) contribute to shortening the time needed for the review process.

Dated at Silver Spring, Maryland, this 5th day of March, 1986.

For the Nuclear Regulatory Commission.

Leo B. Higginbotham,

Chief Low-Level Waste and Uranium Recovery Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 86-5686 Filed 3-13-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-8063]

Issuer Delisting; Application To Withdraw From Listing and Registration; California Real Estate Investment Trust; Shares of Beneficial Interest, $1.00 Par Value

March 10, 1986.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The issuer considered the direct and indirect costs, and expenses attendant on maintaining the dual listing of its shares on the New York Stock Exchange and the American Stock Exchange; therefore, the issuer does not see any particular advantage in the dual trading of its shares and believes that dual listing would fragment the market for its shares.

Any interested person may, on or before March 31, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5677 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14976; (812-6137)]

Municipal Investment Trust Fund, Thirty-Ninth Insured Series and Subsequent and Similar Series, et al.; Application

March 7, 1986.

Notice is hereby given that the Municipal Investment Trust Fund, Thirty-Ninth Insured Series and Subsequent and Similar Series, 165 Broadway, One Liberty Plaza, New York, New York 10080, a series of unit investment trusts registered or to be registered under the Investment Company Act of 1940 (the "Act") (sometimes hereinafter called the "Trust" and each series of which is sometimes hereinafter called a "Series"), their sponsors, Merrill Lynch, Pierce, Fenner & Smith Incorporated, 165 Broadway, One Liberty Plaza, New York, New York, 10080, Shearson Lehman Brothers Inc., Two World Trade Center, New York, New York 10048, Prudential-Bache Securities Inc., 100 Gold Street, New York, New York 10292, Dean Witter Reynolds Inc., 130 Liberty Street, New York, New York 10006, and Paine Webber Incorporated, 1221 Avenue of the Americas, New York, New York 10020, ("Sponsors") and Financial Guaranty Insurance Company, 175 Water Street, New York, New York 10038, ("Financial") (each Series of the Trust, the Sponsors and Financial collectively referred to as "Applicants") filed and application on June 19, 1985 for an order of the Commission pursuant to sections 6(c), 17(b) and 17(d) of the Act and Rule 17d-1 thereunder exempting Applicants from the provisions of sections 17(a), 17(d) and 26(a)(2)(c) of the Act and the provisions of Rule 17d-1 to the extent necessary to permit any Series of the Trust to purchase certain insurance described below from Financial guaranteeing the scheduled payments of principal and interest with respect to some or all of the securities deposited in such Series of the Trust. 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.

The application states that each Series will be governed by a trust indenture (the "Indenture") and a trust agreement (the "Agreement") under which the Sponsors will act as Depositors, a commercial bank, national banking association or trust company will act as Trustee and Standard & Poor's Corporation or other independent entity will act as Evaluator. The application further states that the Sponsors will initially deposit in a Series tax-exempt municipal bonds (or contracts for the purchase of such bonds together with a letter of credit in an amount sufficient to complete the purchase) with the Trustee in exchange for certificates representing ownership of all of the units of fractional undivided interest (the "Units") of such Series.

The application states that the investment ojectives of each Series are the provision of tax-exempt interest income, and, with respect to a Series in which every security is insured (an "Insured Series"), safety of principal, through investment in a fixed portfolio of debt obligations with fixed maturities, (the "Securities") issued by states, municipalities, public authorities and similar entities. Because of irrevocable insurance on the portfolio, units of an Insured Series are rated AAA by Standard & Poor's Corporation.

Financial is a wholly-owned subsidiary and the principal asset of FGIC Corporation, a holding company owned by the following investors or affiliates thereof: General Electric Credit Corporation, General Re Corporation, Lumbermens Mutual Casualty Company, Merrill Lynch & Co., Inc., Shearson Lehman Brothers Inc., J.P. Morgan & Co. Incorporated and Gerald L. Friedman, Merrill Lynch & Co., Inc owns 100% of Merrill Lynch, Pierce, Fenner & Smith Incorporated, one of the Sponsors. Because of the ownership interest of Merrill Lynch & Co., Inc. in Financial's parent company, Financial could be considered an affiliate of one of the Sponsors. In addition, because of the ownership interest of affiliates of Shearson Lehman Brothers Inc. in Financial's parent company, Financial could also be considered an affiliate of another of the Sponsors. Furthermore, certain affiliates of the Sponsors may act as reinsurers of the obligations of Financial under its policies of Portfolio Insurance and Permanent Insurance. Prudential Reinsurance Corporation ("PruRe"), an affiliate of Prudential-Bache Securities, one of the Sponsors, currently acts as such a reinsurer of a portion of such obligations. According to

the application, Financial is an affiliated person of two of the Sponsors, and PruRe is an affiliated person of one of the Sponsors, in each case by virtue of section 2(a)(3)(C) of the Act. Therefore, within the meaning of section 2(a)(3)(F) of the Act, Financial and PruRe are each affiliated persons of an affiliated person of the Trust for purposes of sections 17(a) and 17(d) of the Act and Rule 17d–1 thereunder.

Insurance will be obtained from Financial by each Series, guaranteeing the scheduled payment of principal and interest on some or all Securities while in the portfolio of such Series (the "Portfolio Insurance"). Some or all Securities in each Series will be insured under the Portfolio Insurance policy obtained by such Series. As with present insurance obtained from affiliates of Sponsors, the Sponsors of each Series undertake not to direct the Trustee to settle any claim under Portfolio Insurance for less than full payment without obtaining an exemptive order from the Commission. According to the application, while Portfolio Insurance obtained by a Series applies only while insured Securities are retained in such Series, pursuant to an irrevocable commitment by Financial, the Trustee upon the sale of an insured Security from a Series will, in certain circumstances, insure the scheduled payment of principal and interest on such Security regardless of the identity of the holder thereof (i.e., for so long as such security is outstanding) (the "Permanent Insurance") upon the payment of a single predetermined insurance premium from the proceeds of the sale of such Security.

The application states that the premiums on any policy Portfolio Insurance obtained by a Series will be paid annually by such Series directly to Financial and, by virtue of Financial's reinsurance arrangements, indirectly to PruRe and to any other affiliates of the Sponsors. The application also states that the premiums on each policy of Permanent Insurance will be paid by a Series out proceeds of the sale of the Security for which such Permanent Insurance was obtained and, as premiums for Permanent Insurance will only be paid if it increases the net sale price, they will never reduce the assets of a Series. As with Portfolio Insurance, the premiums for Permanent Insurance are paid directly to Financial and indirectly to PruRe and any other affiliates of the Sponsors.

Applicants request an exemption from section 17(a) of the Act to the extent that the direct provision of Portfolio Insurance and Permanent Insurance to a Series of the Trust by Financial, and the indirect provision thereof by PruRe and any other affiliates of the Sponsors who may act as reinsurers of Financial's obligations under such policies, might be deemed the purchase of securities from a Series of the Trust. To the extent that provision of Portfolio Insurance or Permanent Insurance might be considered to involve a joint transaction prohibited by section 17(d) of the Act and Rule 17d–1 thereunder, Applicants also request an order pursuant to Rule 17d–1 to permit Financial to provide Portfolio Insurance and Permanent Insurance to a Series of the Trust. Applicants also request an order of the Commission pursuant to section 6(c) of the Act for an exemption from the provisions of section 26(a)(2)(C) thereof to permit the premiums on any policy of Portfolio Insurance obtained by a Series of the Trust to be paid and charged as an expense of such Series.

The application states that the premium rates for both Portfolio Insurance and Permanent Insurance will be determined by Financial within a rate framework applicable to all unit investment trust sponsors and filed with applicable state insurance regulatory authorities, based upon its determinations of the creditworthiness of the issuer of the bonds, the risk of default by the bond issuer, the potential liability arising from insuring such bond issue, and the demand of sponsors to apply for such insurance on behalf of their unit investment trusts. The premium rate for Portfolio Insurance and Permanent Insurance will be at least as favorable as the rates charged by Financial to unaffiliated entities and comparable to prevailing rates charged by nonaffiliated insurers of similar stature and creditworthiness. According to the application, Financial will deliver certificates as to such premium rate comparability on the date of deposit of each Series of the Trust. Applicants represent that the setting of Financial's Premiums will not be controlled by any Series of the Trust, any Sponsor, Merrill Lynch & Co., Inc. or PruRe. Applicants state that once bonds have been deposited in a Series of the Trust the Portfolio Insurance premium rates and, if applicable, the Permanent Insurance premium rates, for each issue of bonds so deposited and insured are irrevocably fixed by the terms of such insurance. Applicants further state that each Portfolio Insurance policy obtained by a Series of the Trust is non-cancellable and continues in force so long as the Trust is in existence, Financial is still in business, and the bonds insured thereby continue to be held by such Trust and that each Permanent Insurance policy in non-cancellable and continues in force so long as Financial is still in business and the bonds insured thereby remain outstanding.

Applicants represent that the proposed arrangement with Financial will be substantially identical to insurance currently being offered to other sponsors of insured municipal bond unit investment trusts. Applicants represent that Merrill Lynch & Co., Inc. will have only an indirect partial interest in the earnings of Financial while it maintains a 100% interest in Merrill Lynch, Pierce, Fenner & Smith Incorporated, whose success in the unit investment trust business is dependent upon the results of competition with other factors in the industry with respect to price and fund structure. Applicants also represent that Shearson Lehman Brothers Inc., similarly will have only an indirect partial interest in the earnings of Financial but will maintain a direct participation in the unit investment trust business where its success will also be largely dependent upon such competition. Finally, Applicants further represent that Prudential-Bache Securities, Inc., whose success in the unit investment trust business is also largely dependent upon such competition, benefits from the earnings of Financial only to the extend PruRe reinsures a portion of Financial's policy obligations.

Applicants state that the insurance features under the Financial policies will be consistent with the investment policies of each Series of the Trust. Applicants assert that the terms of the proposed transactions, including the consideration to be paid or received are reasonable and fair and do not involve overreaching on the part of any person concerned. The premiums to be charged with respect to Portfolio Insurance or Permanent Insurance and the amounts to be paid by the affiliated parties to any Series of the Trust are fixed in nature and easily ascertainable (because they involve the payment of either a predetermined amount of interest due on a Security or the principal amount thereof at the time of scheduled maturity).

According to the application, the Indenture and Agreement will require the Trustee for any Series to purchase Permanent Insurance upon any sale of a Security whenever the value of such Security covered by a Permanent Insurance option with such Permanent

Insurance, less the premium therefor, is greater than the value of such Security without such Permanent Insurance. Applicants assert that investors are sufficiently protected against potential conflicts of interest or self-dealing between affiliated parties by reason of the internal structures of the Trust. The potential for such conflicts cannot arise because the Trustee for a Series will only purchase Permanent Insurance whenever that insurance would increase the net proceeds from a Security covered by a Permanent Insurance option which is sold from such a Series. Financial would remain as the insurer of principal and interest payments on a Security so sold either under the Portfolio Insurance or the Permanent insurance unless the uninsured value of the security so sold is greater than its insured value less the Permanent Insurance premium (in which case the Series of the Trust would be better off having the Security sold as uninsured). Applicants assert that Financial, as insurer, is indifferent as to whether a particular security is sold from the Trust or retained therein because Financial equates the present value of the future stream of Portfolio Insurance premiums for a Security with the Permanent Insurance premium for such Security, assuming such Permanent Insurance to have been obtained contemporaneously with the Portfolio Insurance.

Notice is further given that any interested person may, not later than April 1, 1986, at 5:30 P.M., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law that are disputed. Any such request should be addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon each of the Applicants at the addresses states above. Proof of such service by affidavit (or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time 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. 86-5631 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14977; (812-6223)]

Nationwide Tax-Free Fund; Application for Order Permitting Assessment (and Waiver) of a Contingent Deferred Sales Charge

March 7, 1986.

Notice is hereby given that Nationwide Tax-Free Fund ("Fund") and Nationwide Financial Services, Inc. ("NFS", and together with Fund, "Applicants"), c/0 Mark B. Koogler, Esq., McCutchan, Schmidt, Birkhimer & Druen, One Nationwide Plaza, Columbus, Ohio 43216, filed an application on October 15, 1985, and an amendment thereto on January 24, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rules 22c-1 and 22d-1 under the Act to the extent necessary to permit Applicants to assess a contingent deferred sales charge on certain redemptions of Fund shares, and to waive the contingent deferred sales charge in certain circumstances. 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 statutory provisions.

According to the application, the Fund is a diversified, open-end investment company organized as a business trust under the laws of the Commonwealth of Massachusetts by a Declaration of Trust dated October 8, 1985. It invests primarily in intermediate and long-term obligations issued by or on behalf of states, territories and possessions of the United States and their political subdivisions, agencies and instrumentalities. All shares of the fund are distributed by NFS which also serves as the investment adviser to the Fund.

The application states that shares of the Fund would be offered and sold without the deduction of a sales load at the time of purchase. Applicants submit that certain redemptions of Fund shares, however, would be subject to a contingent deferred sales charge. According to the application, a contingent deferred sales charge will be imposed when an investor reduces the current value of his shares in the fund to an amount which is lower than the amount of all payments by the investor for the purchase of shares during the preceding five years. However, such a charge will be imposed only to the extent that the net asset value of the shares redeemed exceeds (a) the current net asset value of shares purchased more than five years prior to the redemption plus (b) the current net asset value of shares purchased through reinvestment of dividends or distributions, plus (c) increases in the net asset value of the investor's shares above the total amount of payments for the purchase of shares made during the preceding five years. The amount of any contingent deferred sales charge will be paid to and retained by the distributor.

Applicants state that in determining the applicability of a contingent deferred sales charge to each redemption, the amount which represents an increase in the net asset value of the investor's shares above the amount of the total payments for the purchase of shares within the last five years will be deemed to be redeemed first. In the event that the redemption amount exceeds such increase in value, the next portion of the amount redeemed will be deemed to be the amount which represents the net asset value of the investor's shares purchased more than five years prior to the redemption and/or shares purchased through reinvestment of dividends or distributions. Any portion of the amount redeemed which exceeds an amount representing both such increases in value and the value of shares purchased more than five years prior to the redemption and/or shares purchased through reinvestment of dividends or distributions will be subject to a contingent deferred sales charge.

Applicants state that the amount of the contingent deferred sales charge, if any, will vary depending on the number of years from the time of payment for the purchase of shares until the time of redemption of such shares. The contingent deferred sales charge is 5% in the first 12 months since a purchase payment was made and decreases by 1% each 12-month period until the 61st month and thereafter when no charge would be taken. In determining the rate of any applicable contingent deferred sales charge, it will be assumed that a redemption is made of shares held by the investor for the longest period of time within the applicable five-year period. This will result in any such charge being imposed at the lowest possible rate.

The application states that the contingent deferred sales charge will be waived in the case of redemption following death or disability of a shareholder if the redemption is made within one year of death or initial determination of disability. The charge will also be waived on redemption effected by current and retired directors,

employees and agents of the Nationwide Insurance Companies and its subsidiaries, affiliates, and advisory clients, trustees and officers of any investment company distributed by NFS, their spouses, children, or immediate relatives including father, mother, brothers, sisters, aunts and uncles. Applicants also propose to allow an investor to reinvest all, or part, of his redemption proceeds within 30 days of redemption and receive, through a one-time privilege, credit for any contingent deferred sales charge pro-rated according to the percentage of the reinvestment.

Applicants proposed to finance the Fund's distribution expenses under a plan adopted pursuant to Rule 12b–1 under the Act. Under the plan, the Fund will pay NFS compensation accrued daily and paid monthly at the annual rate of .35% of the average daily net assets of the Fund.

Applicants seek exemptions to the extent necessary or appropriate from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rules 22c–1 and 22d–1 under the Act. Applicants sumbit that the requested exemptions are appropriate and in the public interest, consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Applicants contend that the deferred sales charge is fair and in the best interests of investors because it will enable investors to have the advantage of greater investment dollars working for them from the time of their purchase of shares than would be the case if shares were sold subject to a front-end sales load. Moreover, because the contingent deferred sales charge applies only to redemptions of amounts representing purchase payments, it does not apply to increases in the value of an investor's account through capital appreciation or reinvestment of dividends. Applicants further submit that the waiver of the contingent deferred sales charge under the above-described circumstances, and as fully disclosed in the Fund's prospectus, will not harm Applicants or the remaining Fund investors or purchasers.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 1, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the 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 personnally 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. 86–5632 Filed 3–13–86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22–14784]

Application and Opportunity for Hearing; R.J. Reynolds Industries, Inc.

March 11, 1986.

Notice is hereby given that R.J. Reynolds Industries, Inc. (the "Applicant"), has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Chemical Bank ("Chemical") under four existing indentures of the Applicant, which were qualified under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chemical from acting as trustee under the Applicant's indentures.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, that with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. (a) Standard Brands Incorporated, formerly a Delaware corporation ("Standard Brands", now Nabisco, Inc., successor by merger), executed and delivered to Morgan Guaranty Trust Company of New York (the "Original Trustee") three indentures dated as of June 1, 1968, May 1, 1971, and December 15, 1974, which were heretofore qualified under the Act (each such indenture as supplemented to the date hereof being hereinafter respectively called the "1968 Indenture," the "May 1971 Indenture" and the "1974 Indenture" and being hereinafter collectively called the "Standard Brands Indentures"), providing respectively for the issuance thereunder of Standard Brands 6¾% Sinking Fund Debentures, due June 1, 1993 (the "6¾% Debentures"), of which $25,674,000 aggregate principal amount remains outstanding as of December 1, 1985, 7¾% Sinking Fund Debentures, due May 1, 2001 (the "7¾% Debentures"), of which $8,659,000 aggregate principal amount remains outstandings as of December 1, 1985, and the 9½% Sinking Fund Debentures, due December 15, 2004 (the "9½% Debentures"), of which $31,635,000 aggregate principal amount remains outstanding as of December 1, 1985 (the 6¾% Debentures, the 7¾% Debentures and the 9½% Debentures being hereinafter called the "Standard Brands Debentures").

(b) Standard Brands and Nabisco Brands, Inc., a Delaware corporation ("NBI"), executed and delivered to the Original Trustee First Supplemental Indentures to the Standard Brands Indentures dated as of July 1, 1981, pursuant to which NBI assumed certain obligations of Standard Brands under the Standard Brands Indentures.

(c) Simultaneously with the consummation of the merger of Standard Brands into Nabisco, Inc., a New Jersey Corporation and a wholly owned subsidiary of NBI ("Nabisco") pursuant to a Plan of Merger effective as of December 31, 1982, Standard Brands, NBI and Nabisco executed and delivered to the Original Trustee Second Supplemental Indentures to the Standard Brands Indentures dated as of December 31, 1982, pursuant to which Nabisco assumed the due and punctual performance and observance of all of the covenants and conditions of the Standard Brands Indentures to be performed by Standard Brands, including without limitation, the payment obligations of Standard Brands under the Standard Brands Indentures

and pursuant to which NBI assumed, jointly and severally with Nabisco, certain obligations of Standard Brands under the Standard Brands Indentures.

(d) Effective at the close of business on December 31, 1985, Chemical succeeded the Original Trustee as Trustee under the Standard Brands Indentures.

(e) The Applicant, NBI and Nabisco executed and delivered to Chemical Third Supplemental Indentures to the Standard Brands Indentures dated as of December 31, 1985, and effective after the close of business on said date (the "Third Supplemental Indentures") pursuant to which the Applicant assumed, jointly and severally with NBI and Nabisco (now indirect wholly owned subsidiaries of the Applicant) the obligations of Nabisco, as the successor to Standard Brands under the Standard Brands Indentures, to make the due and punctual payment of the principal of (and the premium, if any), the interest on, and the sinking fund payments provided for by the Standard Brands Indentures with respect to the Standard Brands Debentures.

2. (a) The Applicant had outstanding as of December 31, 1985, $80,000,000 of its 7⅜% Sinking Fund Debentures, Due February 1, 2001 (the "Reynolds Debentures"), issued under an indenture dated as of April 1, 1971 (the "April 1971 Indenture") between the Applicant and the original Trustee which was heretofore qualified under the Act.

(b) Effective at the opening of business on December 16, 1982, Chemical succeeded the Original Trustee as Trustee under the April 1971 Indenture.

3. Chemical's successor trusteeship with respect to the Standard Brands Indentures did not constitute a conflicting interest under any of such Indentures since each such Indenture is wholly unsecured and in accordance with section 7.08 of each such Indenture, each such Indenture is either specifically described in a later such Indenture or was qualified under the Act after an earlier such Indenture. The assumption by Applicant of Nabisco's obligations under the Standard Brands Debentures pursuant to the Third Supplemental Indentures, effective after the close of business on December 31, 1985, results in Chemical becoming a trustee under indentures (*i.e.* the Standard Brands Indentures) under which securities of the Applicant are outstanding within the meaning of section 7.08 of the Standard Brands Indentures and the April 1971 Indenture. Nevertheless, no conflicting interest exists under the 1968 Indenture with respect to the April 1971 Indenture because both indentures are wholly unsecured and the April 1971 Indenture was qualified after the date of the 1968 Indenture and no conflicting interest exists under the April 1971 Indenture with respect to the May 1971 Indenture and the 1974 Indenture because each such indenture is wholly unsecured and the May 1971 Indenture and the 1974 Indenture were qualified after the date of the April 1971 Indenture. However, a conflicting interest may be deemed to exist under the April 1971 Indenture with respect to the 1968 Indenture since section 7.08 of said Indenture does not exclude from its operation the 1968 Indenture, and a conflicting interest may be deemed to exist under the May 1971 Indenture and the 1974 Indenture with respect to April 1971 Indenture since sections 7.08 of said Indentures do not exclude from their operation the April 1971 Indenture.

4. The Applicant is not in default under either of the Standard Brands Indentures or the April 1971 Indenture.

5. The Applicant's obligations under the Standard Brands Indentures and the April 1971 Indenture and the debentures issued thereunder are wholly unsecured and rank *pari passu inter se*. There are no material differences between the Standard Brands Indentures and the April 1971 Indenture except for variations as to aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption prices and sinking fund provisions.

6. In the opinion of the Applicant, the provisions of the aforementioned indentures are not so likely to involve a material conflict of interest so as to make it necessary in the public interest or for the protection of any holder of any of the debentures issued under such indentures to disqualify Chemical from acting as trustee under the Standard Brands Indentures and trustee under the April 1971 Indenture.

The Applicant has waived notice of hearing, any right to a hearing on the issues raised by the application, and all rights to specify procedures under the Rules of Practice of the Commission with respect to its application.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document, File No. 22-14784, on file in the offices of the Commission at the Public Reference Section, 450 5th Street, NW., Washington DC 20549.

Notice is further given that any interested person may, not later than March 31, 1986 request, in writing, that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, pursuant to delegated authority, by the Division of Corporation Finance.

John Wheeler,

Secretary.

[FR Doc. 86-5681 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22988; File No. 4-208]

Joint Industry Plan; Filing and Temporary Summary Effectiveness of Amendment to the Intermarket Trading System Plan; Cincinnati Stock Exchange, Inc.

The Operating Committee of the Intermarket Trading System ("ITS") on March 7, 1986 submitted an amendment, pursuant to section 11A of the Securities Exchange Act of 1934 ("Act") and Rule 11Aa3-2 ("Rule") thereunder, to the Plan for the Purpose of Creating and Operating an Intermarket Communication Linkage ("ITS Plan").[1]

I. Description of the Amendment

The purpose of the amendment is to amend the ITS Plan to provide for (1) an automated interface between ITS and the Cincinnati Stock Exchange, Inc's ("CSE") National Securities Trading System ("NSTS"), (2) principles to govern the automated generation of ITS commitments, and (3) operational parameters for the NSTS/ITS automated interface. The NSTS/ITS automated interface allows orders that are entered

[1] The ITS Plan and subsequent amendments are contained in File No. 4-208. The Commission initially approved the ITS Plan on an interim basis on April 14, 1978. Subsequently, the Commission authorized the ITS participants to act jointly in operating the ITS for a period of indefinite duration. *See* Securities Exchange Act Release No. 19456 (January 23, 1983), 48 FR 4938. The ITS Operating Committee has indicated that although it refers to the instant amendment as the "Sixth Amendment," the amendment is actually the fifth amendment to the restated ITS Plan filed with the Commission. Another amendment concerning pre-opening reports, which has been circulated to, but not executed by, all the participants is labeled the "Third Amendment."

into NSTS, processed in accordance with CSE rules, but not fully executed in NSTS, to be formatted automatically into an ITS commitment at the ITS best bid or offer. The CSE then routes these orders through ITS to the ITS participant market furnishing the ITS best bid or offer at that time. The NSTS/ITS interface also will accept automatically an ITS commitment routed to the NSTS from another market if the NSTS quotation is at the same price as the ITS commitment when that commitment is received.

The amendment specifies implementation obligations of the CSE with regard to the NSTS/ITS interface, including giving the other ITS participants a reasonable opportunity to comment on proposed changes to CSE rules governing CSE's internal execution procedures before these changes are filed with the Commission, and requiring the CSE to maintain the present obligations of Designated and Contributing Dealers.[2]

In addition, the amendment adds a statement that ITS is not designed to be an order delivery system in which a substantial portion of one market's orders are routed to another market for execution. The amendment also states that reasonable efforts must be taken to probe one's own market to achieve a satisfactory execution before an order is entered into ITS. To limit the possibility that the NSTS/ITS automated interface would be used as an order delivery system primarily routing orders into ITS,[3] the amendment includes a staged formula limiting the proportion of CSE agency orders that can be routed to another market using the interface. The amendment also establishes a periodic review procedure under which any ITS participant can suggest modifications of the ITS/NSTS interface in a number of specified areas, and an obligation for participants to attempt in good faith to agree on whether to make such modifications.

Furthermore, NSTS/ITS interface emulates the original ITS stations and does not relieve ITS system capacity. Therefore, the amendment provides that if ITS system capacity is "rendered inadequate" in the judgment of the ITS facilities manager as a result of a material increase in the number of NSTS/ITS messages, the CSE will relieve the capacity shortage by modifying the NSTS system or bearing the costs for another CPU for the ITS system.

Finally, the amendment provides for all CSE trading in ITS securities, whether conducted in NSTS or not, to be conducted subject to the ITS Plan.

II. Temporary Summary Effectiveness

The Commission has put the amendments into effect on a summary basis pursuant to Rule 11Aa3–2(c)(4), for a period of 120 days from the date of this release, in order to allow the ITS/NSTS interface to begin operation immediately while comments are being solicited. The amendments are a product of extended negotiations between the CSE and the other ITS participants; while these negotiations were underway, use of the interface was postponed. The Commission preliminarily believes that the amendments represent a positive enhancement to ITS and to NSTS that creates opportunities for efficient and effective market operations,[4] and, in particular, more efficient executions and enhanced intermarket competition. Accordingly, the Commission finds that temporary summary effectiveness is appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to and perfect mechanisms of, a national market system, and otherwise in furtherance of purposes of the Act.

III. Request for Comments

Interested persons are invited to submit written comments on the amendment. Persons submitting comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission and related items, other than those that may be withheld from the public in accordnce with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. All communications should refer to File No. 4–208 and should be submitted by April 14, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority (17 CFR 200.30–3(a)(29)).

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 85–5630 Filed 3–13–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22993; SR–BSE–84–4]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Boston Stock Exchange, Incorporated ("BSE") submitted on July 2, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend Chapter XV of its rules to provide procedures relating to the evaluation of specialist performance. On September 4, 1985, the BSE submitted Amendment No. 1 to the proposed rule change supplementing and amending the procedures described in SR-BSE–84–4.

The proposed amended rule change would amend Chapter XV of the BSE rules as follows: (1) To implement on a twelve-month pilot basis a Specialist Performance Evaluation and Improvement Program ("pilot program"); and (2) to adopt sections .02 and .03 of ¶2155 [1] ("Specialist Stock Reallocation") under Chapter XV of the BSE rules to authorize the Market Performance Committee ("MPC") to take one or more of the following actions if a specialist consistently has received evaluations which are below a minimum level of acceptable performance pursuant to the policies of the Exchange's pilot program: (a) Withdraw Exchange approval of a

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[2] In a separate letter, the National Association of Securities Dealers, Inc. said that, in its view, no plan amendment was necessary to authorize the NSTS/ITS except perhaps conforming descriptive language. It also said that its approval of the amendment was conditioned on its understanding that the ITS Plan conditions negotiated by the CSE were not intended to be and shall not be construed as precedent for system modifications proposed by other participants. Letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Charles Forman, ITSOC Chairman (March 6, 1986).

[3] In a separate letter to the Commission, the New York Stock Exchange, Inc ("NYSE") has expressed its concern that the CSE, as presently constituted, is dominated by a single dealer firm, and derives most of its trading volume from the execution of orders received through ITS. The NYSE contends that ITS was designed to be an incident to the operation of separate, independent markets, yet the CSE currently has virtually no market function distinct from ITS. The NYSE notes the CSE's commitment to modifying its system to increase interaction of orders and to "strive to generate significant trading activity independent of ITS," and states that its "forbearance" in not blocking the ITS/NSTS interface or moving to end CSE's participation in ITS "will afford the [CSE] an opportunity to alter the CSE's present profile by restoring significant multi-member trading participation and independent, integrated trading." in turn, the NYSE requests that the Commission monitor the ITS/NSTS interface and revisit the appropriateness of CSE's participation in ITS in light of how well the CSE accomplishes its objectives. *See* Letter from Robert J. Birnbaum, President, NYSE, to John P. Wheeler, Secretary, SEC (March 6, 1986). The Commission requests comment on the issues raised by the NYSE letter.

[4] *See* section 11A(a)(1)(B) of the Act; *See also* Securities Exchange Act Release No. 17702 (April 9, 1981).

[1] Paragraph references are to the BSE Guide published by Commerce Clearing House, Inc. ("CCH").

members's registration as a specialist in one or more stocks, (b) reduce the percentage of stocks that may be protected by a specialist when new specialists' books are allocated stocks,[2] and (c) suspend the specialist's trading account.[3]

Notice of the proposed rule change and Amendment No. 1 thereto together with their terms of substance was given by the issuance of Commission releases (Securities Exchange Act Release Nos. 21453, November 2, 1984, 22624, November 14, 1985, respectively) and by publication in the **Federal Register** (49 FR 45091, November 14, 1984, and 50 FR 48512, November 25, 1985, respectively).[4] No comments were received regarding the proposal.

Specialist performance evaluations are to be conducted every four months. The pilot program consists of two areas of performance measurement weighted as follows: (1) The Specialist Performance Evaluation Questionnaire ("Questionnaire"), which accounts for 75% of the specialist's overall score, and (2) the quotation evaluation score, which accounts for 25% of the overall score. A specialist's overall grade will be used as a stock allocation criterion.[5]

The Questionnaire is composed of nine weighted questions and five background questions relating to various areas of specialist activity. It is completed by floor brokers, specialists who act in the capacity of floor brokers in their non-specialty stocks and certain qualifying clerks. Weighted questions are designed to measure the relative importance of the performance area measured by the question.[6] A specialist's scores on all individual questions will be reviewed regardless of the specialist's overall weighted score. Unsatisfactory performance on individual questions as determined by enumerated standards may subject a specialist to performance improvement action.

The second element of the program measures the quality of quotations disseminated through the Consolidated Quotation System. Specialists will be evaluated on the competitiveness of their quotations in their six most active Intermarket Trading System ("ITS") issues. The evaluation is limited to these most active stocks because the Exchange's quotation evaluation system is not yet computerized. It is anticipated that all ITS issues will be evaluated and only manual quotes[7] will be credited when new systems are introduced that will simplify quote dissemination and evaluation.

The quotation evaluation system utilizes a schedule whereby manually input quotations are credited if the bid or offer meets increasing size requirements at each one-eight point interval away from the primary market. For example, if the bid or offer is equal to or better than the primary market quotation, the minimum size required to receive full credit would be 100 shares. If the variation is one-eighth, the minimum size requirement would be 200 shares, and at a variation of one-quarter, 500 shares. The maximum acceptable variation away from the primary market quotation is three-eighths, and the minimum size required in such cases to receive full credit would be 1,000 shares. To meet Exchange requirements for satisfactory performance, a specialist must meet the aforementioned schedule 20% of the time.

As noted, the BSE plans to separately employ the Questionnaire, quotation performance and overall weighted grades to determine where performance improvement action is most needed. Unsatisfactory ratings on either the Questionnaire for the quotation evaluation will result in the following action:

(1) If a specialist receives an average grade below three on the Qustionnaire (on a one to five rating scale with five being highest), the specialist will be requested to attend an informal meeting with the Performance Improvement Action Subcommittee to discuss possible methods of improving performance. Such meetings will occur if the specialist receives a grade below three for one question for two out of three successive review periods, or if the specialist does not meet the quotation schedule 20% of the time. The specialist may elect not to attend this meeting.

(2) A specialist will be required to meet with the full MPC in the event he receives an average overall grade below three on the Questionnaire in two out of three successive review periods, or if he receives a grade of below three on one question in one out of two review periods subsequent to meeting the conditions for review by the Subcommittee. Those specialists failing to meet the schedule for acceptable quotes at least 20% of the time in two of three review periods also would be subject to review by the full MPC.

Any specialist that meets a condition requiring a meeting with the full MPC may be subject to one or more of the following performance improvement actions: (1) Withdrawal of registration in one or more stocks; (2) limitations on the percentage of stocks that can be protected by a specialist,[8] and and (3) withdrawal of a specialist's trading account.[9]

In the event the performance of a specialist is below acceptable performance levels, notice of such fact will be given to the specialist. Notice will be in writing and will contain the specific grounds to be considered as the basis for any sanction.[10] The specialist

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[2] Under the proposed rule, all specialists are obligated to reserve 10% of their specialty stocks for acquisition by new specialists developing a book. A specialist whose performance is below acceptable levels may be required by the MPC to further limit the number of stocks that can be protected.

[3] The BSE first proposed this third step in Amendment No. 1 to the filing. *See* Securities Exchange Act Release No. 22624, November 14, 1985, 50 FR 48512. The proposal does not, however, limit the MPC to specifically enumerated responses. Pursuant to changes submitted on January 6, 1986, in an addendum to Amendment No. 1, the MPC may take such other actions as it deems appropriate to address deficient specialist performance.

[4] On January 6, 1986, the BSE submitted a further amended filing which clarified Exchagne policy regarding Performance Improvement meetings, and proposed nominal revisions to Amendment No. 1. In that addendum, the exchange incorporated specific evaluation standards into its rules, and clarified that (1) the program is a twelve month pilot, (2) initial meetings between a specialist and the Performance Improvement Action Subcommittee will be voluntary and that meetings with the full MPC (upon satisfaction of conditions warranting such) will be mandatory, and (3) the Exchange may impose sanctions beyond those specifically enumerated in order to correct inadequate specialist performance.

[5] The BSE did not originally propose weighted questions but submitted them as part of Amendment No. 1 to the filing after evaluating the Questionnaire.

[6] As overall specialist performance improves, the MPC expects to raise the minimum standards for the Questionnaire and quotation performance as appropriate. Additional proposed rule changes, of course, would be required to effectuate such mofidications of the specialist performance standards.

[7] Automatic quotation systems utilize computerized tracking programs which monitor the primary market's quotations in a given stock and continuously update, to certain set parameters, that stock's quotes on a secondary exchange. Manual quotes must be continuously monitored, evaluated and updated by hand.

[8] See note 2 *supra* p. 1.

[9] The MPC, in addition to the foregoing actions, may take such other action as it deems appropriate to address deficient performance of a specialist. The BSE, of course, would not be precluded under the proposed procedures from taking disciplinary action against a specialist where appropriate.

[10] When the MPC considers withdrawal of approval of a specialist's registration in a particular stock, it will consider indications of weakness in particular stocks to the extent such indications are available. Such indications of weak performance may include, among other factors, references to particular stocks by those responding to initial or supplemental evaluation questionnaires, and references in such questionnaires to weaknesses in

Continued

will have an opportunity to submit a written reply no later than ten days after the receipt of such notice.

Specialists also will have an opportunity to be heard upon the specific grounds to be considered before the MPC and a written record of any such hearing will be maintained. Following any such proceeding, the MPC will inform the specialist in writing of its decision and reasons. The MPC's decision is subject to review by the Board of Governors in accordance with the provisions of Article III, section 2 of the BSE Constitution.

The Commission believes it is appropriate to approve the BSE program on a one-year pilot basis. The program utilizes both a Questionnaire and a quotation evaluation system which should provide the Exchange with sufficient subjective and objective data to refine appropriate standards and procedures for specialist evaluation. The pilot will enable the BSE to effectively reallocate securities of specialists whose performance is substandard, and also give the MPC the flexibility to impose alternative sanctions to correct deficient performance. In addition, the Exchange anticipates that quote evaluation will be expanded beyond the presently proposed six most active ITS issues, as the Exchange enhances its computerized quotation systems.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 10, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5678 Filed 3-13-86; 8:45 am]

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performance of a type with relates to particular stocks or groups of stocks.

When the available measures of specialist performance indicate weak performance generally, and not precisely in any particular stock or stocks, the MPC may decide nonetheless to withdraw approval for a particular stock or stocks. In any case, the MPC will exercise its best judgment to select a stock or stocks as to which a reallocation is likely to result in improved specialist performance.

[Release No. 34-22994; File No. SR-CBOE-86-5]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing and Immediate Effectiveness of Proposed Rule Change

On February 14, 1986, the Chicago Board Options Exchange, Incorporated ("CBOE") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to delete language from sections 3.2 and 5.3 of the Exchange Constitution to reflect the fact that the Exchange's Appeals Committee is an appointed and not an elected committee.[3]

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item II below and is set forth in sections (A), (B), and (C) below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to amend sections 3.2 and 5.3 of the CBOE Constitution to accurately reflect the results of a special membership vote that was held on January 8, 1979, which changed the Appeals Committee from an elected to an appointed body. These sections of the Exchange Constitution were inadvertently overlooked when the Constitution subsequently was amended to reflect the membership vote.[4] The following bracketed language is to be deleted from Article III and Article V:

Article III, Meeting of Members, Annual Election Meeting.

Section 3.2. An annual election meeting of members shall be held on the 2nd Monday in December of each year unless such day is a legal holiday, in which case on the next succeeding business day which is not a legal holiday, at such time as may be designated by the Board prior to the giving of notice of the meeting for the purpose of electing directors to fill expiring terms and any vacancies in unexpired terms and electing members of the Nominating Committee [and Appeals Committee] to fill expiring terms and any vacancies in unexpired terms:

Article V. Conduct of Annual Election, Counting of Ballots.

Section 5.3. When all of the ballots properly submitted at the election have been placed in the ballot box, the Election Committee shall open the ballot box and the sealed ballot envelope and shall count the ballots. A plurality of votes shall elect the Directors; provided, however, that where a plurality of votes cast do not elect at least 2 directors who shall be off-floor directors, as defined in section 6.1, of which at least 1 shall be a nonresident and at least 2 directors who shall be floor directors, as defined in section 6.1, then the appropriate number of candidates from each of the above categories who receive the highest votes among all those candidates in each such category shall be elected in lieu of those candidates with the lowest winning pluralities. A plurality of votes shall elect members of the Nominating Committee. [A plurality of votes shall elect the members of the Appeals Committee; provided, however, that where a plurality of votes do not elect at least 1 member of the Committee who shall be an off-floor individual as defined in section 7.3 and at least 1 member of the Committee who shall be a floor individual as defined in section 7.3 then the appropriate number of candidates from each of the above categories who receive the highest votes among all of those candidates in each category shall be elected in lieu of those candidates with the lowest winning pluralities.] the Election Committee shall cause election results to be posted on the bulletin board on the floor of the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change creates any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The change of the Appeals Committee from an elected to an appointed committee was approved by the Commission in Securities Exchange Act Release No. 15618, March 6, 1979, 44 FR 14657.

[4] *See* note *supra*.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherence of the purposes of the Act.

Publication of the submission is expected to be made in the **Federal Register** during the week of March 10, 1986. Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR–CBOE–86–5.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 10, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–5679 Filed 3–13–86; 8:45 am]

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[Release No. 34–22965; SR–MSRB–86–5]

Self-Regulatory Organizations; Filing and Immeditate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board

The Municipal Securities Rulemaking Board ("MSRB") Suite 800, 1818 N Street NW., Washington, DC 20036–2491 on March 3, 1986 submitted copies of an interpretation of MSRB rules pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to clarify the application of its confirmation rules, rules G–12(c) and G–15(a), to municipal securities subject to call features.

This interpretation has become effective, pursuant to section 19(b)(3)(A) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the **Federal Register.** Persons submitting comments should file six copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR–MSRB–86–5.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing and any subsequent amendments also will be available at the office of the MSRB.

For the Commission, by the Division of Market Regulation pursuant to delegated authority (17 CFR 200.30–3(a)(12)).

Dated: March 5, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–5624 Filed 3–13–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22980; File No. SR–NSCC–86–04]

Self-Regulatory Organizations; National Securities Clearing Corp.; Proposed Rule Change Amending Procedures for Calculating Clearing Fund Deposits of Municipal Securities Brokers' Brokers Sponsored Account Members

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 11, 1986, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change described below. NSCC requested that the Commission approve this proposal on an accelerated basis under section 19(b)(2) of the Act. The Commission is publishing this notice to solicit comment.

The proposal would add to Part XIV of NSCC's Procedures an "Alternative Clearing Fund Formula" (the "Alternative Formula") that would be used by NSCC to determine the minimum required Clearing Fund contribution levels of Municipal Securities Brokers' Broker Members using NSCC's sponsored account service ("Municipal Brokers").[1] The proposal also amends NSCC's "Standards of Financial Responsibility and Operational Capability" (the "Standards") to set out eligibility standards for Alternative Formula use and additional guidelines for Municipal Brokers electing the new formula that are subject to closer than normal surveillance.

I. Description of the Proposal

The Alternative Formula would differ from NSCC's original formula [2] in several respect. Under the original formula, each member must contribute an amount equal to: (A) 2½% of the Member's average daily settlement debits and credits, other than those relating to envelope settlement systems ("ESS"), plus (B) the greater of (1) 2½% of the member's average daily ESS debits and credits or (2) 5% of ESS debits; adjusted by a multiplication factor.[3] Under the Alternative Formula,

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[1] The proposal amends NSCC Rule 1 to define "Municipal Securities Brokers' Broker" to mean "any municipal securities broker as defined in Rule 15c3–1(a)(8)(ii) of the Securities Exchange Act of 1934, as amended." Rule 15c3–1(a)(8)(ii) defines these brokers as brokers who act as agent for registered brokers, dealers or municipal securities dealers, have no public customers and maintain no municipal securities in proprietary or other accounts.

Municipal Brokers play an essential role in the municipal securities markets. Unlike equity securities, municipal securities are not traded on national securities exchanges and derived income generally is exempt from federal income taxation. Municipal Brokers provide the fundamental service of confidentially bringing together buyers and sellers of municipal securities. Thus, Municipal Broker activity can be characterized as a "matched book" business, *i.e.*, the Broker is interposed between each buyer and seller and thus the Broker's daily settlement obligations net to zero.

[2] *See* NSCC Procedures, Part XIV, Section A. All NSCC Members not qualifying to use the Alternative Formula generally must continue to contribute to NSCC's Clearing Fund under the Original Formula.

[3] The factor is calculated by dividing the Member's excess net capital into the Member's average daily ESS debits. The factor then is adjusted to provide a minimum of one and a maximum of three.

clause (A) would exclude both ESS and "qualified securities depository" debits and credits.[4] Clauses (B)(1) and (B)(2) would be carried over unchanged except that a new clause would add back into the calculation 2% of the Member's average daily qualified securities depository debits and the multiplication factor would be eliminated. In sum, a Municipal Broker's Clearing Fund contribution under the Alternative Formula would equal the larger of the daily average of: 2½% of ESS debits and credits of 5% of ESS debits plus 2% of qualified securities depository debits. The Alternative Formula thus would reduce substantially the required Clearing Fund contributions of Municipal Brokers.[5]

The proposal would add new section B.3 to Part I of the Standards. That Section would specify three conditions that must be met by each Municipal Broker applicant for NSCC membership before it could qualify for Alternative Formula use. First, each applicant would have to be in compliance with Commission Rule 15c3–1(a)(8).[6] Second, each applicant would need to enter into an agreement with NSCC that it will not transfer, withdraw or deliver to a third party securities received on a business day through a qualified securities depository for no value, prior to paying for the securities or paying its net settlement obligation for that business day, whichever is less. Third, the applicant also would need to agree not to pledge any securities received on a business day through a qualified securities depository prior to the day's money settlement unless the pledgee agrees to pay NSCC directly the amount due for the securities received or the applicant's net settlement obligation for that business day, whichever is less.

Finally, the proposal would add to the Standards new Part IV, "Guidelines for Computing Clearing Fund Deposits for Sponsored Account Municipal Securities Brokers' Broker Members on Surveillance Who Elect the Alternative Clearing Fund Formula." This Part essentially mirrors already established guidelines for all other Members on surveillance status.[7] Indeed, under new Part IV, NSCC could demand from Municipal Broker Members on closer than normal surveillance Clearing Fund contributions calculated under NSCC's ordinary guidelines, *i.e.*, under Part III of the Standards. NSCC, however, would retain discretion to require Municipal Brokers on surveillance status to contribute lesser amounts of additional Clearing Fund collateral.

II. NSCC's Rationale for the Proposal

NSCC believes that the proposed rule change would facilitate Municipal Broker participation in the National Clearance and Settlement System (the "System"). NSCC stated in its filing that substantially reduced Clearing Fund requirements for Municipal Brokers are appropriate for several reasons. While Municipal Brokers account for a substantial portion of all inter-dealer transactions in both when-issued and secondary municipal securities markets, those Brokers, for the most part, have been unable to qualify for direct DTC membership. Moreover, NSCC represents that its original Clearing Fund formula seems to have deterred both their direct participation in NSCC and their indirect participation in DTC through NSCC's "sponsored account service."[8] Thus, Municipal Brokers, who are very active traders, experience substantially higher clearance and settlement costs because economic considerations have forced them to process transactions either outside National System facilities or through those facilities via correspondent arrangements with direct clearing agency members.[9]

NSCC states that the unique role of Municipal Brokers in the municipal securities markets presents significantly reduced financial exposure to NSCC and justifies reduced required Clearing Fund contributions.[10] Indeed, the Commission already has recognized their unique role by providing them with special reduced net capita requirements.[11] Thus, NSCC's proposal would adjust Clearing Fund levels for Municipal Brokers to reflect more accurately their unique role in the marketplace.

Finally, NSCC believes that the proposal should enable Municipal Brokers to join NSCC and to use NSCC's sponsored account serivce.[12] In NSCC's view, those Brokers, by joining NSCC, should experience substantially reduced clearance and settlement costs by becoming direct, active users of National System services. Indeed the National System, and its user community generally, would benefit because the proposal should facilitate the further depository immobilization of municipal securities.[13]

III. Request for Comments

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed change or institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons can submit written comments about the proposal by filing six copies of their comments with the Secretary, Securities and Exchange

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[4] A "qualified securities depository" is defined in NSCC Rule 1 as a depository that has entered into an agreement with NSCC to act for NSCC by effecting book-entry transfers of securities to and by NSCC. NSCC's only "qualifier securities depository" is The Depository Trust Company ("DTC").

[5] The proposal does not change the minimum required level of Member Clearing Fund cash contributions. *See* NSCC Procedures, Part XV, for a description of these required contribution levels. Both the original and proposed Clearing Fund formulas are used to calculate each Member's Clearing Fund contribution requirements above the minimum required cash contribution levels. These additional contributions can take the form of other assets, such as U.S. government securities and certain letters of credit and "valued" securities. *See* NSCC Rule 4, Section 1.

[6] 17 CFR 240.15c3–1(a)(8) (1985). Rule 15c3–1(a)(8) provides that Municipal Brokers (1) need only deduct 1% of outstanding fails-to-deliver aged 21 business days or more; (2) take no deduction for aged fails-to-receive; (3) may exclude from aggregate indebtedness overnight bank loans; and (4) must maintain minimum net capital of not less than $150,000.

[7] *See* Part III of the Standards.

[8] NSCC's "sponsored account service" enables NSCC Members that cannot, or choose not to, participate in DTC directly to access DTC services through an NSCC subaccount at DTC. Each sponsored Member is assigned a subaccount number and uses that account like a direct DTC participant. A sponsored account Member generally can use all depository services and facilities as if it were a direct participant. NSCC, however, remains liable to DTC on all activity in sponsored accounts, including the payment of fees to DTC. Because of its potential exposure, NSCC verifies all data for accuracy and reasonableness before submission to DTC and is authorized to reject any items that create liabilities inconsistent with the Member's normal level of business or financial capability.

[9] NSCC believes that the Alternative Formula could help to facilitate development of a meaningful Continuous Net Settlement ("CNS") environment for municipal securities.

[10] *See* note one, *supra*, regarding their unique role.

[11] *See* Rule 15c3–1(a)(8), 17 CFR 240.15c3–1(a)(8).

[12] In fact, NSCC requested that the Commission approve the proposal on an accelerated basis because several Municipal Brokers want to join NSCC and effect compliance with MSRB Rules G–12 and G–15. Those Rules require all municipal securities dealers, brokers and customers that participate in registered clearing agencies, either directly or indirectly, to use the facilities of clearing agencies for comparison and book-entry settlement of certain municipal securities transactions. *See* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983), corrected at 48 FR 54310 (December 1, 1983) (approving File No. SR–MSRB–83–13). Unless the Commission receives meaningful adverse comment (which is unlikely), the Commission plans to approve the proposal on an accelerated basis at the end of the twenty-one day comment period.

[13] NSCC believes that the Alternative Formula will bring most, if not all, Municipal Brokers directly into the National System.

Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of the filing also will be available for inspection and copying at NSCC's principal office. All comments should refer to the file number in the caption above and should be sumitted by April 4, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5625 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22984; File No. SR-NYSE-86-11]

Self Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 5, 1986 the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule change would extend the effectiveness of R4 from March 7, 1986 to March 6, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed rule change is to extend the operation of R4 to March 6, 1987.

The R4 program was begun on pilot-basis in September 1982 with two member organizations participating. In its initial phase, the R4 program included 30 stocks, the majority of which were the Dow Jones Industrial stocks. Eligible order size was a maximum of 299 shares. The basic R4 procedures are described in detail in SR-NYSE-82-14 and Amendment No. 1 thereof.

In March 1983, the Exchange requested that the R4 program be extended for an additional year, and that the program be expanded to (i) include additional member organizations; (ii) add eligible stocks, in stages, up to approximately 200 stocks; and (iii) increase the size of eligible orders up to 599 shares. The Exchange's 1983 request for an extension and expansion of the R4 program is described in detail in SR-NYSE-83-8 and Amendment No. 1 thereof.

In the Commission's view, the Exchange's proposed expansion of the R4 program raised "important questions" as to market quality and structure, and thus the Commission instituted a review proceeding to consider whether or not to approve the Exchange's request. After evaluating the comments it received, the Commission determined, on November 4, 1983, to approve the extension and expansion of the R4 program. Since that time, the Exchange has obtained Commission approval for additional extensions of the pilot. The R4 program is currently scheduled to expire on March 7, 1986.

To date, the Exchange has not fully expanded the R4 program to the extent authorized by the Commission in November 1983. In June 1984, the R4 program was expanded to 68 stocks, but maximum order size remained at 299 shares. R4 trading, as measured by both number of executions and share volume, still remains very low as compared to overall trading volume on the Exchange. Consequently, the Exchange has not considered it feasible to expand R4 during the past year.

However, the Exchange is requesting that R4 be extended for one additional year to March 6, 1987 because the program continues to provide a service for member firms who choose to utilize it. Furthermore, as explained in a letter to the Commision relative to SuperDOT procedures, the Exchange is reviewing plans for several systems enhancements, among them the use of Floor-wide display technology. The Exchange believes that at the conclusion of that previously noted review period, it will be appropriate to consider as well the future plans for the R4 program.

(2) Statutory Basis

The extension of the R4 experiment as proposed herein has the same statutory basis as stated in SR-NYSE-82-14. Specifically, the R4 experiment is consistent with sections 11A(a)(1) and 17A(a)(1) of the Securities Exchange Act of 1934 (the "Act") which encourage the use of new data processing and communications techniques and more efficient market operations. It also advances the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Buden on Competition

The R4 experiment provides an opportunity for the Exchange to compete more effectively for small order flow with other exchanges which utilize automatic execution systems. Thus, the Exchange does not believe the R4 experiment imposes any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds good casue for approving the proposed rule change prior to the 35th day after its publication in the Federal Register, and, in any event, by March 7, 1986, the scheduled "sunset" date for the R4 experiment. The Commission believes that the Service benefits member organizations by providing rapid and cost-effective

processing of transactions, and also benefits public investors, who may find the rapid execution made possible by the service more conducive to their needs than the execution of their orders on the Floor of the Exchange in the normal manner. Because member organizations and public investors are currently receiving the benefits of executions through the Service, the Commission believes that operation of the Service should not be suspended pending completion of the full notice period specified in section 19(b)(2). Accordingly, the Commission has accelerated the effectiveness of the proposed rule change to March 7, 1986.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the abovementioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 4, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.*

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5626 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22989; File No. SR-PSE-85-36]

Self-Regulatory Organizations; the Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On December 16, 1985, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to amend the PSE's Options Floor Procedure Advice F-5 and permit increased usage of hand signals as a means of communication on the options floor.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 22834 (January 24, 1986), 51 FR 4060 (January 31, 1986). No comments were received on the proposed rule change.

Currently, Exchange rules permit communciation via hand signals only of quotes and sizes, changes of price limits of orders, or their reduction in size or cancellation. The proposed rule change will permit, in addition, the increase of an order's size and/or the activation of an order to market price by means of hand signals. The proposed rule change will not allow, however, the initiation of orders through the use of hand signals.

The PSE stated in its proposal that the rule change is intended to better facilitate the communication of order instructions across the trading floor. As a result of the PSE's relocation to a larger facility in September 1984, floor brokers and clerks are required to travel further distances from booth to trading crowd to effect changes to existing orders. The PSE believes that the proposed rule change will reduce the amount of time required to effect such changes, thereby benefiting the investing public. For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[4] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5627 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

March 10, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following security:

American Brands, Inc. (Delaware)
Common Stock, No Par Value (File No. 7-8863)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting systems.

Interested persons are invited to submit on or before March 31, 1986, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5680 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] Amendment No. 1 to the proposed rule change was filed on January 6, 1986.

[4] 15 U.S.C. 78f (1982).

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1985).

[Release No. 34-22991; File No. SR-Phlx-86-3]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change; Philadelphia Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 6, 1986, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change which is described below, consists of procedures regarding the delivery and pricing of orders in Philadelphia Stock Exchange ("PHLX") traded securities which compose an index. Such procedures are proposed to be implemented on a one year pilot basis.

(a) Definitions:

(i) PRL means a combined round-lot and odd-lot order; and,

(ii) Eligible securities means those securities designated by the specialist.

(b) The PHLX proposes, on a trial basis, to utilize existing computer facilities to enable member organizations to electronically transmit, directly to the specialist post, market orders in eligible securities after the opening of trading in such securities. Such orders will be executed in accordance with the applicable rules of the PHLX as follows:

(A) Market orders (odd-lots, and round-lots and PRL's up to 599 shares) will be executed at the best bid/offer quote among the American, Boston, Cincinnati, Midwest, New York, Pacific, or Philadelphia Stock Exchanges or ITS/CASE.

(B) Market orders (round-lots and PRL's over 599 shares) will be executed in accordance with arrangements agreed upon by the specialist and the member organization transmitting the order.

II. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose

The purpose of the proposed rule change is to extend until December 31, 1986, the pilot program for the PHLX's Designated Underlying Index Transaction ("DUIT"). A nine (9) month pilot program was originally approved by the Securities and Exchange Commission on May 4, 1984, and subsequently extended for a period of one (1) year on February 4, 1985.

The Designated Underlying Index Transaction program, which is described more fully in SR-PHLX 83-26, as approved by the Securities and Exchange Commission on May 4, 1984 (see Order Approving Proposed Rule Change, Release No. 20928), is intended to provide member organizations with an easy, efficient method of order entry and execution with timely reports for transactions in equity securities which hedge index related transactions, e.g., in index options, index futures, and options on index futures.

The PHLX's existing computer facilities will enable PHLX member organizations to transmit such orders electronically, directly to the specialist. This will be accomplished by means of the PACE system, PHLX's order delivery and execution system.

Because of certain enhancements which are being made to the PACE system, as well as to the systems of prospective users, the Designated Underlying Index Transaction program has not been implemented. It is for this reason that the extension to December 31, 1986, is requested.

(b) Statutory Basis

Implementation of the proposed rule change will be consistent with those provisions of the Securities Exchange Act of 1934 ("Act") which encourages the use of new data processing and communications techniques which create the opportunity for more efficient and effective market operations. See sections 6(b)(5) and 11A(a)(1) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that any burdens will be placed on competition as a result of such change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments on this proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Phlx has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act. The Commission believes that approval of the proposed rule change on an accelerated basis is appropriate because the DUIT pilot program was scheduled to terminate on February 4, 1986, and a further extension of the pilot, which the Commission notes is not yet operational, is necessary to permit the Phlx to assess and further develop its procedures under the program.[1]

The Commission notes that orders entered into the DUIT system will be executed through Phlx's automated order delivery and execution system ("PACE"), and that such orders will receive no order exposure between the time the order is entered into PACE and the time it is automatically executed. The Commission recognizes that the pricing benefits that may adhere to the exposure of orders in individual securities are significantly reduced in the context of the simultaneous execution of a number of securities comprising an index, and that member firms may require especially quick execution of an index-based order.

The Commission will continue to examine, however, the appropriateness of eliminating any exposure time for such index-based executions.[2]

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[1] The Commission notes that the DUIT system is similar to the Midwest Stock Exchange's ("MSE") pilot program for using the MSE's Automatic Execution System ("MAX") to facilitate the routing and execution of transactions in a portfolio of equity securities ("portfolio executions"). The MSE pilot permits principal orders for portfolio executions to be sent over MAX and reduces the time frame between the time a market order is entered into MAX and the time it is automatically executed from 15 seconds to 0 seconds. *See* Securities Exchange Act Release No. 22896 (February 12, 1986), 51 FR 6190 (File No. SR-MSE-85-11).

[2] Both the MSE and the Pacific Stock Exchange ("PSE") have implemented pilot programs reducing the order exposure time for executions through the MAX and SCOREX systems, respectively, from 30

Continued

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six (6) copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to the file number in the caption above and should be submitted by April 4, 1986.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and 11A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5628 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22982; File No. SR-Phlx-86-6]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc., Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("1934 Act"), notice is hereby given that on February 25, 1986 the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") proposes to amend Exchange Rules 101 and 1101A to extend trading hours in Phlx's Value Line Index ("XVL") options until 4:15 p.m., and to amend Rule 1042A to similarly extend the cut-off time for exercising XVL options.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

Under current Exchange rules, Value Line ("XVL") options, as well as all other index options, trade until 4:10 p.m. every day. In comparison, the XVL futures contract is traded on the Kansas City Board of Trade ("KCBT") until 4:15 p.m. every day. Market participants frequently assume positions in XVL futures contracts to hedge their positions in the XVL options, and conversely, hedge their options contracts with futures contracts.

To coordinate the daily close of trading in the PHLX's XVL options with the close of trading in the KCBT's XVL futures contract, the Exchange proposes that Exchange Rules 101 and 1101A be amended to extend trading hours in XVL options until 4:15 p.m. At present, market participants who assume positions in both XVL futures and options contracts are unable to adjust their positions in the XVL options in response to price movements in the XVL futures during the last five minutes of futures trading. Since there has been a surge in trading in contracts based on the Value Line index following the introduction of XVL options trading, synchronization of the close of trading in both XVL options and futures is likely to further enhance depth and liquidity in the options market.

The Exchange also proposes to amend the corresponding exercise requirements for index options. Exchange Rule 1042A currently requires members and member organizations to prepare and time-stamp all index option exercise instructions by 4.10 p.m. The Rule also requires that "exercise advices" be delivered to the Exchange trading floor by 4:10 p.m. when 25 or more index option contracts in the same series are to be exercised for an account. The 4:10 p.m. cut-off time was established to prevent option holders from having an unfair advantage of deciding whether to exercise their options based on news disseminated after the close of trading. Since it is proposed that XVL options trade until 4:15 p.m., a similar cut-off time needs to be established for persons who wish to exercise such options.

The proposed rule changes are consistent with the requirements of the 1934 Act and the rules and regulations thereunder applicable to the Exchange by providing investors with additional trading opportunities in XMI options. Therefore, the proposed rule changes are consistent with section (6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act so it may implement the proposed rule change prior to March 21, 1986, the last day of trading for all outstanding series of XVL options. The Exchange wishes to implement the extended closing time in

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seconds to 15 seconds. *See* Securities Exchange Act Release Nos. 22357 (August 26, 1985), 50 FR 35890 (order approving MSE procedures); 21329 (September 17, 1984), 40 FR 57199 (order approving PSE's procedure on a one-year pilot basis); 22814 (January 21, 1986), 51 FR 3556 (order approving one-year extension of PSE pilot procedures).

the next expiration month and states that its proposed extension of the close in XVL options is consistent with proposed rule changes filed by the Chicago Board Options Exchange, Incorporated ("CBOE"), the American ("Amex") and the New York Stock Exchanges, Inc. ("NYSE") which similarly sought to extend the closing and expiration cut-off times for indexes traded on those exchanges and which were recently approved by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the 1934 Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the proposed rule change is substantially identical to the CBOE, Amex and NYSE proposals which were noticed and approved by the Commission.[1] No comments were received with respect to those proposals. The Commission believes that extending the trading hours of XVL index options to coordinate with the hours of trading of the similar XVL futures index will provide participants in XVL index options trading an additional opportunity to adjust their options positions to reflect price changes in the corresponding XVL futures index.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 4, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 7, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5629 Filed 3-13-86; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Securities Exchange Act Release No. 22957, February 27, 1986.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings; Aeronaves de Puerto Rico, Inc., Frontier Horizon, Inc. and Precision Valley Aviation, Inc. d/b/a Precision Airlines; Revocation

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 86-3-29), Docket 43861.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the section 401 and/or 418 certificates issued to Aeronaves de Puerto Rico, Inc., Frontier Horizon, Inc., and Precision Valley Aviation, Inc. d/b/a Precision Airlines.

DATE: Persons wishing to file objection shuld do so no later than March 31, 1986.

ADDRESS: Responses should be filed in Docket 43861 and addressed to the Office of Documentary Services, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Patricia T. Szrom, Special Authorities Division, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 755-3812.

Dated: March 10, 1986.

Matthew V. Scocozza,

Assistant Secretary, for Policy and International Affairs.

[FR Doc. 86-5608 Filed 3-13-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43687]

Denver-London Route Proceeding; Rescheduling of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding, earlier scheduled to commence on April 2, 1986, has been rescheduled and will commence on April 21, 1986 at 9:30 a.m. (local time) in Room 5332, Nassif Bldg., 400 7th Street, SW., Washington, DC before the undersigned Chief Administrative Law Judge. Dated at Washington, DC, March 7, 1986.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 86-5609 Filed 3-13-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Highway Administration

Uniform Relocation and Real Property Acquisition for Federal and Federally-Assisted Programs; Fixed Payment for Moving Expenses; Residential Moves; Correction

AGENCY: Federal Highway Administration (FHA), DOT.

ACTION: Correction to a notice.

SUMMARY: This document corrects the moving expense schedule for displaced persons in the State of California that appeared at page 1591 in the **Federal Register** on Tuesday, January 14, 1986, (51 FR 1591).

FOR FURTHER INFORMATION CONTACT: Gary Patchett, Relocation Division, Office of Right-of-Way (202-426-0117); or Reid Alsop, Office of the Chief Counsel (202-426-0800), Federal Highway Administration, 400 Seventh Street, SW., Washington, DC, 20590. Office hours, Monday-Friday are from 7:45 a.m. to 4:15 p.m., ET.

In FR Doc. 86-805 appearing on page 1591 in the issue of January 14, 1986, the information for the State of California in Table 1-Personalty is corrected to read as follows:

State	Occupant provides furniture—Number of rooms of furniture									Occupant does not provide furniture	
	1	2	3	4	5	6	7	8	9	First room	Each additional room
California	100	200	300							50	50

Issued on: March 3, 1986.

Anthony J. McMahon,

Chief Counsel, Federal Highway Administration.

[FR Doc. 86-5101 Filed 3-13-86; 8:45 am]

BILLING CODE 4910-22-M

UNITED STATES INFORMATION AGENCY

Cultural Property; State Party Request From Canada

Pursuant to section 303(f)(1) of the Cultural Property Implementation Act (19 U.S.C. 2602(f)(1)), notice is hereby given that the United States is in receipt of a request under section 303(a)(3) from the Government of Canada, a State Party to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. The Canadian request is for U.S. import restrictions on certain endangered archaeological and ethnological material to assist Canada in protecting its cultural patrimony.

Dated: March 12, 1986.

Charles Z. Wick,

Director, United States Information Agency.

[FR Doc. 86-5840 Filed 3-13-86; 9:23 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 50
Friday, March 14, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10:00 a.m. on Friday, March 7, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Report of the Director, Division of Accounting and Corporate Services:
Memorandum re: Investment Management Report December 31, 1985
Memorandum and Resolution re: Rules for Disclosure of Change in Bank Control Notices

The Board further determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at this meeting, on less than seven day's notice to the public, of the following matters:

Application of Middleborough Savings Bank, an operating noninsured savings bank located at One South Main Street, Middleboro, Massachusetts, for Federal deposit insurance.

Application of Winchendon Savings Bank, an operating noninsured savings bank located at 112 Central Street, Winchendon, Massachusetts, for Federal deposit insurance.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,451-L
Park Bank of Florida, St. Petersburg, Florida

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: March 10, 1986.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 86-5738 Filed 3-12-86; 1:24 pm]
BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:48 p.m. on Friday, March 7, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to adopt a resolution making funds available for the payment of insured deposits made in The Citizens Bank of Winigan Missouri, Winigan, Missouri, which was closed by the Commissioner of Finance for the State of Missouri on Friday, March 7, 1986.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B).

The meeting was held in the Chairman's Office, Room 6023 of the FDIC Building located at 550 17th Street NW, Washington, DC.

Dated: March 10, 1986.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 86-5739 Filed 3-12-86; 1:25 pm]
BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:09 p.m. on Monday, March 10, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider requests for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice of the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), ((c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: March 11, 1986.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 86-5739 Filed 3-12-86; 1:26 pm]
BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Wednesday, March 19, 1986, 4:00 p.m.

PLACE: 1776 G Street, NW., Washington, DC, Conference Room 8C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, DC 20013 (202) 789-5097.

MATTERS TO BE CONSIDERED:

Closed—Minutes of December 9, 1985, Board of Directors' Meeting
Closed—President's Report
Closed—Financial Report

Date sent to Federal Register: March 12, 1986.

Maud Mater,

Secretary.

[FR Doc. 86-5816 Filed 3-12-86; 3:50 pm]

BILLING CODE 6720-02-M

5

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., March 19, 1986.

PLACE: Hearing Room One, 1100 L Street, NW., Washington DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Portions closed to the public:

1. Petition for Issuance of Declaratory Order Filed by International Transportation Service, Inc. Regarding Assessment of Charges for Terminal Services at the Port of Long Beach.
2. Section 19 of the Merchant Marine Act, 1920, and the Use of High-Cube Containers on the Highways of Japan.

CONTACT PERSON FOR MORE INFORMATION: John Robert Ewers, Secretary (202) 523-5725.

John Robert Ewers,

Secretary.

[FR Doc. 86-5817 Filed 3-12-86; 3:51 pm]

BILLING CODE 6730-01-M

6

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, March 19, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R.Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 12, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5707 Filed 3-12-86; 11:15 am]

BILLING CODE 6210-01-M

7

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 1:30 p.m., Tuesday, March 18, 1986.

PLACE: Hyatt Regency Hotel, 400 New Jersey Avenue, NW., Washington, DC 20001, (202) 737-1234.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Outlook.
3. Review of Central Liquidity Facility Lending Rate.
4. Insurance Fund Report.
5. Delegations of Authority to Central Liquidity Facility President.
6. Final Rule: Part 701.27, Credit Union Service Organizations.
7. Charter Amendment Appeal from American First Federal Credit Union, Brea, CA, Field of Membership Overlap.

TIME AND DATE: 9:30 a.m., Tuesday, March 18, 1986.

PLACE: 1776 G Street NW., Washington, DC 20456, Filene Board Room, 7th Floor.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action Under section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Board Briefings. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 86-5663 Filed 3-11-86; 4:12 pm]

BILLING CODE 7535-01-M

8

RAILROAD RETIREMENT BOARD

Notice is hereby given that the meeting of the Railroad Retirement Board which was scheduled on March 17, 1986, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 Rush Street, Chicago, Illinois, 60611, is hereby cancelled.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Com No. 312-751-4920, FTS No. 387-4920.

Dated: March 11, 1986.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 86-5806 Filed 3-12-86; 3:09 pm]

BILLING CODE 7905-01-M

Federal Register

Friday
March 14, 1986

Part II

Department of Education

34 CFR Parts 668 and 690

Student Assistance General Provisions and Pell Grant Program; Verification of Application Information; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 668 and 690

Student Assistance General Provisions and Pell Grant Program; Verification of Application Information

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends the Student Assistance General Provisions regulations, 34 CFR Part 668, by adding a new Subpart E to implement for the 1986–87 award year an integrated system for the verification of student aid application information reported by applicants when they apply to have their expected family contribution calculated for the Pell Grant Program, the campus-based programs (National Direct Student Loan (NDSL), College Work-Study (CWS), Supplemental Educational Opportunity Grant (SEOG)), and the Guaranteed Student Loan (GSL) Program. The Secretary is issuing these regulations to reduce high error rates in data reported by applicants and, thus, to assure, to the maximum extent possible, that eligible applicants receive the correct amount of student financial assistance.

The Secretary is also revoking §§ 690.14(b) and 690.77 of the Pell Grant Program regulations with regard to Pell Grant applications, beginning with applications submitted for the 1986–87 award year. These sections are being revoked because the provisions of Subpart E of Part 668 supersede them.

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

Sections 668.51, 668.52, 668.53, (other than §§ 668.53(a)(5)), 668.54, 668.55, 668.56, and 668.57 shall apply to applications for student financial assistance under the Pell Grant, campus-based, and GSL programs starting with applications for the 1986–87 award year. Similarly, §§ 690.14(b) and 690.77 are revoked with regard to applications for the Pell Grant Program starting with the 1986–87 award year. Sections 690.14(b) and 690.77 will continue to apply to Pell Grant Program applications submitted for the 1985–86 and previous award years.

Sections 668.58, 668.59, 668.60, and 668.61 shall apply to applications for and assistance awarded under the Pell Grant, campus-based, and GSL programs starting with the 1986–87 award year.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Sellers, U.S. Department of Education, Office of Student Financial Assistance, Regional Office Building 3, Room 4318, 400 Maryland Avenue SW., Washington, DC 20202. Telephone number (202) 472–4300.

SUPPLEMENTARY INFORMATION: The Secretary is issuing these regulations to reduce error in the information reported by applicants on their applications for assistance under the Pell Grant, campus-based, and GSL programs. This information is used to calculate an applicant's expected family contribution (EFC). The EFC is the amount that an applicant and his or her family can reasonably be expected to contribute toward his or her cost of attendance and is used to determine the applicant's financial need for assistance. The applicant's financial need is defined as the difference between the applicant's cost of attendance and the EFC. The applicant may receive assistance under these programs if he or she demonstrates financial need for such assistance.

Implementation of § 668.53(a)(5)

The procedures referred to in § 668.53(a)(5) must be incorporated into an institution's written policies and procedures, following the effective date of § 668.14(g) of the Student Assistance General Provisions regulations. It is anticipated that § 668.14(g) will be published shortly in final form, and will be effective for the 1987–88 award year.

Revisions to the Notice of Proposed Rulemaking

Only a few significant changes have been made to the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** of July 26, 1985, 50 FR 30674–30685. Most of these changes relieve the burden that these regulations place on institutions. The following is a listing of those changes. A full discussion of the changes is contained in the Appendix of comments and responses.

Section 668.53 Policies and procedures.

The Secretary has deleted § 668.53(a)(1)(iii) of the NPRM which required an institution to specify in its written policies and procedures the approved need analysis system the institution uses to recalculate an EFC.

The final regulation, at § 668.53(a)(5) (§ 668.53(a)(1)(vi) of the NPRM), does not specify the procedures to follow in referring for investigation instances where an institution has reason to believe that an applicant has applied for assistance under false pretenses. Rather, the provision requires that institutions establish procedures for making referrals under § 668.14(g). Section 668.14(g) was published in proposed form as part of the Student Assistance General Provisions regulations and is now being considered in light of the public comment.

The Secretary has deleted § 668.53(a)(2) of the NPRM so that an institution does not have to include in its policies and procedures, for purposes of these regulations, the policies and procedures that it follows when it verifies applications over and above the requirements of these regulations.

Section 668.54 Selection of applicants for verification.

Under § 668.54(b), an applicant need not document spouse information or provide the spouse's signature if the applicant is unable to provide the required spousal documentation or signature.

Section 668.55 Updating information.

The Secretary has revised the regulations to provide that an applicant need not reverify his or her household size or number attending postsecondary educational institutions for an award year if the applicant has already verified this information on an earlier application for that award year and there has been no change in the information.

The Secretary has clarified that, unless the applicant would otherwise receive an overaward, an institution need not change any prior award or GSL recommended loan amount on a previously certified GSL loan application if an applicant's household size or number attending postsecondary educational institutions changes between the time an applicant originally updates this information and is subsequently required to update the information on another application.

The Secretary has clarified that an applicant may not update his or her application information if the change is a result of a change in marital status.

The Secretary has provided under § 668.55(b) that a Pell Grant applicant who is not selected for verification shall certify that his or her household size, number attending postsecondary educational institutions, and dependency status have been updated by signing the certification statement on the SAR or a comparable statement used by institutions.

Section 668.56 Items to be verified.

The Secretary has revised the regulations to provide that an applicant must verify the number of family members in his or her household only if the household size is greater than one in the case of an independent student and greater than two in the case of a dependent student.

The Secretary has revised the regulations to provide that an applicant must verify the number of family members attending postsecondary educational institutions only if that number is greater than one.

The Secretary has limited the required items to be verified under untaxed income and benefits to social security benefits, child support, and those other items that an institution may verify using the tax return.

The Secretary has provided that an institution shall require an applicant to verify social security benefits only if (1) the applicant has a comment to that effect on his or her SAR, or (2) the applicant does not submit a SAR to the institution and the institution has information showing the applicant received social security benefits or has reasons to believe the applicant received social security benefits.

The Secretary has provided that the institution shall require an applicant to verify child support only if the institution has information showing that the applicant received child support or the institution has reason to believe the applicant received child support.

The Secretary has clarified the language of § 668.56(b) to indicate that the GSL verification requirements apply only to applicants selected under § 668.54(a) (1) or (2), and not to all GSL applicants.

The Secretary has provided that a Pell Grant applicant who is a dependent student does not have to verify his or her adjusted gross income (AGI), U.S. income tax paid, and untaxed income and benefits for the calendar year preceding the first calendar year of the award year, *i.e.*, the base year.

Section 668.57 Acceptable documentation.

The Secretary has revised the regulations to require, when appropriate, the signature of the applicant's spouse on documents used to verify application information.

The Secretary has deleted the comparable State income tax return as a document to verify income and U.S. income taxes paid.

The Secretary has provided other documentation as an alternative to the U.S. income tax return for verifying AGI and U.S. income tax paid under certain circumstances.

The Secretary has removed the connection between the household size and the number of exemptions on the U.S. income tax return and is requiring that the household size of each selected applicant be verified by a signed statement.

The Secretary has clarified the documentation requirements for instances when the Secretary or an institution has conflicting documentation concerning an applicant's independent student status.

The Secretary has revised the requirements for independent student documentation for Pell Grant applicants under 23 years of age when the Secretary and the institution do not have conflicting documentation. The 1986–87 student aid application, unlike previous ones, provides a place for an applicant's parents to certify the information on the application with respect to the applicant's independent student status. Therefore, if the applicant's parents signed the application form with respect to the factors used to determine independent student status, the Secretary has eliminated the requirement that the parents sign a statement verifying this information.

The Secretary is no longer requiring that the worksheet for other untaxed income and benefits from the student aid application be used to verify untaxed income and benefits.

Section 668.58 Interim disbursements.

The Secretary has revised § 668.58(a)(1) to clarify that he is continuing the current Pell Grant policy of precluding an institution from disbursing Pell Grant funds when it has documentation that conflicts with the information or documentation provided by the applicant and is extending that prescription to the campus-based and GSL programs.

The Secretary has revised § 668.58(c) to provide that an institution may hold a GSL check for up to forty-five (45) days while an applicant is completing the verification process, as compared to the thirty-day limitation set forth in the NPRM.

Section 668.59 Consequences of a change in application information.

The Secretary has revised this section to provide that an applicant's EFC need not be recalculated if the absolute value of the change in dollar items on his or her application as a result of verification is less than $200 for the Pell Grant Program and less than $800 for the campus-based and GSL programs.

The Secretary has revised proposed §§ 668.59(d)(1), 668.59(b) in the final regulations, to provide that the institution may disburse the applicant's Pell Grant award based on the original EFC if the institution determines, after verification, that the applicant's EFC has decreased. The institution shall revise the applicant's Pell Grant award if the applicant subsequently submits a corrected SAR.

The Secretary has revised proposed §§ 668.59(d)(2), 668.59(c) in the final regulations, to provide that an institution shall adjust the applicant's financial aid package for campus-based and GSL aid to reflect a new EFC if the new EFC results in an overaward of campus-based aid or decreases the applicant's recommended loan amount for a GSL loan.

Section 668.60 Deadlines for Submitting documentation and the consequences of failing to provide documentation.

The Secretary has revised proposed §§ 668.60(c), 668.60(d) of the final regulations, to require that an institution shall not process any application for an applicant who does not provide requested information if directed by the Secretary.

Section 668.61 Recovery of Funds.

The Secretary has clarified that an institution shall make restitution from its own funds of an overpayment under § 668.58(a)(2)(ii) not later than the first of either (1) sixty days after the applicant's last day of enrollment or (2) the last day of the award year in which the institution disbursed the funds to the applicant.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

The information collection requirements contained in these regulations in §§ 668.53, 668.54, 668.55, 668.56, and 668.57 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned an OMB control number. This control number appears as a citation following the appropriate sections.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and its own review as discussed in the Appendix of Comments and Responses, the Department has determined that the regulations in this document may require the transmission of certain information that is also being gathered by other agencies or authorities of the United States. However, the Department either does not have statutory authority to share this information or the information is not currently available in a form usable by the Department.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education loan programs—education, Grant programs—education, Student aid.

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 regulations.

(Catalog of Federal Domestic Assistance: No. 84.007, Supplemental Educational Opportunity Grants; No. 84.032, Higher Education Act Insured Loans (Guaranteed Student Loans); No. 84.003, College Work-Study Program; No. 84.038, National Direct Student Loans; and No. 84.063, Pell Grant Program)

Dated: March 7, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 668 and 690 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 is revised to read as follows:

Authority: Secs. 435, 481, 484, 485, 487, and 1201 of the Higher Education Act of 1965, is amended; 20 U.S.C. 1085, 1088, 1091, 1094, and 1141, unless otherwise noted.

2. The table of contents of Part 668 is amended by adding a new Subpart E to read as follows:

Subpart E—Verification of Student Aid Application Information

Sec.
668.51 General.
668.52 Definitions.
668.53 Policies and procedures.
668.54 Selection of applicants for verification.
668.55 Updating information.
668.56 Items to be verified.
668.57 Acceptable documentation.
668.58 Interim disbursements.
668.59 Consequences of a change in application information.
668.60 Deadlines for submitting documentation and the consequences of failing to provide documentation.
668.61 Recovery of funds.

3. Part 668 is amended by adding a new Subpart E to read as follows:

Subpart E—Verification of Student Aid Application Information

§ 668.51 General

(a) *Scope and purpose.* (1) The regulations in this subpart govern the verification by institutions of information submitted by applicants for student financial assistance in connection with the calculation of their expected family contributions (EFC) for the Pell Grant, the campus-based, and the Guaranteed Student Loan (GSL) programs.

(2) The regulations also cover the verification by institutions of information submitted under the GSL Program by applicants whose adjusted gross family income is $30,000 or less.

(b) *Applicant responsibility.* If the Secretary or the institution requests documents or information from an applicant under this subpart, the applicant must provide the specified documents or information.

(c) *Foreign schools.* The Secretary exempts from the provisions of this subpart institutions participating in the GSL Program that are not located in a State.

(20 U.S.C. 1094)

§ 668.52 Definitions.

The following definitions apply to this subpart:

"Approved need analysis system" means a need analysis system which the Secretary has approved for an award year for determining an EFC under the campus-based programs.

"Base year" means the calendar year preceding the first calendar year of an award year.

"Edits" means a set of preestablished factors for identifying—

(a) Student aid applications that may contain incorrect, missing, illogical, or inconsistent information; and

(b) Randomly selected student aid applications.

"Expected family contribution (EFC)" means the amount an applicant and his or her spouse and family are expected to contribute toward the applicant's costs of attendance.

"GSL Needs Test Tables" means the tables in Appendix B to 34 CFR Part 682 used to calculate a GSL applicant's EFC.

"Student aid application which a person submits to have his or her EFC determined under the Pell Grant, campus-based, or GSL programs.

(20 U.S.C. 1094)

§ 668.53 Policies and procedures.

(a) An institution shall establish and use written policies and procedures for verifying information contained in an application to have an EFC calculated in accordance with the provisions of this subpart. These policies and procedures must include—

(1) The time period within which an applicant shall provide the documentation;

(2) The consequences of an applicant's failure to provide required documentation within the specified time period;

(3) The method by which the institution notifies an applicant of the results of verification;

(4) The procedures the institution requires an applicant to follow to correct application information; and

(5) The procedures for making referrals under § 668.14(g).

(b) The institution's procedures must provide that it furnish, in a timely manner, to each applicant selected for verification—

(1) A clear explanation of the documentation needed to satisfy the verification requirements; and

(2) The applicant's responsibilities with respect to the verification of application information including the deadlines for completing any actions required under this subpart and the consequences of failing to complete any required action.

(20 U.S.C. 1094)

(Approved by the Office of Management and Budget under control number 1840–0570)

§ 668.54 Selection of applicants for verification.

(a) *General requirements.* Except as provided in paragraph (b) of this section, an institution shall require an applicant to verify application information as specified in this paragraph. (1) If the edits specified by the Secretary select an applicant for verification, the institution shall require the applicant to verify all of the applicable items specified in § 668.56. The Secretary may enter into agreements with agencies or organizations with approved need analysis systems under which the Secretary provides the edits to the

agencies or organizations and the agencies and organizations indicate to institutions the applications that the edits select for verification.

(2) The institution shall require every applicant to verify the applicable items specified in § 668.56 if—

(i) The applicant is selected by the institution to receive an award under the campus-based programs or requests the institution to certify his or her application for a GSL loan; and

(ii) The institution does not receive—

(A) A Student Aid Report (SAR) for the applicant; or

(B) The output document generated by the applicant submitting an application to an agency or organization with an approved need analysis system that has an agreement with the Secretary described under paragraph (a)(1) of this section.

(3) If an institution believes that any information on an application used to calculate an EFC is inaccurate, it shall require that the applicant verify the information that it believes is inaccurate.

(4) If an applicant is selected to verify the information on his or her application under paragraph (a)(1) of this section for an award year, the institution shall require the applicant to verify the information on each additional application he or she submits for that award year, except for information already verified under a previous application submitted for an award year.

(b) *Exclusions from verification.* (1) An institution need not verify an application submitted for an award year if the applicant dies during the award year.

(2) Unless the institution has documentation that conflicts with information reported by an applicant or believes that the information reported by the applicant is incorrect, it does not have to verify applications of the following applicants:

(i) An applicant who is a legal resident of and, in the case of a dependent student, whose parents are also legal residents of the Trust Territory of the Pacific Islands (which includes the Marshall Islands and the Caroline Islands), Guam, American Samoa, or the Northern Mariana Islands.

(ii) An applicant who is incarcerated at the time at which verification would occur.

(iii) An applicant who is a dependent student whose parents are residing in a country other than the United States and cannot be contacted by normal means of communication.

(iv) An applicant who is an immigrant and who arrived in the United States during either calendar year of the award year.

(v) An applicant who is a dependent student whose parents are deceased or are physically or mentally incapacitated, or whose parents' address is unknown.

(vi) An applicant who does not receive assistance for reasons other than his or her failure to verify the information on the application.

(vii) An applicant who transfers to the institution, had previously completed the verification process at the institution from which he or she transferred, and applies for assistance on the same application used at the previous institution, if the current institution obtains—

(A) A letter from the previous institution stating that it has verified the applicant's information and, if relevant, the provision used in § 668.59 for not recalculating the applicant's EFC; and

(B) A copy of the verified application and, if the applicant applied for a Pell Grant, all pages of the applicant's SAR.

(3) An applicant need not document spouse information or provide a spouse's signature if—

(i) The spouse is deceased;

(ii) The spouse is mentally or physically incapacitated;

(iii) The spouse is residing in a country other than the United States and cannot be contacted by normal means of communication; or

(iv) The spouse cannot be located because his or her address is unknown.

(20 U.S.C. 1094)

(Approved by the Office of Management and Budget under control number 1840–0570)

§ 668.55 Updating information.

(a)(1) Unless the provisions of paragraphs (a)(2) or (a)(3) of this section apply, an applicant is required to update—

(i) The number of family members in the applicant's household and the number of those household members attending postsecondary educational institutions, in accordance with provisions of paragraph (b) of this section; and

(ii) His or her dependency status in accordance with the provisions of paragraph (d) of this section.

(2) An institution need not require an applicant to verify the information contained in his or her application for assistance in an award year if—

(i) The applicant previously submitted an application for assistance for that award year;

(ii) The applicant updated and verified the information contained in that application; and

(iii) No change in the information to be updated has taken place since the last update.

(3) If the number of family members in the applicant's household, the number of those household members attending postsecondary educational institutions, or the applicant's dependency status changes as a result of a change in the applicant's marital status, the applicant shall not update those factors or that status.

(b) If the number of family members in the applicant's household or the number of those household members attending postsecondary educational institutions changes for a reason other than a change in the applicant's marital status—

(1) An applicant who is selected for verification shall update the information contained in his or her application regarding those factors so that the information is correct as of the day the applicant verifies the information; and

(2) An applicant for a Pell Grant who is not selected for verification shall update the information contained in his or her application regarding those factors and shall certify that the information is correct as of the day that the applicant submits his or her first SAR to the institution or to the Secretary.

(c) If an applicant has received Pell Grant, campus-based, or GSL program assistance for an award year, the applicant subsequently submits another application for assistance under any of those programs for that award year, and the applicant is required to update household size and number attending post-secondary educational institutions on the subsequent application, the institution—

(1) Is required to take that newly updated information into account when awarding for that award year further Pell Grant or campus-based program assistance or certifying a GSL loan application; and

(2) Is not required to adjust the Pell Grant or campus-based program assistance previously awarded to the applicant for that award year, or any previously certified GSL loan application for that award year, to reflect the newly updated information unless the applicant would otherwise receive an overaward.

(d)(1) Except as provided in paragraphs (a)(3) and (d)(2) of this section, if an applicant's dependency status changes after the applicant applies to have his or her EFC

calculated for an award year, the applicant must file a new application for that award year reflecting the applicant's new dependency status regardless of whether the applicant is selected for verification.

(2) If the institution has previously certified a GSL loan application for an applicant, the applicant shall not update his or her dependency status on the GSL loan application.

(20 U.S.C. 1094)

(Approved by the Office of Management and Budget under control number 1840-0570)

§ 668.56 Items to be verified.

(a) Except as provided in paragraphs (b) and (c) of this section, an institution shall require an applicant selected for verification under § 668.54(a) (1) or (2) to submit acceptable documentation described in § 668.57 that will verify or update the following information used to determine the applicant's EFC:

(1) Adjusted gross income (AGI) for the base year.

(2) U.S. income tax paid for the base year.

(3) (i) For an applicant who is a dependent student, the aggregate number of family members in the household of the applicant and in the household of the applicant's parents if that aggregate number is greater than two.

(ii) For an applicant who is an independent student, the number of family members in the household of the applicant and his or her spouse if that number is greater than one.

(4) The number of family members in the household who are enrolled as at least half-time students in postsecondary educational institutions if that number is greater than one.

(5) The factors relating to an applicant's independent student status.

(6) Untaxed income and benefits for the base year including—

(i) U.S. income tax deduction for a married couple if both work;

(ii) Social security benefits if—

(A) Verification is required by a comment on the applicant's SAR; or

(B) The applicant does not receive an SAR and the institution has information showing, or has reason to believe, that those benefits were received;

(iii) Child support if the institution has information showing; or has reason to believe, that child support was received;

(iv) U.S. income tax deduction for a payment made to an individual retirement account (IRA) or Keogh account; and

(v) The following other untaxed income and benefits:

(A) Untaxed portions of unemployment compensation.

(B) Untaxed dividends.

(C) Untaxed capital gains.

(D) Foreign income exclusion if the institution has information showing, or has reason to believe, that the foreign income was excluded.

(E) Earned income credit.

(b) For a GSL applicant selected for verification under § 668.54(a)(1) or (2) of this section—

(1) If the GSL applicant's adjusted gross family income is $30,000 or less, the institution shall require the applicant to submit acceptable documentation described in § 668.57 that verifies—

(i) The adjusted gross family income; and

(ii) The factors relating to an applicant's independent student status;

(2) If the GSL applicant's adjusted gross family income exceeds $30,000 and the institution uses the GSL Needs Test Tables, the institution shall require the applicant to submit acceptable documentation described in § 668.57 that verifies—

(i) The adjusted gross family income;

(ii) (A) For an applicant who is a dependent student, the aggregate number of family members in the houshold of the applicant and in the household of the applicant's parents if that aggregate number is greater than two; or

(B) For an applicant who is an independent student, the number of family members in the household of the applicant and his or her spouse if that number is greater than one;

(iii) The number of family members in the household who are enrolled as at least halt-time students in postsecondary educational institutions if that number is greater than one; and

(iv) The factors relating to an applicant's independent student status; or

(3) If the GSL applicant's adjusted gross family income exceeds $30,000 and the institution does not use the GSL Needs Test Tables, the institution shall require the applicant to submit acceptable documentation described in § 668.57 that verifies the applicable items set forth in paragraph (a) of this section.

(c) For the Pell Grant Program, if an applicant is a dependent student and the applicant's income for the base year is used to calculate the applicant's EFC (student aid index), an institution need not require the applicant to verify his or her base year adjusted gross income, U.S. income tax paid, and untaxed income and benefits.

(20 U.S.C. 1094)

(Approved by the Office of Management and Budget under control number 1840-0570)

§ 668.57 Acceptable documentation.

(a) *AGI and U.S. income tax paid.* (1) Except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section, an institution shall require an applicant selected for verification to verify adjusted gross income and U.S. income tax paid by submitting to it, if relevant—

(i) A copy of the income tax return of the applicant, his or her spouse, and his or her parents. The copy of the return must be signed by the filer of the return or by one of the filers of a joint return;

(ii) For a dependent student, a copy of each Internal Revenue Service (IRS) Form W-2 received by the parent whose income is being taken into account if—

(A) The parents filed a joint return; and

(B) The parents are divorced or separated or one of the parents has died; and

(iii) For an independent student, a copy of each IRS Form W-2 he or she received if the independent student—

(A) Filed a joint return; and

(B) Is a widow or widower, or is divorced or separated.

(2) If an individual who is required in paragraph (a)(1) of this section to provide a copy of his or her tax return does not have a copy of that return, the institution may require that individual to submit, in lieu of a copy of the tax return, a copy of the "IRS Listing of Tax Account Information."

(3) An institution shall accept, in lieu of a U.S. income tax return or an IRS listing of tax account information of a relevant individual, the documentation set forth in paragraph (a)(4) of this section if the relevant individual for the base year—

(i) Has not filed a U.S. income tax return but has filed an income tax return with a central government outside the United States or with the Commonwealth of Puerto Rico;

(ii) Has not filed and will not filed a U.S. tax return;

(iii) Has been granted a filing extension by the IRS; or

(iv) Has requested the IRS to provide him or her with a copy of the tax return or a listing of tax account information and the IRS cannot locate the return or provide a listing of tax account information.

(4) An institution shall accept—

(i) For an individual described in paragraph (a)(3)(i) of this section, a copy of the signed income tax return filed by that individual for the base year with the central government or with the Commonwealth of Puerto Rico;

(ii) For an individual described in paragraph (a)(3)(ii) of this section, a statement signed by that individual

certifying that he or she has not filed nor will file a U.S. income tax return for the base year and providing for that year that individual's—

(A) Sources of income earned from work as stated on the application; and

(B) Amounts of income from each source;

(iii) For an individual described in paragraph (a)(3)(iii) of this seciton—

(A) A copy of the IRS Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," that the individual filed with the I.R.S. for the base year, or a copy of I.R.S.'s approval of an extension beyond the automatic four-month extension if the individual requested the additional extension of the filing time; and

(B) A copy of each IRS Form W–2 that the individual received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of adjusted gross income for the base year; and

(iv) For an individual described in paragraph (a)(3)(iv) of this section—

(A) A copy of each IRS Form W–2 that the individual received for the base year; or

(B) For a self-employed individual, a statement signed by the individual certifying the amount of adjusted gross income for the base year.

(5) An institution shall require an individual described in paragraph (a)(3)(iii) of this section to provide to it a copy of his or her completed U.S. income tax return when filed. When an institution receives the copy of the return, it may reverify the adjusted gross income and taxes paid of the applicant and his or her family.

(6) If an individual who is required to submit an IRS Form W–2 under this paragraph is unable to obtain one in a timely manner, the institution may permit that individual to set forth in a statement signed by the individual, the amount of income earned from work as stated on the application, the source of that income, and the reason that the IRS Form W–2 is not available in a timely manner.

(b) *Number of family members in household.* An institution shall require an applicant selected for verification to verify the number of family members in the household by submitting to it a statement signed by the applicant and the applicant's parents if the applicant is a dependent student, or the applicant and the applicant's spouse if the applicant is an independent student, listing the name and age of each household member in the family and the relationship of that household member to the applicant.

(c) *Number of family household members enrolled in postsecondary institutions.* (1) Unless the institution believes that the information included on the application regarding the number of household members in the applicant's family enrolled in postsecondary institutions is inaccurate, the institution shall require an applicant selected for verification to verify that information by submitting to it a statement signed by the applicant and the applicant's parents if the applicant is a dependent student, or by the applicant and the applicant's spouse if the applicant is an independent student, which lists—

(i) The name of each family member who is or will be attending a postsecondary educational institution as at least a half-time student in the award year;

(ii) The age of each student; and

(iii) The name of each institution.

(2) If the institution believes that the information included on the application regarding the number of family household members enrolled in postsecondary institutions is inaccurate, the institution shall require—

(i) The statement required in paragraph (c)(1) of this section from the individuals described in paragraph (c)(1) of this section; and

(ii) A statement from each institution named by the applicant in response to the requirement of paragraph (c)(1)(iii) of this section that the household member in question is or will be attending the institution on at least a half-time basis, unless the institution the student is attending determines that such a statement would not be available because the household member in question has not yet registered at the institution he or she is planning to attend.

(d) *Independent student status. (1) Unmarried applicant.* Except as provided in paragraphs (d)(4) and (d)(5) of this section, an institution shall require an unmarried applicant selected for verification to submit to it—

(i) A copy of the base year, Federal income tax return of the applicant's parent(s) signed by the filer, or by one of the filers if a joint return, or if the parent(s) did not file and will not file a tax return for that year, a statement to that effect signed by the parent(s); and

(ii) A statement signed by the applicant and the applicant's parent(s) certifying that—

(A) The parent(s) will not claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year;

(B) The parent(s) will not and did not provide the applicant with financial assistance of more than $750 in the first calendar year of an award year or the base year; and

(C) The applicant did not and will not live with the parent(s) for more than forty-two days in either of those years.

(2) *Married applicant.* Except as provided in paragraphs (d)(4) and (d)(5) of this section, an institution shall require a married applicant selected for verification to submit to it a written statement signed by the applicant and the applicant's parent(s) certifying that—

(i) The parent(s) will not claim the applicant as an exemption on their U.S. income tax return for the first calendar year of the award year;

(ii) The parent(s) did not and will not provide the applicant with financial assistance of more than $750 in the first calendar year of an award year; and

(iii) The applicant did not and will not live with the parent(s) for more than forty-two days in that year.

(3) *Conflicting documentation.* (i) Except as provided in paragraph (d)(3)(ii) of this section, if the Secretary or an institution has conflicting documentation regarding any of the three factors used to determine independent student status, the institution shall require an applicant selected for verification to submit to it—

(A) The documentation specified in paragraph (d)(1) of this section if the applicant is unmarried; or

(B) The documentation specified in paragraph (d)(2) of this section if the applicant is married.

(ii) The institution may consider the applicant's independent student status verified even though it or the Secretary has conflicting documentation if the applicant's parent's—

(A) Are deceased;

(B) Are physically or mentally incapacitated; or

(C) Cannot be located because either their address is unknown or they are residing in a country outside the United States and cannot be contacted by normal means of communication.

(4) *No conflicting documentation—Pell Grant Program.* For purposes of the Pell Grant Program, if the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status—

(i) The institution shall consider the independent student status of an applicant to be verified without requiring documentation or statements from the applicant or his or her parents if the applicant will be at least 23 years old on May 31 of the second calendar year of the award year for which aid is requested;

(ii) The institution shall consider the independent student status of a married applicant who is or will be under 23 year old on May 31 of the second calendar year of the award year for which aid is requested to be verified if the institution determines that—

(A) The applicant's parents have signed the applicant's original application; or

(B) The applicant's parents are unable or unwilling to provide the required statements; or

(iii) The institution shall consider the independent student status of an unmarried applicant who is under 23 years of age on May 31 of the second calendar year of the award year for which aid is requested to be verified if the institution determines that—

(A) The applicant had sufficient resources to support himself or herself and any dependents for the base year; and

(B) The applicant's parents are unable or unwilling to provide the tax return or statements required in paragraph (d)(1) of this section. For the purpose of this provision, the Secretary considers that the parent(s) have provided the statements required in paragraph (d)(1) of this section if the parent(s) signed the applicant's original application.

(5) *No conflicting documentation—campus-based and GSL programs.* For purposes of the campus-based and GSL programs—

(i) If the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status and the institution determines that the applicant's parents are not unable to provide the requested information and documentation, the institution may either—

(A) Require an applicant to provide to it the documents specified in paragraph (d)(1) of this section if the applicant is unmarried, or specified in paragraph (d)(2) of this section if the applicant is married, regardless of the circumstances concerning the age of the applicant or the willingness of the applicant's parents to provide the required tax return and statement; or

(B) Follow the requirements contained in paragraph (d)(4) of this section; or

(ii) If the Secretary or an institution does not have conflicting documentation regarding any of the three factors used to determine independent student status and the institution determines that the applicant's parents are unable to provide the requested information and documentation, the institution must follow the requirements contained in paragraph (d)(4) of this section.

(e) *Untaxed incoime and benefits.* An institution shall require an applicant selected for verification to verify—

(1) Untaxed income and benefits described in § 668.56(a)(6)(i), (iv), and (v) by submitting to it—

(i) A copy of the U.S. income tax return signed by the filer or one of the filers if a joint return, if collected under paragraph (a) of this section, or the IRS listing of tax account information if collected by the institution to verify adjusted gross income; or

(ii) If no tax return was filed or will be filed, a statement signed by the relevant individuals certifying that no tax return was filed or will be filed and providing the sources and amount of untaxed income and benefits specified in § 668.56(a)(6)(v);

(2) Social security benefits by submitting to it—

(i) If the applicant's SAR requires that the applicant verify his or her social security benefits, a document from the Social Security Administration showing the amount of benefits received in the appropriate calendar year by the applicant's parents, the applicant, and the parent's children in the case of a dependent student, or by the applicant, the applicant's spouse, and the applicant's children in the case of an independent student; or

(ii) If the applicant does not receive an SAR, the document in paragraph (e)(2)(i) of this section or, at the institution's option, a statement signed by the applicant and the applicant's parent in the case of a dependent student or by the applicant in the case of an independent student certifying that the amount listed on the applicant's aid application is correct; and

(3) Child support received by submitting to it—

(i) A written statement signed by the applicant and the applicant's parent in the case of a dependent student, or by the applicant and the applicant's spouse in the case of an independent student, certifying the amount of child support received; and

(ii) If the institution believes that the information provided is inaccurate—

(A) A copy of the separation agreement or divorce decree showing the amount of child support to be provided;

(B) A statement from the parent providing the child support showing the amount provided; or

(C) Copies of the child support checks or money order receipts.

(f) For the purpose of this section, an institution may accept in lieu of a copy of a Federal income tax return signed by the filer of the return or one of the filers of a joint return, a copy of the filer's return that has been signed by the preparer of the return or stamped with the name and address of the preparer of the return.

(20 U.S.C. 1094)

(Approved by the Office of Management and Budget under control number 1840-0570)

§ 668.58 Interim disbursements.

(a)(1) If an institution has documentation that indicates that the information included on an application is inaccurate, until the applicant verifies or corrects the information included on his or her application, the Secretary does not and the institution may not—

(i) Disburse any Pell Grant or campus-based program funds to the applicant;

(ii) Employ the applicant in its CWS Program; or

(iii) Certify the applicant's GSL loan application or process a GSL loan check for any previously certified GSL loan application.

(2) If an institution does not have documentation that indicates that the information included on an application is inaccurate, until the applicant is verified or corrects the information included on his or her application, the Secretary or the institution—

(i) May withhold payment of Pell Grant and campus-based funds; or

(ii)(A) May make one disbursement of any combination of Pell Grant, NDSL, or SEOG funds for the applicant's first payment period; and

(B) May employ an eligible student under the CWS Program until sixty (60) days after the date the applicant enrolled in that award year; and

(iii) Shall not certify the applicant's GSL loan application or process a GSL loan check for any previously certified GSL loan application.

(b) If an institution chooses to make disbursement under paragraph (a)(2)(ii) of this section, it shall be liable for any overpayment discovered as a result of the verification process.

(c) An institution may not hold any GSL check under paragraph (a)(2) of this section for more than forty-five (45) days. If the applicant does not complete the verification process within the forty-five (45) day period, the institution shall return the check to the lender.

(20 U.S.C. 1094).

§ 668.59 Consequences of a change in application information.

(a) For the Pell Grant Program—

(1) Except as provided in paragraphs (a) (2) and (3) of this section, if the information on an application changes as a result of the verification process, the institution shall require the applicant

to resubmit his or her SAR to the Secretary if—

(i) The institution recalculates the applicant's EFC (student aid index), determines that the applicant's EFC changes, and determines that the change in the EFC changes the applicant's Pell Grant award; or

(ii) The institution does not recalculate the applicant's EFC.

(2) An institution need not require an applicant with a reported student aid index (SAI) of zero on his or her SAR to resubmit that SAR to the Secretary if it determines that the applicant's student aid index remains at zero on the basis of the verified information and the "Zero SAI Charts" that the Secretary publishes in the **Federal Register.**

(3) An institution need not require an applicant to resubmit his or her SAR to the Secretary, need not recalculate his or her EFC, or need not adjust his or her Pell Grant award if, as a result of the verification process, the institution finds—

(i) No errors in nondollar items used to calculate the applicant's EFC; and

(ii) No errors in dollar items or errors reflecting a change in dollar items of less than $200.

(b) For the Pell Grant Program—

(1) If an institution does not recalculate an applicant's EFC under the provisions of paragraphs (a) (2) and (3) of this section, the institution shall calculate and disburse the applicant's Pell Grant award on the basis of the applicant's original EFC.

(2)(i) Except as provided under paragraph (b)(2)(ii) of this section, if an institution recalculates an applicant's EFC because of a change in application information resulting from the verification process, the institution shall—

(A) Require the applicant to resubmit his or her application to the Secretary;

(B) Calculate the applicant's Pell Grant award on the basis of the EFC included on the corrected SAR; and

(C) Disburse any additional funds under that award only if the applicant provides it with the corrected SAR.

(ii) If an institution recalculates an applicant's EFC because of a change in application information resulting from the verification process and determines that the change in the EFC increases the applicant's award, the institution—

(A) May disburse the applicant's Pell Grant award on the basis of the original EFC without requiring the applicant to resubmit his or her SAR to the Secretary; and

(B) Except as provided in § 668.60(b), shall disburse any additional funds under the increased award reflecting the new EFC if the applicant provides it with the corrected SAR.

(c) For the campus-based and GSL programs—

(1) Except as provided in paragraph (c)(2) of this section, if the information on an application changes as a result of the verification process, the institution shall—

(i) Recalculate the applicant's expected family contribution; and

(ii) Adjust the applicant's financial aid package for the campus-based and GSL programs to reflect the new EFC if the new EFC results in an overaward of campus-based aid or decreases the applicant's recommended loan amount.

(2) An institution need not recalculate an applicant's EFC or adjust his or her aid package if, as a result of the verification process, the institution finds—

(i) No errors in nondollar items used to calculate the applicant's EFC; and

(ii) (A) No errors in dollar items or errors reflecting a change in dollar items of less than $800; or

(B) No errors in dollar items or errors reflecting a change in dollar items of less than $200 if the institution uses the Pell Grant Program's SAI as the applicant's EFC.

(d) If a GSL applicant reports an adjusted gross family income of less than $30,000 and verification shows that the adjusted gross family income is over $30,000, the institution shall calculate an EFC for the applicant and determine his or her financial need for a loan.

(e) If the institution selects an applicant for verification for an award year who previously received a loan under the GSL Program for that award year, and as a result of verification, the suggested loan amount is reduced by $200 or more, the institution shall comply with the procedures for notifying the borrower and lender specified in § 668.61(b).

(f) If the applicant has received funds based on information which may be incorrect and the institution has made a reasonable effort to resolve the alleged discrepancy, but cannot, the institution shall forward the applicant's name, social security number, and other relevant information to the Secretary.

(20 U.S.C. 1094)

(Approved by the Office of Management and Budget under control number 1840–0570)

§ 668.60 Deadlines for submitting documentation and the consequences of failing to provide documentation.

(a) An institution shall require an applicant selected for verification to submit to it, within the period of time it or the Secretary specifies, the documents set forth in § 668.57.

(b) For purposes of the campus-based and GSL programs—

(1) If an applicant fails to provide the requested documentation within a reasonable time period established by the institution—

(i) The institution shall not—

(A) Disburse any additional NDSL or SEOG funds to the applicant;

(B) Continue to employ the applicant under CWS;

(C) Certify the applicant's GSL application; or

(D) Process a GSL check for the applicant;

(ii) The institution shall return to the lender any GSL check payable to the applicant; and

(iii) The applicant shall repay to the institution any NDSL or SEOG payments received for that award year;

(2) If the applicant provides the requested documentation after the time period established by the institution, the institution may, at its option, award aid to the applicant notwithstanding the prescriptions listed in paragraph (b)(1)(i) of this section; and

(3) An institution may not hold any GSL check under paragraph (b)(1) of this section for more than forty-five (45) days. If the applicant does not complete verification within the forty-five (45) day period, the institution must return the check to the lender.

(c) For purposes of the Pell Grant Program—

(1) An applicant may submit a verified SAR to the institution after the appropriate deadline specified in 34 CFR 690.61 but within an established additional time period set by the Secretary through publication in the **Federal Register.** If a verified SAR is submitted to the institution during the period permitted by the Secretary after the appropriate deadline specified in 34 CFR 690.61, payment must be based on—

(i) The original SAR, if the student aid index on the verified SAR is lower than the student aid index on the original SAR; or

(ii) The verified SAR, if the student aid index on the verified SAR is the same or higher than the student aid index on the original SAR; and

(2) If the applicant does not provide the requested documentation, and if necessary, a reprocessed verified SAR, within the period established in paragraph (c)(1) of this section, the applicant—

(i) Forfeits the Pell Grant for the award year; and

(ii) Shall return any Pell Grant payments previously received for that award year to the Secretary.

(d) The Secretary may determine not to process any subsequent Pell Grant application, and an institution, if directed by the Secretary, shall not process any subsequent application for campus-based and GSL program assistance of an applicant who has been requested to provide information until the applicant provides the documentation or the Secretary decides that there is no longer a need for the documentation.

(e) If an applicant selected for verification for an award year dies during that award year, or before the deadline date for completing the verification process if that date extends into the subsequent award year, without completing the verification process, the institution shall not—

(1) Make any further disbursements on behalf of that applicant;

(2) Certify the applicant's GSL loan application or process a GSL check for the applicant; or

(3) Consider any funds it disbursed to that applicant under § 668.58(a)(2) as an overpayment.

(20 U.S.C. 1094)

§ 668.61 Recovery of funds.

(a) If an institution discovers, as a result of the verification process, that an applicant received under § 668.58(a)(2)(ii) more than he or she was eligible to receive under the Pell Grant, NDSL, or SEOG programs, the institution shall eliminate the overpayment by—

(1) Adjusting subsequent financial aid payments in the award year in which the overpayment occurred; or

(2) Reimbursing the appropriate program account by—

(i) Requiring the applicant to return the overpayment to the institution if the institution cannot correct the overpayment under paragraph (a)(1) of this section; or

(ii) If the applicant does not return the overpayment, making restitution from its own funds by the earlier of the following dates:

(A) Sixty days after the applicant's last day of enrollment.

(B) The last day of the award year in which the institution disbursed Pell Grant, NDSL, or SEOG funds to the applicant.

(b) If the institution determines as a result of verification that a applicant received for an award year a GSL of $200 or more in excess of the student's financial need for the loan, the institution shall notify the student and the lender of the excess amount within thirty (30) days of the institution's determination that the borrower is ineligible for such amounts.

(20 U.S.C. 1094)

PART 690—PELL GRANT PROGRAM

4. The authority citation for Part 690 continues to read as follows:

Authority: Sec. 411 of the Higher Education Act of 1965, as amended; 20 U.S.C. 1070a, unless otherwise noted.

§ 690.14 [Amended]

§ 690.77 [Removed]

5. The Secretary amends Part 690 by removing § 690.14(b) and § 690.77.

Appendix—Summary of Comments and Responses

[Editorial Note: This appendix will not appear in the Code of Federal Regulations.]

Section 668.51 General.

Comment: Several commenters expressed confusion over the treatment of the State Student Incentive Grant Program (SSIG) because the preamble to the NPRM states that the SSIG Program is not included under the proposed regulations, but institutions may be required to consider verified data in awarding the applicant's SSIG grant. Some commenters suggested that the SSIG Program should be completely excluded from the final regulations, or that the final regulations should specify that institutions which do not determine SSIG recipients or SSIG award levels are not required to verify the data which resulted in the SSIG award.

Response: No change has been made. The SSIG Program is not covered by these regulations. However, if an institution calculates an applicant's SSIG award and information it discovers by verifying that applicant's application under Subpart E of Part 668 is relevant to the amount of the SSIG award, the institution, under § 668.16(f), must take that discovered information into account in its calculation of the SSIG award.

Comment: Several commenters disagreed with the Secretary's proposal in § 668.51(c) to exempt foreign schools participating in the GSL Program from the verification requirements. These commenters argued that the requirements should be applied consistently to all participants.

Response: No change has been made. These institutions generally do not have the requisite knowledge of need analysis procedures and U.S. tax laws needed to carry out the verification procedures.

Comment: Two commenters suggested that the Secretary clarify the meaning of "State" as used in § 668.51(c) of the NPRM, so that it is clear that Puerto Rico, for example, is considered a "State" for purposes of this subpart.

Response: No change has been made. The definition of a State in the Higher Education Act includes the Commonwealth of Puerto Rico. Moreover, the definition of a "State" is included in § 668.2 of Subpart A of Part 668 that was published as a proposed regulation in the **Federal Register** of December 12, 1984, 49 FR 48494, 48502. When that regulation is republished as a final regulation, that section will apply to Subpart E of Part 668.

Section 668.52 Definitions.

Comment: One commenter suggested a change in the definition of "comparable State income tax return" to read ". . . requires the filer to provide the adjusted gross income and either the amount of U.S. income tax paid or the number of exemptions as reported on the U.S. income tax return," to broaden the number of State tax returns that may qualify. Two commenters recommended that the reference to and definition of a "comparable State income tax return" in these regulations be deleted and that only the U.S. tax return be used.

Response: A change has been made. The Secretary agrees with the commenters that only the U.S. income tax return be accepted as appropriate documentation since it is the only document that includes adjusted gross income and U.S. income tax paid.

Comment: One commenter suggested that the Secretary add a definition for "designated entity" which would mean an agency that administers the student loan program for that educational institution. The commenter believed that this change would allow an institution to choose a designated agency to assist it in the verification process.

Response: No change has been made. These regulations do not prevent an institution from using an outside agent or organization from assisting it in the verification process. However, the institution is responsible for the requirements of these regulations even if it uses an agent to meet its responsibilities.

Section 668.53 Policies and procedures.

Comment: One commenter opposed the requirements of § 668.53 which requires institutions to have written policies and procedures for verifying student aid application information. The commenters believed the Secretary does not have authority to specify institutional policies and procedures.

Response: No change has been made. The Secretary in this section is not specifying the substance of the policies and procedures that an institution must

establish in the implementation of the verification regulations. The Secretary is merely requiring an institution to set forth in writing the policies and procedures it otherwise needs to develop to implement the verification regulations. This prescription is authorized by section 487(a)(3) of the Higher Education Act of 1965 as amended (HEA), which provides that an institution "shall establish and maintain such administrative procedures . . . as may be necessary to ensure proper and efficient administration of funds received from the Secretary . . .", and section 487(b)(1)(B) of the HEA, which authorizes the Secretary to prescribe such regulations as may be necessary to provide for the establishment of reasonable standards of institutional capability to administer the student aid programs.

Comment: One commenter objected to requiring institutions to develop written policies and procedures because the goal of the Secretary is the reduction of error and the Secretary's concern is the production of results and not the creation of procedures. Another commenter opposed the requirements of the section on the grounds that they are unnecessary since well-run institutions would already have such policies in place. A few other commenters suggested that the procedures set forth in this section should only apply to institutions found out of compliance with the provisions of this Subpart after an audit or program review.

Response: No change has been made. The Secretary believes that the development by an institution of written policies and procedures to carry out the verification process will assist that institution's implementation of that process. While the Secretary intends to disseminate a "Verification Handbook" to assist institutions in that task, the policies and procedures called for in § 668.53 will be needed to complement the Handbook since they cover areas involving institutional discretion and flexibility, such as the time frames for providing documents and the consequences of the failure to provide such documents in a timely manner.

While the goal of the Secretary is the reduction of error in the awarding of financial aid, the Secretary does not believe that the procedures used to reach that goal are of no consequence. The Secretary believes that the development of the policies and procedures called for in this section will assist in reaching that result. The Secretary believes, as does the commenter, that well-run institutions will probably develop on their own the procedures and policies called for in this section. There can be no better reason, therefore, for requiring all institutions to comply with those procedures. Clearly this requirement will impose no additional burden on well-run institutions.

Comment: A few commenters asked if the Secretary will provide additional guidance on acceptable policies and procedures. One commenter recommended that the Secretary provide a model to implement the requirements of this section. Two commenters requested that the Secretary provide forms to facilitate implementation of the requirements of this section.

Response: No change has been made. This section requires only that the institution include certain minimum procedures for verifying the data of applicants for Pell Grant, campus-based, and GSL assistance. An institution will develop and implement those policies and procedures that it determines best suit its needs. The Secretary, therefore, believes that additional guidance in this area is not necessary, nor is the development of a model policy and procedures manual.

Comment: Two commenters provided comments on proposed § 668.53(a)(1)(i) regarding the time period within which the applicant shall provide the documentation for verification. One commenter asked if the Secretary will agree to whatever time period is established by an institution. Another commenter indicated that to use a "reasonable" time period is of no use because not only is it difficult to define "reasonable" but also a student may submit documentation after the deadline.

Response: No change has been made. An institution has broad discretion in establishing the time frames under this regulation for the submission of documents. Accordingly, the Secretary neither approves nor disapproves of the institution's choices in that area. However, as in other areas in which institutions have discretion, the institution's time frames may not be unreasonable.

In establishing time frames for submitting documents, an institution establishes a fixed time period of a specific number of days within which an applicant would have to provide the required documents. Its period for response would therefore be, for example, 15 days' or 30 days, not "a reasonable period of time," since the latter would not be of any help to its students.

Comment: A few commenters questioned the requirement in § 668.53(a)(1)(iii) of the NPRM that an institution specify the approved need analysis system that it uses to recalculate an EFC. The commenters stated that an institution is not required to use only one system of need analysis and that there are a number of instances where more than one system may be appropriate.

Response: A change has been made. The Secretary agrees with the commenters and has deleted this provision from the regulations.

Comment: One commenter in responding to the inclusion of the method by which the institution notifies the applicant of the results of verification in § 668.53(a)(1)(iv) of the NPRM indicated that this is a burdensome requirement and that a student should only have to be notified if there is a change in award.

Response: No change has been made. For purposes of this section, an institution may consider that it has notified a student of the results of the verification process if there is no change in the student's award when it disburses that award to that student. The Secretary does not believe that this requirement is burdensome.

Comment: One commenter indicated that the inclusion of the procedures the institution requires an applicant to follow to correct application information in proposed § 668.53(a)(1)(v) is unnecessary because all corrections do not have to be reported.

Response: No change has been made. The Secretary recognizes that an applicant does not need to report all corrections. However, in those cases where an applicant must correct the information on his or her application, the institution shall have written procedures for the applicant to follow if further action is required by the applicant.

Comment: Numerous commenters raised questions and concerns about the provision in proposed § 668.53(a)(1)(vi), § 668.53(a)(5) in the final regulations, that an institution have written procedures for referring to State or local law enforcement agencies for investigation, as required under § 668.14(g), any instance where it has reason to believe that an applicant has applied for assistance under false pretenses. Many comments on § 668.53(a)(1)(vi) were also addressed to § 668.14(g).

Response: A change has been made. The Secretry is retaining, in § 668.53(a)(5), a requirement that an institution's verification procedures include procedures for referrals under § 668.14(g). Section 668.14(g), which is

the subject of the comments, is a part of a proposed rule that was published for public comment in the **Federal Register** of December 12, 1984, 49 FR 48494, 48506. However, since § 668.14(g) has not been published in final form, the Secretary anticipates the procedures referred to in § 668.53(a)(5) will not be required until the 1987–88 award year application cycle, at the earliest.

The Secretary will consider the comments submitted in response to § 668.53 in considering § 668.14(g) prior to publishing that provision as a final rule.

Comment: Several commenters objected to the requirements set forth in § 668.53(a)(2) relating to institutions that impose verification requirements exceeding the requirements set forth in Subpart E. The major point of the objectors was that the requirements in proposed § 668.53(a)(2) are unnecessary since an institution that exceeds the verification requirements of Subpart E will have to establish, for its own purposes, the policies and procedures set forth in § 668.53(a)(2).

Response: A change has been made. The Secretary agrees with the commenters and has deleted this provision from the regulations.

Comment: One commenter questioned what the applicant's rights were with respect to verification referred to in § 668.53(b). This commenter recommended that the Secretary provide a "statement of applicant's rights" to the institutions.

Response: A change has been made. The Secretary did not intend to establish any special rights for applicants under the verification process and has, therefore, deleted this reference in § 668.53(b)(2).

Section 668.54 Selection of applicants for verification.

Comment: Several commenters were concerned about the specificity of the procedures for selecting applicants for verification. Several commenters suggested that the Secretary should allow alternate methods of verification to be determined by each institution. One commenter suggested that the Secretary should not require an institution to verify more than one-third of Pell Grant applications. Another commenter suggested that an institution should be allowed to choose between verifying either an approved random sample or 100 percent of the applications. One commenter suggested that no more than 20 percent of applications be selected for verification during the first two years after the system is in place.

Several commenters remarked that the procedures for selecting applicants for verification are reasonable, but that the Secretary should regularly review, in concert with the community, the edits to keep them to a reasonable level by excluding those which are not producing error.

One commenter suggested that 100 percent verification for Pell Grant applications should be required. The commenter suggested that if 100 percent verification is deemed to be undesirable, the Secretary should select for verification all Pell Grant recipients whose applications list tax filing status as "estimated" and all self-supporting Pell Grant recipients whose incomes for the base year are under $6500.

Several commenters objected to an edit which would flag 50 percent of all Pell Grant applicants, arguing that the figure is excessive and unjustified.

Response: No change has been made. While the alternatives provided by the commenters for selecting applications for verification may have merit, the Secretary believes that the system proposed by the notice of proposed rulemaking best satisfies the Secretary's goals of eliminating applicant error while minimizing burden on institutions in reaching that goal. The selection of applicants to be verified based on the use of edits provides the most reliable means of selecting applications with errors. The percentage selected depends on the edits adopted. As the Secretary did for 1985–86, he will develop in cooperation with representatives of the financial aid community the mandatory edits for use in 1986–87 and repeat this process for each subsequent year.

Because the Secretary believes that the edits provide the most reliable means of selecting applications which may have errors, he is not adopting any of the alternatives that the commenters proposed. The edits select only a minimum number of applications which must be verified. An institution may select additional applicants under any system it determines to be effective.

Comment: Several commenters objected to what they perceived as the requirement that all applicants for GSL loans must use an approved need analysis system.

Response: No change has been made. Section 668.54 does not require all GSL applicants to use an approved need analysis system. In most cases, an applicant for a GSL will also be an applicant for Pell or campus-based program assistance. Therefore, as a result of applying for assistance under those programs, the applicant will submit to the institution an SAR or the institution will receive the output document generated by an approved need analysis system.

In the case of an applicant who applies only for a GSL, an institution has the option of verifying all those applicants who do not submit applications, that are subject to the edits, or it may require those students to submit a Federal application so that the students will receive an SAR and thus be subject to the edits.

Comment: Several comments were received with regard to the requirements of § 668.54(a)(2). Several commenters interpreted that provision as requiring institutions to verify all applications. Other commenters interpreted that section as requiring institutions to verify all GSL applications while other commenters interpreted the section as forcing all GSL applications to file an application with an approved need analysis system.

Response: No change has been made. Section 668.54(a)(2) does not require institutions to verify all applications. It also does not require institutions to verify the applications of all GSL applicants. Further, it does not force GSL applicants to file applications with approved need analysis systems.

Section 668.54(a)(2) requires institutions to verify all the applications that it receives that have not undergone the edit checks developed by the Secretary to catch errors in the application process. An application goes through the edit checks if the student receives an SAR as a result of his or her application, or if the applicant applies to an approved need analysis system that has entered into an edit agreement with the Secretary. In the overwhelming number of cases, an applicant who applies for title IV, HEA Program aid will be subject to the edit process.

Applicants who may not have their applications subject to the edit checks are applicants with an adjusted gross family income of under $30,000 who apply only for a GSL, applicants with an adjusted gross family income of over $30,000 who apply only for a GSL if an institution uses the "GSL Needs Test Tables" and those applicants who apply for campus-based assistance where the institution hand-calculates the applicant's expected family contribution. While § 668.54(a)(2) requires an institition to verify each of these applications, the institution may, at its option, avoid this requirement by requiring each of the above applicants to file an application that is subject to the edits. Since the Federal form is subject to the edits and an institution may require all applicants for title IV, HEA Program aid attending that

institution to file a Federal student aid form, § 668.54(a)(2) does not force all GSL applicants to file an application with an approved need analysis system.

Comment: One commenter pointed out that a person who applies to the Secretary or to a need analysis system to have his or her expected family contribution determined does not, by that application, apply to an institution for title IV, HEA Program aid. Therefore, an institution would not necessarily know whether an applicant meets the requirements of § 668.54(a)(2)(ii).

Response: A change has been made. The Secretary agrees with the commenter and has amended § 668.(a)(2)(ii). Section (a)(2)(ii) is intended to assure that an application that is not processed through the edits is verified. Therefore, the Secretary has amended this provision to require an applicant for campus-based or GSL assistance to verify his or her application information if the institution does not receive an SAR or the output document generated by the applicant submitting an application to an approved need analysis system using the edits.

Comment: Several commenters asked for clarification of the effect of the verification requirements on a financial aid administrator who computes applicants' expected family contributions (EFC) by a hand calculation or by programmed desk-top calculators or computers. Several commenters suggested that edits be widely disseminated to agencies and institutions to enable an institution to build the edits into its own application system.

Response: No change has been made. An institution must verify the application information of all applicants whose application information has not been processed through the edits. The Secretary is distributing the edits only to agencies with approved need analysis systems that enter into an agreement with him and that have the capability to implement the edits. If an institution uses a programmed desk-top calculator or computer with a program from an approved need analysis system that incorporates the edits, the institution need only verify those applicants that the system selects.

Comment: Several commenters urged that changes in selection edits and categories of excluded applicants be made as early as possible. One commenter suggested that no changes be made after September 1 of the year preceding the application year.

Response: No change has been made. The Secretary will implement the development of the edits in conjunction with representatives of the financial aid community as early as possible for each award year. In addition, no revisions to these regulations will be made without complying with the legal requirements for notice and an opportunity for public comment.

Comment: Several commenters opposed the inclusion of edits in the Pell Grant processing system in addition to the common edits. The commenters suggested that all applicants should be subject to the same edits.

Response: No change has been made. The Secretary will continue to include edits in the Pell Grant processing system that are in addition to the common edits, such as the Social Security tape match, because no other system currently has the same capability.

Comment: One commenter suggested that the Secretary require 100 percent verification of applicants in conjunction with a requirement that the applicants and their parents submit a copy of their Federal income tax return with the application form. The commenter suggested that the application processor should then be made responsible for verification of auditable information on the tax return.

Response: No change has been made. The Secretary is considering the option of requiring applicants to submit their tax return with their application to the application processor and is currently assessing the technical difficulties preventing implementation of this procedure.

Comment: Several commenters objected to the selection of a random sample of applicants to be verified. The commenters urged that attention be focused on those applications most in need of attention, not on random ones. Random samples, they added, should be limited to quality control studies or audits. One commenter expressed concern that random sampling might penalize early filers.

Response: No change has been made. The random sample is a small proportion of those applicants selected and is necessary to analyze the effectiveness of the edits. It is taken throughout the award year and, thus, does not penalize early filers.

Comment: Several commenters objected to requiring verification of all applications processed through an agency or organization which does not use the edits. The commenters suggested that it would be fairer to require verification of all applicants or to require verification of a certain percentage of applications not processed through the edits. Some commenters complained that large institutions especially would be deluged with work if the 100 percent verfication requirement in § 668.54(a)(2) of the NPRM is implemented. Several commenters suggested that it would be more cost-effective to verify a random sample of GSL applications, rather than 100 percent. They questioned whether studies are available indicating that errors in the GSL Program are more common than in any other.

Several commenters suggested limiting selection of applications for verification to only those applications submitted through a processor.

Several commenters stated that financial aid officers are already overburdened and further requirements to verify GSL applications would slow the process even more but would not produce significant savings for the government. One commenter suggested that the Secretary should instead require guarantee agencies to establish audit systems to verify information provided by borrowers.

One commenter suggested revising § 668.54(a)(2) of the NPRM to require institutions to verify information only if (1) the institution has conflicting information or believes the information to be incorrect, and (2) the applicant receives a campus-based award or a GSL and does not apply for a Pell Grant, submit an AFSA, or have need calculated through an approved system of need analysis using the edits.

Response: No change has been made. An application that has not been processed through the edits may contain error and, therefore, must be verified. An institution has the option, however, of requiring any applicant to submit an "Application for Federal Student Aid" (ED Form 255) to generate an SAR and, thus, to determine whether the applicant's information must be verified even though the institution does not use the SAR to determine the applicant's campus-based award or GSL recommended loan amount.

Comment: Several commenters asked if proposed § 668.54(a)(2) means that an aid package must be determined *before* requiring the application information to be verified or does it mean that if a student appears to be otherwise eligible the application information must be verified.

Response: No change has been made. The determination of an aid package is irrelevant to whether an institution must verify the application of an aid applicant under § 668.54(a)(2). Under that section, an institution must verify an applicant for campus-based assistance once it selects that applicant to receive an award under any of the campus-based programs or once the applicant requests

the institution to certify his or her GSL loan application if the application information has not been processed through the edits.

Comment: A few commenters suggested that the requirement in § 668.54(a)(3) that an institution verify any application information that it believes is inaccurate is unnecessary and burdensome. They suggested that the Secretary should limit verification to those items listed in § 668.56 of the NPRM.

Response: No change has been made. If an institution believes the information provided is inaccurate, it cannot be burdensome or unnecessary to require the applicant to verify that information.

Comment: One commenter questioned whether the Secretary will continue the current Pell Grant policy of requiring an institution to verify subsequent applications submitted by an applicant for an award year if that applicant had a previous application selected for verification for that year. Several other commenters were concerned about the burden imposed upon the parents of applicants who must verify more than one application during an award year. Other commenters were concerned that if an applicant filed more than one application and included information on the second application that was different from the information included on the first application this different information would cause different edits to pick the application for verification.

Response: A change has been made. It is the Secretary's intention to continue the current Pell Grant policy of requiring an institution to verify subsequent applications submitted by an applicant for an award year if that applicant had a previous application selected for verification for that year. However, the applicant would only have to verify, by supporting documentation, information that was not previously verified. This will curtail the burden on applicants and their families.

With regard to an applicant who submits applications containing different information, the Secretary believes it is appropriate to require that applicant to verify the new information since the inclusion of that information may be an indication that the applicant made an error in completing that application.

Comment: One commenter objected to the exclusion in proposed § 668.54(b) of incarcerated applicants, immigrant applicants, and applicants whose parents are neither residents nor citizens of the U.S.

Response: No change has been made. The Secretary has determined that these individuals represent a limited number of applicants and that the difficulties they would face in obtaining documentation to verify their application information are such that they should not be required to provide documentation unless the institution has conflicting documentation or has reason to believe the information is inaccurate.

Comment: One commenter noted that the Secretary has not excluded two categories of applicants from verification: (1) An applicant whose data was verified at one institution but who later transferred to another institution; and (2) an applicant for whom estimated data is used. The commenter recommended these categories of students be excluded.

Response: A change has been made. The Secretary agrees that it is not necessary to verify the application of a transfer student for an award year if the institution the student transferred from has already verified that student's application for that award year. The Secretary has amended § 668.54(b) accordingly.

The Secretary does not agree that there should be a blanket exemption for applicants using projected data. The regulations do not require the verification of projected income since the income that must be verified is income earned in the calendar year preceding the first year of the award year. However, the Secretary believes that applicants should verify, at least once, information that they are required to update under § 668.55.

Comment: One commenter questioned whether the applications of deceased applicants must be verified. Another commenter questioned the provision that requires an institution to verify the application of a deceased applicant if it has reason to believe that that information contained in the application is inaccurate or if it has conflicting documentation with regard to that application.

Response: A change has been made. The Secretary has amended § 668.54(b) by clarifying that the exclusion for an applicant who dies during the award year for which he or she applied for aid applies regardless of whether the institution believes the information included in the application is inaccurate and regardless of whether the institution has documentation that conflicts with the information included in the application.

Comment: One commenter recommended that the exclusions in § 668.54(b) include dependent applicants whose parents are deceased or are physically or mentally incapacitated, or whose parents' address is unknown.

Response: A change has been made. The Secretary agrees that in these circumstances a dependent applicant cannot be expected to verify his or her application. Therefore, he has amended to § 668.54(b) to exclude these applicants from the verification requirements of this subpart.

Comment: One commenter noted that the Secretary considered an independent student's parents "unable" to provide documentation if they were outside the United States and inaccessible. The commenter questioned whether an applicant's parents who are citizens of and currently residing in a country other than the United States must also be inaccessible for the applicant to be excluded from verification under § 668.54(b)(4) of the NPRM.

Response: A change has been made. The Secretary believes that the applicant's parents should be relieved of the responsibility for verifying application information only if the parents are outside the United States and cannot be contacted by normal means of communication. The Secretary no longer believes that the provision in the NPRM referencing the parents' citizenship or residence is relevant. The Secretary has amended § 668.54(b) accordingly.

Comment: One commenter noted that the exclusion in proposed § 668.54(b)(7) of applicants who do not receive title IV aid is confusing because in most cases an institution must verify a selected applicant's data in order to determine if the applicant is eligible for assistance.

Response: A change has been made. The Secretary has clarified this provision to exclude applicants who do not receive assistance for reasons other than the accuracy of their application information.

Comment: To avoid placing an applicant in an untenable position, one commenter recommended that the Secretary under § 668.54(b) exclude the applicant from providing documentation from the applicant's spouse if the spouse is deceased or otherwise unable to provide that documentation.

Response: A change has been made. The Secretary agrees with the commenter and has amended the regulations accordingly. Therefore, an applicant is not required to provide the documentation for his or her spouse's income if the spouse is deceased, physically or mentally incapacitated, or residing in a country other than the United States and cannot be contacted by normal means of communication, or cannot be located because his or her address is unknown.

Section 668.55 Responsibilities of applicants for updating information.

Comment: A few commenters supported the updating requirements of this section. A number of commenters, however, objected to the concept of updating unless, for example, a financial aid administrator learned in the normal course of events that an applicant's circumstances had changed. The commenters believed that updating will not produce more accurate information because of the short period of time between the date an applicant files an application and the date he or she submits an SAR to the institution and because the updated information may still be a projection. The commenters believed that updating is difficult to enforce, is burdensome, is not cost effective, may increase program inequity and will not eliminate error. Several commenters noted that the updating concept is contrary to the historical "snapshot" view of capturing a family's circumstances at a given point of time. Some commenters recommended that a benchmark, e.g., 120 days, be established before which updating would not be required, and recommended that the updating provisions apply only when there is conflicting documentation.

One commenter proposed that no update of the information be required unless the institution had conflicting documentation. Some commenters believed that applicants will update only when it is to their benefit.

A few commenters noted that household size and number attending postsecondary educational institutions are based on projected data and believed that the Secretary should recognize that inherent in projections is a certain degree of error. One commenter recommended that instead of requiring institutions to update household size and number attending postsecondary institutions, the committees responsible for need analysis address the problems of estimated data.

Response: No change has been made. The Secretary believes that the amount of assistance received by an applicant should be based on the best available information. Therefore, the Secretary is requiring that applicants selected for verification update their projections relating to household size, number attending postsecondary institutions, and dependency status. The Secretary believes that updating this information, rather than merely verifying these projections as of the date of application, provides more accurate information in determining an applicant's need for assistance.

Comment: One commenter asked if updating applies to Special Condition filers and to data being processed through a system for correction.

Response: No change has been made. These applicants must update household size, number attending postsecondary institutions, and dependency status under the same circumstances as other applicants.

Comment: Several commenters were concerned that § 668.55(a) would require multiple updating and verification of an applicant's household size and number of household members attending postsecondary institutions if the applicant filed more than one application in an award year. Other commenters were concerned that an institution would have to recalculate aid packages awarded on the basis of one application if as a result of updating a second application, the applicant's family size or number in postsecondary institutions changed.

Response: Changes have been made. As a general rule, if an applicant files more than one application for an award year, the institution shall require the applicant to update the information on each application. However, § 668.55(a) was amended to provide that the applicant need not update and the institution need not verify information that remains unchanged from a previously verified application submitted for that award year.

Section 668.55 was further amended to provide that an institution need not adjust financial aid already awarded for an award year on the basis of a verified application if the applicant submits another application for that award year and the updated information on the second application is different from the information contained on the previous application. The institution must, of course, award any new assistance on the basis of the updated application.

Comment: A number of commenters objected to the requirement in § 668.55(b)(1) that Pell Grant applicants not selected for verification update household size, number attending postsecondary institutions, and independent student status. A few commenters objected to the inconsistency among the programs.

Other commenters objected to this provision on the basis of the short time between submitting an application and submitting an SAR which made the resignature requirement redundant and expensive. Some commenters believe that additional signatures are necessary only as a result of filing error or verification.

Response: No change has been made. The character of the Pell Grant Program requires that all Pell Grants be calculated on the same basis. Therefore, the requirement that an applicant selected for verification shall update his or her application information means that a Pell Grant applicant not selected for verification must also update that information.

The Secretary believes that the date a nonselected applicant first submits his or her SAR to the institution is the most appropriate time for this information to be updated since this date allows an applicant to change his or her information without placing an undue burden on the applicant or the institution.

Given the nature of the campus-based and GSL programs, an applicant for campus-based or GSL assistance, who is not selected for verification, is not required to update his or her household size or number attending postsecondary educational institutions. However, institutions continue to have the discretion to require these applicants to update this information throughout the award year.

Comment: One commenter noted that the number of family members in postsecondary education could change after the term in which the item was verified. The commenter proposed that the regulations specify that the number in postsecondary education is only valid for the semester or term being verified and is not assumed to be accurate for future terms of enrollment.

Response: No change has been made. As noted above, for the Pell Grant Program an applicant must update his or her SAR once. The Secretary is not requiring an applicant to update his or her information after that first update. For the campus-based and GSL programs the institution has an option to require applicants to update this information throughout the award year.

Comment: A number of commenters objected to the requirement in § 668.55(b)(2) that Pell Grant applicants not selected for verification sign the certification statement on the SAR to update household size and number attending postsecondary institutions. One commenter recommended that the institution be permitted to collect a certification statement elsewhere in order to accommodate institutions using electronic transmission of data. One commenter requested assurance that if the certification is false that the student, not the institution, will be held liable.

Two commenters recommended that instead of updating, the student be required to sign a statement recognizing his or her responsibility for updating prior to submission. One commenter recommended that a random sample could be conducted by the institution after the beginning of the school year when this information becomes factual.

A number of commenters recommended that, at the very least, the certification instructions be strengthened. One commenter recommended the use of bold face print.

Response: A change has been made. In response to a commenter's suggestion, the Secretary will permit a Pell Grant applicant who is not selected for verification to certify that the information contained on his or her SAR is accurate as of the day he or she first submits the SAR to the institution on a separate form developed by the institution as an alternative to certifying the information on the SAR itself.

The Secretary notes that if the applicant falsely certifies this information, the student is liable for any funds improperly disbursed. However, an institution may also be liable if it disbursed funds to an applicant for whom it had documents with information that conflicted with the information contained on the applicant's application.

The Secretary believes that the suggestions regarding the signing of statements and the taking of random samples will not produce updated information as effectively as the procedures set forth in § 668.55(b).

Comment: One commenter asked if § 668.55(b)(2) of the NPRM means that the student signs and dates the statement on the SAR at the time of submission, including any changes, or does "updated" imply that the applicant has already submitted the SAR for changes and that this SAR is the revised SAR.

Response: No change has been made. Under § 668.55(b)(1), the applicant is required to update the information so that it is accurate as of the date the applicant submits his or her first SAR. Therefore, the applicant may not submit his or her first SAR to the institution until the applicant updates any change so that the information is accurate when the applicant submits his or her SAR.

Comment: One commenter asked if only "Pell-eligibles" who are not selected for verification are required to sign the certification statement.

Response: No change has been made. Only "Pell-eligibles" are required to sign the certification statement.

Comment: One commenter questioned the intent of the Secretary regarding updating of dependency status for applicants selected for verification. The commenter noted that although the Secretary indicated in the preamble to the proposed regulation that a selected applicant shall update this information at the time of verification, the regulations appear to require updating only household size and number attending postsecondary educational institutions at the time of verification.

Response: A change has been made. The Secretary clarified the regulation in § 668.55(d) to state explicity that an applicant shall update his or her dependency status as of the date of verification.

Comment: Several commenters objected to the requirement in proposed § 668.55(c), § 668.55(d) in the final regulations, that an applicant reapply if his or her dependency status changes. One commenter believed that dependency status does not change very often. A few commenters recommended that an institution be permitted to recalculate a Pell Grant if an applicant must file a new application. One commenter asked if an institution may recalculate a campus-based award based on a new application submitted directly to the institution.

Response: No change has been made. The Secretary is requiring an applicant to reapply fix is or her dependency status changes because most of the information on the original application is no longer valid. An institution may recalculate a campus-based award using a new application submitted directly to the institution, but the applicant must submit a correction application for a Pell Grant since the previous SAR is no longer a valid SAR. Note that if the applicant submits a new application for campus-based aid directly to the institution, the institution may verify the applicable information under § 668.54(a)(2) unless the same information is included on the correction application submitted to the Pell processing system and the new SAR is not selected for verification.

Comment: A few commenters requested clarification as to whether proposed § 668.55(d)(1) changes the current policy of prohibiting updating dependency status for a change in marital status. One commenter questioned whether the Secretary intends to change the current policy which prohibits a change in application information due to a change in marital status. One commenter questioned whether updating due to a change in marital status is a student's option. A few commenters supported a requirement to update for a change in marital status.

Response: A change has been made. The Secretary did not intend to change the current policy and has revised § 668.55 to clarify that an applicant is not permitted to update his or her application information to reflect any change that is the result of a change in marital status.

Comment: One commenter questioned whether § 668.55(d)(2) meant that an applicant was not permitted to update his or her dependency status on a GSL loan application. Several commenters objected to exempting previously certified GSL loan applications from the updating of dependency status. One commenter noted that this requirement would be rendered inappropriate by the pending legislative proposal to disburse these loans in multiple disbursements. One commenter suggested that institutions should encourage students to revise their dependency status if updating would make the students eligible for higher loan amounts. One commenter questioned whether the Secretary intends to change the current policy which prohibits a change in application information due to a change in marital status.

Response: A change has been made. To prevent additional administrative complexity in the GSL Program, the Secretary is retaining the requirement that an applicant may not change his or her dependency status as a result of a change in marital status. For the same reason, the Secretary has revised § 668.55(d) to clarify that an applicant is not permitted to update his or her application information on a previously certified GSL loan application.

Section 668.56 Items to be verified.

Comment: Some commenters recommended that the items to be verified should be applied consistently to all programs for ease of administration and students' understanding.

Response: No change has been made. The Secretary is requiring that institutions verify the prescribed items if they are used to calculate an applicant's EFC. It would not be appropriate to require an institution to verify an item that is not used in determining an applicant's award or GSL recommended loan amount.

Comment: One commenter stated that the proposed regulations did not explain adequately the verification requirements for a student who files a "Special Condition" application under the Pell Grant Program.

Response: No change has been made. The regulations require that the institution verify those items used to

determine the applicant's EFC. In the case of an applicant who files a Special Condition application, the appropriate items are household size, number attending postsecondary educational institutions, and independent student status. Since the Special Condition application requests income information for the first year of an award year and § 668.56 requests verification of base year income information, the Special Condition filer is not required to verify income information.

Comment: Some commenters objected to the items to be verified required by this section. One commenter recommended that only adjusted gross income, household size, and taxes paid be required items and recommended that quality control studies look at number in college, independent student status, and untaxed income. One commenter recommended that the use of the tax return is sufficient as evidenced by the quality control studies showing that seven out of eight of the highest error items are verifiable against the tax return. One commenter stated that applicants should verify only those items that are the basis for the applicant's selection by the edits instead of being required to verify all of the specified items.

Response: No change has been made. The six required items are all major factors in determining an applicant's EFC, and all of them are items that the quality control studies of the Pell Grant Program have shown to have high error rates. Three of these items (household size, number attending postsecondary educational institutions, and independent student status) cannot be verified using only the tax return. In addition, if the edits indicate that one of these items may be in error, an applicant should also verify the other applicable items to assure that his or her application information is correct regarding these key items.

Comment: A few commenters suggested additions to the list of items to be verified. One commenter indicated support of the requirements of this section if the names of the household members and the names of those members in college were added to the list of items to be verified. Two commenters recommended that if an applicant is divorced or separated, that the applicant document that he or she is legally divorced or separated in order for the applicant to be eligible for title IV funds. One of the commenters recommended the applicant's divorce or separation status be an additional item to be verified with the legal divorce or separation agreement as documentation.

Response: No change has been made. With respect to the names of the household members, § 668.57 does require an applicant to document the names of the household members and the names of the household members attending postsecondary educational institutions as part of verifying the household size and number in postsecondary institutions. With respect to divorced or separated applicants, institutions have the option of determining whether this item should be verified. The Secretary does not believe it is necessary to require institutions to verify an applicant's marital status since the quality control studies of the Pell Grant Program indicate that this item was not among those with a high error rate.

Comment: One commenter recommended that the Secretary eliminate the verification of a dependent student's base year adjusted gross income (AGI), taxes paid, and untaxed income if that information is used to determine an applicant's Pell Grant because the information is not used to calculate a campus-based award under the Uniform Methodology.

Response: A change has been made. The Secretary has eliminated this requirement because verification of this information does not significantly affect Pell Grant awards.

Comment: One commenter recommended that an applicant need verify household size or number attending postsecondary educational institutions only if the applicant enters a number greater than one for number in postsecondary institutions, greater than two for dependent student's household size, or greater than one for an independent student's household size.

Response: A change has been made. The Secretary agrees with the commenter and has revised § 668.56 accordingly.

Comment: One commenter questioned whether an institution must verify the number of household members attending postsecondary educational institutions of an independent student whose award is calculated using a need analysis system other than the Student Aid Index of family contribution (FC) on the SAR. The commenter noted that the chart included in the preamble that describes the required verification items for an independent student indicates that these students need not verify this item.

Response: No change has been made. The chart should indicate that for every major need analysis system except the GSL Needs Test Tables and GSL applicants with an adjusted gross family income of $30,000 or less, an independent student shall verify the number attending postsecondary educational institutions.

Comment: A number of commenters objected to the verification of untaxed income because it is burdensome and creates major delay. One commenter noted that on the basis of experience in 1985–86 under the Pell Grant Program, verifying untaxed income produces no change in award for most students who have low or no incomes. One commenter suggested that this requirement is seriously jeopardizing the objectives of the title IV programs by creating unnecessary barriers to many low income and needy students, and if these barriers are not removed, the economic and social costs could be far greater in the future than the amounts that these regulations intend to save. Several commenters opposed verification of zero untaxed income when the applicant reports zero. Some commenters recommended that untaxed income be verified only when conflicting documentation exists.

Several commenters recommended that the Secretary verify only the untaxed income and benefits on the tax return. One commenter strongly recommended that child support be reported and verified separately. One commenter supported the verification of social security benefits. One commenter suggested that the collection of the worksheet for untaxed income on the Financial Aid Form of the College Scholarship Service is sufficient and should require no further verification.

A few commenters mistakenly included veterans educational benefits under the category of other untaxed income; these commenters noted the difficulty in verifying this item because the Veterans Administration provides only the monthly amount of benefits, but not the total number of months the benefits will be received within the award year.

Response: A change has been made. The Secretary concurs in the commenters' concern regarding burden and is revising the requirements to alleviate that burden. The Secretary is requiring that institutions verify only Social Security benefits, child support, and those items that an institution can verify using a U.S. income tax return.

An applicant who submits a SAR is required to verify social security benefits only if required by a comment on the applicant's SAR. If an applicant does not submit a SAR, social security benefits must be verified only if the institution has information showing that benefits were received or believes benefits were received.

Child support must be verified only if the institution has information showing that child support was received or has reason to believe child support was received (e.g., the applicant is an independent student who is unmarried, separated, or divorced, and the household size is greater than one).

As the Secretary noted in the preamble of the NPRM, the Secretary, under this subpart, is not requiring institutions to verify veterans educational benefits.

Comment: One commenter questioned whether § 668.56(a)(6)(ii) of the NPRM indicates that social security is a required item for verification only if a comment appears on the applicant's SAR. The commenter noted that in proposed § 668.57(d)(2)(ii) that the Secretary specifies the documentation for applicants without an SAR.

Response: A change has been made. The Secretary did not intend to limit this item to only those applicants with an SAR. Therefore, the item has been changed to also require the verification of social security benefits of all applicants without an SAR if the institution has information showing, or has reason to believe, that such benefits were received. If an applicant has an SAR, the applicant need verify social security benefits only if the SAR has a comment requiring the verification of social security benefits because the comment indicates that the information on the application does not match the information in the Social Security Administration's records.

Comment: Although a few commenters supported what they interpreted to be the 100 percent verification requirements for GSL the Program in § 668.56(b), a number of commenters objected to such a requirement. The commenters' objections are based on a belief the requirements are costly, are burdensome, and may require multiple verifications depending upon when the applicant applies for a GSL. A few commenters recommended that an institution be permitted to verify only a sample of GSL applications but be required to notify each applicant of the concept of verification. Two commenters objected to verifying all GSL applicants whose adjusted gross family incomes are $30,000 and below when some of the applications of those applicants have already passed through edit checks at a processor without being selected.

Response: A change has been made. The Secretary only intended to specify the information that a GSL applicant would be required to verify if selected and did not intend to imply that all GSL loan applicants must verify the information. The Secretary, therefore, has clarified the regulations to indicate that the requirements of § 668.56(b) apply to those GSL applicants selected under § 668.54(a) (1) and (2).

Comment: A few commenters recommended that GSL verification requirements be limited to the use of the tax return items only.

Response: No change has been made. Household size, number attending post secondary educational institutions, and independent student status are too important in determining an applicant's recommended loan amount to delete them from the requirements when relevant.

Comment: One commenter recommended that all GSL applicants verify only adjusted gross family income and dependency status.

Response: No change has been made. To require GSL applicants' to verify only their adjusted gross family income and dependency status is insufficient if an applicant's recommended loan amount is determined using the GSL Needs Test Tables or an approved need analysis system.

Section 668.57 Acceptable documentation.

Comment: Two commenters noted that an individual who intentionally misreports information on the application would have the same opportunity to falsify data on a copy of the tax return or other forms. They, therefore, suggested that only official data from the Internal Revenue Service or Security Administration should be acceptable documentation.

Response: No change has been made. These regulations are intended to reduce applicant error, and the Secretary does not believe that it is necessary, as a general rule, to require applicants to submit documentation directly from the Internal Revenue Service or Social Security Administration to reduce the error rate. Furthermore, such a requirement would increase the burden on institutions and applicants and create additional delays in determining an applicant's award.

Comment: Three commenters recommended that more flexibility be given to aid adminstrators in collecting documentation to verify student and parent information. One commenter stated that this would allow aid administrators to concentrate on students who deliberately misrepresent information, without placing undue burden on the majority of students. Another commenter said that the types of acceptable documentation listed in the regulation should serve as a guideline rather than a prescriptive requirement for schools.

Response: No change has been made. The Secretary is requiring certain minimal requirements for documentation. He has sought to limit the number of items to only the most important ones and to provide institutions with as much flexibility as possible in documenting an applicant's information.

Comment: Two commenters felt that the different documentation requirements for different aid programs would cause increased errors in verification and recommended that the requirements be made uniform for all Title IV programs.

Response: No change has been made. The Secretary is not requiring institutions to use different documentation requirements for the same items for different aid programs. Only in the case of independent student status may an institution use different documentation requirements and the institution is not required to exercise that option.

Comment: Several commenters suggested that the processing systems be programmed to identify verification requirements based on the applicant's age and marital status and to print the requested documentation and statements as a part of the output documents sent to the applicant and the institution. One commenter cited the Institutional Verification Form (IVF), developed by the American College Testing Service, as an example of how such a service could be provided to the student and aid administrator. Other commenters felt the Student Aid Report should be expanded to include a general notification of verification requirements, in checklist fashion, and additional pages for student certifications.

Response: No change has been made. The Multiple Data Entry servicers and other approved need analysis systems may provide such additional assistance as they deem appropriate. The Secretary, however, does not believe that he should mandate that these servicers provide this assistance. The applicant's eligibility letter in Part 1 of the SAR will provide directions to the applicant to the extend possible, and, as noted below, the Secretary will provide a verification worksheet with the SAR of applicants selected by the edits at the Pell central processor.

Comment: Several commenters expressed concern over the volume of supplemental worksheets or forms that would be necessary to verify the required items. Many commenters suggested that in the interest of

efficiency and uniform procedure the Secretary develop and distribute standard forms to carry out verification. Several of these commenters referred to the validation form that was used in several years of Pell Grant (then Basic Grant) Program validation as an example. One commenter felt that separate form should be developed for non-tax filer status, self-supporting status, untaxed income, household size, and number in postsecondary institutions. However, most of the commenters described a single booklet that woud be mailed to the student by the Pell processor or need analysis service, and would contain a verification checklist, untaxed income worksheet, and certification statements for student signature. One commenter felt that training sessions for institutions should be provided by the Secretary in conjunction with the verification form.

Response: No change has been made. The Secretary is developing a verification worksheet for applicants to complete that will be included in the SAR of those applicants selected by the edits at the Pell Grant central processor for verification. The SAR will direct the applicant to the sections of the verification worksheet that he or she needs to complete. The Secretary will be providing institutions with copies of the worksheet that the institutions may reprint to use for verification of other applicants selected for verification. The Secretary expects to provide training to the institutions on the integrated verification requirements as early as possible in 1986.

Comment: One commenter questioned whether the Secretary intended to depart from the current requirement in the Pell Grant Program that the applicant's spouse sign the required verification documents.

Response: A change has been made. The Secretary believes that the applicant's spouse should sign the verification documents where appropriate since the spouse's signature is required on the application form. The Secretary did not intend to depart from the current Pell Grant Program requirements and, therefore, has amended the regulations to require the spouse's signature where appropriate.

Comment: Several commenters indicated that administrative burden would be reduced if an institution could accept a tax preparer's signature or stamp in lieu of the filer's signature on the tax return.

Response: A change has been made. The Secretary concurs with the commenters and has revised the regulations accordingly.

Comment: One commenter questioned whether the signature of only one of the applicant's parents should be acceptable on the parental tax return.

Response: No change has been made. The regulations require the signature of only one parent.

Comment: Four commenters expressed the opinion that the certifications required as a part of the verification of household size, number attending postsecondary educational institutions, and independent student status were duplicative of the certification statement on the application that all data is correct.

Response: No change has been made. The Secretary is seeking to reduce applicant error and believes that requiring an applicant to recertify the accuracy of his or her information provides the applicant with the opportunity to correct that information. Furthermore, because a selected applicant updates his or her household size, number in postsecondary educational institutions, and dependency status at the time of verification, the Secretary believes that requiring a statement recertifying this information is the least burdensome method of updating and verifying it. In addition, a statement signed by the applicant's parent to verify independent student status is the best available documentation other than the tax return for determining exemptions claimed.

Comment: Two commenters objected to the Secretary's decision that a tape match between applicant and Internal Revenue Service (IRS) records is not currently feasible. The commenters felt that an automated matching program would be less cumbersome and more accurate than verification performed at the institution.

Response: No change has been made. As was noted in the preamble of the NPRM, the Secretary is exploring this issue with the Treasury Department. To date, it is not possible, due to technical difficulties, to accomplish what the commenters suggest.

Comment: One commenter felt that no further documentation should be required from an applicant who provided a statement that no tax return was filed or would be filed, on the grounds that most applicants who do not file a tax return have financial need. The commenter felt that if a statement of income was required of an applicant, it should not be limited to income earned from work, but should include benefits from public assistance agencies.

Response: No change has been made. Although such an applicant probably qualifies for financial aid, the institution still needs to determine whether the other application information is accurate to assure that the applicant's EFC is correct. The Secretary is prescribing only minimum verification requirements in these regulations, and an institution, at its option, may develop a statement covering both income earned from work and untaxed income and benefits.

Comment: Several commenters proposed that application processors collect tax returns from applicants and match and correct information on the application based on the tax return. As an alternative, many commenters proposed that a tape match with Internal Revenue Service be conducted before the Student Aid Report is generated.

Response: No change has been made. The Secretary has previously explored these possibilities and determined that the technical difficulties make these options unavailable at this time.

Comment: A commenter suggested that tape matches could be conducted with other Federal agencies to verify veterans educational benefits and Aid to Families with Dependent Children (AFDC). The commenter also suggested that procedures be established for schools to verify non-tax filing status with the Internal Revenue Service.

Response: No change has been made. The Secretary is currently studying the feasibility of tape matches with other agencies providing income and benefits to applicants. Previously, the Secretary has had a tape match for veterans educational benefits. However, such a match is not effective since veterans educational benefits are reported as projected income for the award year. In addition, the Veterans Administration does not have information in its files at the time applications are processed for new veterans requesting assistance and does not have enrollment data for an award year until the fall of that year or later. The Secretary has been unable to implement a tape match for AFDC, which is not a required item, because there is no central file of recipients available to ED. In the case of non-tax filers, IRS does not maintain a central roster of these persons, and each regional service center can only certify that a person has not filed a tax return at that center.

Comment: Two other commenters felt that it would be simpler to require only the Federal tax returns for all applicants rather than providing that a comparable State tax return may be submitted in lieu of the Federal return.

Response: A change has been made. The Secretary agrees and has amended the regulations accordingly.

Comment: One commenter suggested that institutions should be required to collect tax returns from all applicants.

Response: No change has been made. The Secretary is setting minimum verification requirements in these regulations. An institution always has the option of requiring all applicants to submit copies of the tax returns.

Comment: One commenter felt that the IRS transcript of tax account information should not be accepted as an alternative to a tax return because the transcript does not include information such as capital gains, interest and dividend income, and the untaxed portion of unemployment compensation.

Response: No change has been made. The Secretary recognizes that the IRS transcript does not always provide all the information found on the tax return. However, the IRS transcript often is available when the applicant is unable to obtain a copy of a tax return. The Secretary, therefore, has provided that an institution may accept the transcript in lieu of the tax return to meet the minumum documentation requirements. At its discretion, the institution may require the applicant to submit the tax return.

Comment: One commenter suggested that the Secretary provide additional, alternate forms of documentation to verify AGI and U.S. income tax paid if an applicant is unable to obtain the tax return. As an example, the commenter suggested that IRS Form W–2, Wage and Tax Statement, would be an acceptable alternate document under certain conditions.

Response: A change has been made. The Secretary has revised the requirements of § 668.57(a) to provide that an applicant may verify these items by using alternate forms of documentation under certain circumstances. If the relevant person filed an income tax return with a central government outside the United States or the Commonwealth of Puerto Rico, the applicant must submit a copy of that return. If the relevant person has not filed and will not file a U.S. tax return, the applicant must submit a statement signed by the relevant person listing the sources and amounts of income earned from work. If the relevant person has been granted a filing extension by the IRS, the applicant must submit a copy of each IRS Form W–2 of the relevant person or a statement signed by the relevant person certifying that person's adjusted gross income if the relevant person is self-employed. The applicant must provide the institution with a copy of the extension granted to the person by IRS and a copy of the completed U.S. income tax return when filed. If the relevent person has requested the IRS to provide a copy of the tax return or listing of tax account information and IRS is unable to locate the return or provide the listing, the applicant must submit each IRS Form W–2 of the relevant individual or a statement signed by the relevant person certifying his or her adjusted gross income if he or she is self-employed. If an individual is unable to obtain an IRS Form W–2 in a timely manner, an institution may obtain a signed statement from the individual certifying his or her amount and source of income and the reason the IRS Form W–2 is not available.

Comment: Several commenters expressed concern over the length of time needed to obtain copies of tax returns from the Internal Revenue Service.

Response: No change has been made. The Secretary has provided advance notice on the application forms that the applicants may be required to provide copies of their or their parent's income tax return.

Comment: One commenter noted that the tax returns used to conduct verification would not collect information on the "growing and significant share of personal income" that is not reported on tax returns. Another commenter expressed a similar concern that excessive reliance on tax return information would detract from a financial aid administrator's efforts to measure the true financial strength of an applicant's family.

Response: No change has been made. Use of the information from the tax return to establish an applicant's EFC has long been recognized as the most reliable and verifiable indicator of most applicant's ability to contribute to their cost of education.

Comment: One commenter felt that it was inconsistent for the Secretary to exempt foreign institutions in the GSL Program from verification procedures, but require U.S. institutions to collect and review foreign tax returns. The commenter recommended that institutions be required to collect only a statement that the applicant or the applicant's parents filed a tax return other than a U.S. tax return.

Response: No change has been made. The Secretary does not believe that the requirements are inconsistent since the circumstances under which domestic and foreign institutions operate are not the same.

Comment: One of the commenters noted that the criteria for household size on the financial aid application are not identical to the criteria for claiming exemptions on the Federal income tax return and recommended that the source of data used for verification correspond to the household size item. One commenter suggested that in the case of a discrepancy between household size and the number of exemptions, the institution should have the option to accept the lower figure.

Response: A change has been made. The Secretary recognizes that the number of exemptions claimed on the tax return and the appropriate household size on a student aid application may differ. The Secretary, therefore, has revised the documentation requirements for household size to require that the institution collect a signed statement listing the names of the household members and their relationship without reference to the number of exemptions on the tax return.

Comment: Several commenters noted that the documentation for household size and number in postsecondary education is collected by several need analysis documents (the application forms of the College Scholarship Service and the Graduate and Professional School Financial Aid Service (GAPSFAS) being the most frequently cited.) The commenters felt that the regulations should make it clear that the information collected on these forms would satisfy the documentation requirement for these items. However, two of the commenters noted that in most cases the institution would have no way of knowing if the information was still accurate as of the date of verification.

Response: No change has been made. The Secretary, as noted in the preamble to the NPRM, has provided that for number of family members attending postsecondary educational institutions, the institution need not obtain a separate signed statement to verify this item if the information required to verify this item is listed on the application and the information is still accurate at the time of verification. With the revision of the requirements for verifying household size, the Secretary will accept a listing on the application of the information required to verify this item if the information is still accurate. However, the institution must document that it has determined that the information is still accurate. For example, it may use a copy of the application signed at the time of verification.

Comment: Three commenters objected to the requirement that an institution verify the number of household members attending postsecondary educational institutions by collecting statements from the institutions. They

felt that this requirement would create excessive admininstrative burden and pose a hardship to applicants and their families. One of the commenters felt that it should be sufficient for the applicant to provide a signed statement listing the names and the enrollment status of family members, and the names and addresses of the institutions they are attending. Another commenter proposed that the Secretary accept other kinds of documentation that would be readily available to the family, such as a copy of a letter of admission, offer of financial aid, or receipt for payment of tuition.

Response: No change has been made. The requirement in § 668.57(c)(2)(ii) is limited in scope and applies only if an institution believes that the number of family members attending postsecondary educational institutions is inaccurate. Furthermore, the Secretary believes that this documentation provides a useful tool for an instituion if it decides that the circumstances warrant collecting further documentation. If an institution invoked this requirement, the Secretary would consider a copy of an offer of admission, an offer of financial aid if it clearly indicated that the student has been accepted for admission, or a receipt of payment of tuition as fulfilling this requirement.

Comment: Two commenters asked for more specific language describing when an institution might have cause to believe that the reported number in postsecondary institutions is inaccurate. One of the commenters suggested that the distinction be based on whether the institution had conflicting information for this item.

Response: No change has been made. The Secretary is not restricting the basis upon which an institution may determine that an applicant misreported number attending postsecondary institutions. For example, an institution may determine that the signed statement is insufficient if it determines that an applicant has misreported other information on the application.

Comment: Many commenters felt that the different requirements for documenting independent student status in § 668.57(c) of the NPRM were confusing and would lead to increased error by aid administrators. The commenters objected to the different documentation requirements based on an applicant's age, marital status, and type of aid for which he or she applied.

Response: No change has been made. The Secretary acknowledges that the regulations governing the documentation required for independent student status are complex. While a part of the complexity, *e.g.*, the difference between a married and unmarried independent student, is due to the statutory definition of the term "independent student," a significant portion is due to the Secretary's desire to ease the burden on institutions and to provide them with greater flexibility in documenting this status.

The statutory definition of a married independent student limits the year in which the factors of tax exemption, residence and monetary support may be taken into account to the first year of an award year. In order to provide consistency in the definition of a married and unmarried independent student, the Secretary would have to amend the definition of an unmarried independent student to eliminate the base year in determining that status. The Secretary believes that the base year for determining independent student status for unmarried students is an important factor in making that determination and is unwilling to eliminate that year solely to simplify the documentation requirement of this provision.

The remaining differences in the documentation requirements for independent student status relate to the situation where the institution does not have conflicting documents relating to the three factors used in determining that status. (The documentation requirements are the same if the institution has conflicting documentation regarding those factors.) The differences relate to the title IV, HEA programs for which the applicant has applied and the use of age in the Pell Grant Program requirements.

With regard to the difference in treatment between the Pell Grant Program on the one hand, and the campus-based and GSL programs on the other, the Secretary has provided institutions with flexibility to document this status. The Pell Grant Program requires uniform treatment of applicants to the extent possible. Therefore, the Secretary has established procedures that all institutions must follow in documenting the independent students status of Pell Grant applicants.

The GSL and campus-based programs allow greater flexibility at the institutional level, and the Secretary believes that institutions should be given greater flexibility in documenting the independent student status of an applicant under those programs. Thus, the Secretary permits institutions to follow the Pell Grant requirements or to impose stricter requirements for verifying this status. If, in the interest of simplicity or consistency, an institution believes that its best course is to treat all applicants alike, it can choose that option by applying the Pell Grant Program procedures to all its campus-based and GSL program applicants as well. However, the institution is free to choose or reject this approach. Thus, the complexity in the regulation relates to giving an institution this choice rather than the procedures it must adopt to verify an applicant's independent student status.

With regard to the use of age in the Pell Grant Program requirements, the Secretary has introduced a difference in treatment to ease the burden on institutions. Thus, an institution is not required to verify an applicant's status if the applicant is 23 years of age or older and there is no conflicting documentation.

Comment: One commenter recommended that the Secretary clarify the documentation required for independent student status if the institution has documentation that conflicts with the information provided by the applicant.

Response: A change has been made. The Secretary has amended § 668.57(d) to specify the documentation required when an institution has documentation that conflicts with the information provided by the applicant.

Comment: Some commenters recommended that when verifying an applicant's independent student status the parental tax return be required of all applicants regardless of age or marital status.

Response: No change has been made. A parental tax return covering base year information is not relevant to a determination of whether a married applicant qualifies as an independent student. If there is no conflicting documentation regarding the applicant's independent student status, the Secretary believes that most applicants 23 years of age or older are truly independent so that it would be overly burdensome on the applicant and the institution to require the applicant's parents to provide a copy of their income tax return.

With regard to unmarried applicants under 23, an institution must request the parental tax return of every unmarried applicant selected for verification who claims to be an independent student. However, the Secretary believes that there are situations where it is unreasonable to collect that document, such as if the parents are out of the country and cannot be contacted by normal means of communication.

Comment: One commenter noted that a parental signature on an application

form should suffice for verification of dependency status.

Response: A change has been made. The 1986–87 student aid application, unlike previous ones, provides a place for an applicant's parents to certify the information on the application form with respect to the applicant's independent student status. Therefore, for applicants under the Pell Grant Program, the Secretary has revised § 668.57(d)(4) to provide that if there is no conflicting documentation, the parental signature on the application will suffice as documentation of the applicant's independent student status for purposes of the required written statement. Since an unmarried applicant must also provide a copy of his or her parent's income tax return as well as a parental statement, the parental signature on the application does not alone satisfy the verification requirements for an unmarried applicant.

Comment: One commenter called for clarification of the documentation requirements for independent student status when the applicant's marital status at the time of verification is different than at the time of application.

Response: No change has been made. Under § 668.55(d)(2), an applicant may not update his or her dependency status if the change results from a change in marital status after the applicant submits his or her application. Therefore, the applicant must verify his or her dependency status as of the time of application and must provide the documents needed to verify that status.

Comment: Two commenters felt that the documentation of independent status would constitute an undue hardship for "nontraditional" students and proposed that an age limit be set at 23 or 26, beyond which no documentation would be required for an independent student. Another commenter recommended that the parental tax return and certifying statements not be required under any circumstances because of the prevalence of independent students from single head-of-household families who have no contact with the other parent.

Response: No change has been made. The regulations are already in accord with most of the recommendations of the commenters. With regard to the issue of age, the regulations do not require applicants 23 years of age or older to document their independent student status if there is no conflicting documentation with regard to meeting the requirements of that status. The Secretary believes that it would be irresponsible to ignore conflicting documentation concerning whether an applicant qualifies as an independent for applicants of any age.

With regard to the commenter's objection to obtaining parental tax returns and other statements, the applicant would not necessarily have to obtain the tax returns of both parents if the applicant's parents were divorced or separated. The applicant would only have to obtain the return and statement of the parent whose income would be reported if the applicant were a dependent student.

Comment: Many commenters questioned the choice of May 31 of the award year as the key date for determining if the student is 23 years of age or older for purposes of the documentation requirement. Two commenters proposed that this date be changed to June 30, the last day of the award year. Other commenters suggested that the January 1 date used for verification of Pell Grants in the 1985–86 award year be used for integrated verification in the 1986–87 award year, as well. Many commenters thought the regulations were using two different dates depending on program. One commenter felt that December 31 would be the most convenient date for checking which documentation requirement should be used for a student.

Response: No change has been made. The Secretary is changing the date from January 1 of the award year in § 690.77 of the Pell Grant Program regulations to May 31 of the second calendar year of the award year (e.g., May 31, 1987 for the 1986–87 award year) to coordinate this provision with the requirements of the Uniform Methodology. Elements of the Uniform Methodology are based on the independent student's age as of May 31 of the award year. The Uniform Methodology uses this date since it is the end of the academic year for many institutions and their students.

Comment: One commenter felt that the age criterion for documentation should be lowered from 23 years to 22 years to correspond to the average age of graduation from an undergraduate program.

Response: No change has been made. The rule is in accord with the commenter's suggestion since it requires almost all undergraduates to document their dependency status.

Comment: Several commenters asked that aid administrators be given more opportunity to use professional judgment, either in requiring documentation, or in waiving the requirement for documentation of dependency status. One commenter asked if an institution would be required to withhold an applicant's Pell Grant if it had conflicting documentation regarding an applicant's dependency status but the applicant's parents cannot provide the required documentation. One commenter stated that no further documentation of independent student status should be required when an aid administrator has determined under the regulations for the campus-based programs that the relationship between an applicant and parent makes it unreasonable to expect parental contribution. Another commenter stated that aid administrators should be allowed to use professional judgment in not requiring documentation from independent students whose parents are permanent residents of another country.

Response: A change has been made. The Secretary believes that the regulations provide an institution's financial aid officer numerous opportunities to exercise professional judgment regarding the documentation required for verifying a student's dependency status. For example, the financial aid officer must determine whether an applicant's parents are unwilling or unable to provide requested documentation and must determine whether an unmarried applicant had sufficient resources in the base year to support himself or herself.

With regard to whether a parent is unable to provide requested documents, the Secretary has added provisions in § 668.57(d)(3)(ii) similar to the ones added with regard to spouse information in § 668.54(b)(2). Included in that new provision is the requirement that if an applicant's parents are out of the country and cannot be contacted by normal means of communication, the institution shall treat the parents as being unable to respond to a request for documents.

The commenter who suggested that no documentation should be required where a financial aid officer determines, under the campus-based program regulations, that it is unreasonable to expect a parental contribution has misunderstood the provisions contained in those regulations. Under those regulations, a financial aid officer may treat a dependent student as an independent student if he or she determines that it is unreasonable to expect a parental contribution. However, the student does not satisfy the definition of an independent student.

Finally, if an institution has conflicting documentation regarding an applicant's dependency status and the applicant's parents do not provide the required documentation, the institution may not pay a Pell Grant to that student, disburse any campus-based aid, or

certify the applicant's GSL loan application. Section 668.58 has been amended to clarify this requirement.

Comment: Many commenters felt that the parent's unwillingness to provide documentation of dependency status should not be grounds for waiving the requirement, because applicants who had deliberately misreported their dependency status would be able to evade verification. Several other commenters were in agreement with the proposed rule that documentation not be required of an independent student's parents if they are unwilling to provide it.

Response: No change has been made. If there is no conflicting documentation and an applicant's parents are either unwilling or unable to provide the requested documentation, the applicant cannot be held accountable for his or her parents' actions or circumstances.

Comment: Some commenters were concerned that the interpretation of the parents' inability or unwillingness to submit documentation would be too subjective and recommended that more specific language be added to the final regulation. Several commenters objected to the use of the parent's mental or physical status as a criterion in requiring a tax return. Another commenter pointed out that aid administrators would be reluctant to make a judgment not to require a parental tax return from an independent student unless a clear and reasonable standard for such judgments was established.

Response: No change has been made. The regulations describe the circumstances under which the Secretary considers an applicant's parents unable or unwilling to provide the required documentation. The Secretary is providing that it is within the institution's discretion to determine whether these circumstances are applicable. The Secretary recognizes that these decisions may involve some subjectivity but is relying on the professional judgment of financial aid adminstrators to make these determinations.

Comment: One commenter asked that the regulations specify the tpyes of documentation that would support a decision that the parents' physical and mental state prevents them from providing required documentation or that a parent is deceased or out of the country.

Response: No change has been made. The Secretary is not specifying the documentation necessary to support an institution's decision in order to provide the institution discrection in determining whether an applicant's parents are, in fact, unable or unwilling to provide the requested documentation.

Comment: One commenter objected to the requirement that an institution must contact the applicant's parents and request a copy of the tax return if the applicant did not provide a copy for them in order to determine whether the applicant's parents were unwilling or unable to provide the requested documentation.

Response: No change has been made. In the case of an applicant whose parents are unable to provide the requested documentation, the institution usually would not be able to contact the parents but instead would need to document through the applicant that the parents are unable to provide the documentation. For example, if the applicant stated that the parents were deceased, the institution might document this circumstance by the applicant's signed statement, or it might require the applicant to provide a copy of the death certficate if it felt that requiring such documentation was advisable. In the case of an applicant whose parents are unwilling to provide the requested documentation, the institution would need to contact the parents to document that they were unwilling to provide the requested documentation. The Secretary believes that an institution may only determine that an applicant's parents are unwilling to provide the documentation by directly contacting them.

Comment: One commenter objected to the use of certification statements for items that can only be confirmed by the parents and the student. The commenter felt that "self-verification" of the residency and support questions for dependency status constituted an unnecessary burden to the institution.

Response: No change has been made. To document an applicant's indpendent student status, it is necessary to document the answers to the residency and support questions. The Secretary believes that requiring applicants and their parents to provide signed statements concerning the support and residency questions provides the least burdensome method of verifying this information and with the parental signature does not constitute self-verification.

Comment: Three commenters suggested that it would only be necessary to collect a parental tax return once during an applicant's course of study to verify the dependency status of that applicant unless the institution had conflicting information.

Response: No change has been made. It is necessary to collect the relevant parental tax return for each award year that an unmarried applicant's independent student status is verified. For example, if the institution collected the parental tax return for calendar 1984 of an applicant in the 1985-86 award year, the institution would still need to collect a 1985 parental tax return for the 1986-87 award year since the only information that the institution would have for calendar 1985 would be the applicant's projected data for that year.

Comment: Another commenter suggested that only the first page of the parental tax return be required of an independent student, because many parents are reluctant to release their income information.

Response: No change has been made. The Secretary would consider a signed copy of only the first page of the parental tax return sufficient documentation even if the applicant's parents blocked out all the information on the page except the information identifying the filer, the number of exemptions claimed, and the list of dependents.

Comment: Two commenters suggested that the test of an applicant's ability to support himself or herself be expanded to include "sufficient resources" as well as "sufficient income" to take into account those applicants who use their savings or receive support from persons other then their parents. Two other commenters wanted specific guidelines for determining "sufficient income" which would give aid administrators the latitude to take into consideration different costs of living.

Response: A change has been made. The Secretary agrees that the test of an applicant's ability to support himself or herself should be expanded to include "sufficient resources" and, therefore, has revised the regulations accordingly.

The Secretary is leaving this determination to the discretion of the financial aid administrators.

Comment: Many commenters objected to the requirement that applicants submit a worksheet or comparable listing to verify untaxed income and benefits. Several commenters noted that this documentation duplicates information already collected on financial aid applications for some of the private need analysis services, and, in some cases, information available on the Federal income tax return. Most of the commenters felt that this documentation requirement is burdensome, is offensive to students, and, because the documentation represents self-verification by the student of previously reported information, rarely changes the applicant's EFC. One commenter was in

favor of the requirement that a worksheet be required to verify untaxed income.

The commenters proposed several modifications to this requirement, including (1) collecting a signed statement or a signed Student Aid Report rather than the worksheet or (2) limiting collection of the worksheet to applicants who actually report untaxed income or to situations where there is conflicting information.

Response: A change has been made. As noted, in connection with § 668.54, the Secretary has revised the items to be verified under untaxed income and benefits to rely principally on the income tax return as the required document. The Secretary believes that relying principally on the tax return is the least burdensome method of verifying these items. The Secretary, therefore, has revised the regulations to delete the requirement that an applicant provide a signed copy of the worksheet for untaxed income and benefits from the student aid application. The tax return will satisfy the verification requirement, and if no tax return is filed or will be filed, the applicant must provide a signed statement concerning the sources and amounts of untaxed income and benefits received.

The Secretary is not eliminating the verification of untaxed income if the applicant reports a zero amount. An applicant may err by forgetting or failing to provide any information as well as entering an incorrect amount.

In addition, the Secretary believes that using the tax return as the principal verification document should reduce much of the burden associated with verifying a zero amount of untaxed income and benefits.

Comment: One commenter recommended that the regulations give guidelines specifying when the aid administrator might have occasion to doubt the information provided by the applicant for untaxed income and benefits, rather than leaving such judgments to the discretion of the aid administrator.

Response: No change has been made.

The Secretary is providing the institution with the discretion to determine whether any reason exists to question an applicant's information because the financial aid administrator is closer to the situation.

Comment: Several commenters felt that it would be more accurate and less burdensome to verify social security benefits through the current ongoing tape match conducted by the Federal processing center.

Response: No change has been made. The Secretary is continuing the tape match with the Social Security Administration for those applicants receiving a SAR. However, the tape match is not accurate enough to ascertain the correct amount that should have been reported on the application by some applicants. Therefore, to determine the correct amount of benefits that an applicant received, written confirmation of the amounts must be obtained from the Social Security Administration.

Section 668.58 Interim disbursements.

Comment: Several commenters objected to the provision in proposed § 668.58(a)(1)(ii)(B) limiting the time that an institution may employ a student under the College-Work-Study Program to sixty (60) days after enrollment while the student is verifying his or her information. These commenters considered the sixty (6) days to be an insufficient period of time to complete verification.

Response: No change has been made. The Secretary believes that sixty (60) days is sufficient time for most students to complete verification since the time period begins with the date the student enrolls, *i.e.*, completes registration and begins attending classes, and most students begin the verification process prior to enrollment.

Comment: Several commenters suggested that institutions should be required to verify GSL application information before disbursement, rather than before certification as required in § 668.58(a)(2). Other commenters suggested requiring only postdisbursement verification. Several commenters suggested that a better control mechanism would be a requirement that all GSL checks be sent to the schools. One commenter suggested requiring that there should be a multiple disbursement of GSL checks and verification should be required before release of the second disbursement. Several commenters suggested that there should be a multiple disbursement of all GSL checks to minimize problems associated with incorrect awards.

Response: No change has been made. Requiring that institutions complete verification prior to certifying GSL loan applications assures that applicants receive appropriate amounts of assistance under the GSL program. To allow certification of GSL loan applications before the completion of the verification process would increase the administrative burden on an institution by adding to the complexity of the GSL program. In addition, the GSL program would become unmanageable if checks must be returned to the lenders for those students who do not provide the required documentation or for whom verification changes the recommended loan amount of a previously certified GSL loan application. For those students, the lender would be required to cancel the loan in addition to refunding the origination fee and loan guarantee fee. The Secretary, therefore, would be billed for interest and special allowance benefits from the date of disbursement to the date of cancellation on a loan that should never have been disbursed. The Secretary currently does not have the statutory authority to require multiple disbursements of GSL checks.

Comment: One commenter suggested that proposed § 668.58(a)(2), § 668.58(b)(2)(iii) in the final regulations, be changed to prohibit the "disbursement" of a GSL loan check for a previously certified loan application until the verification process is completed.

Response: A change has been made. The Secretary agrees with the commenter and has amended § 668.58 accordingly. The proposed rule prohibited the "endorsement" of a GSL loan check for a previously certified loan application. The final rule prohibits the "processing" of a GSL loan check and, thus, encompasses both the endorsement and disbursement of a check.

Comment: Several commenters objected that the requirement in § 668.58(b) makes institutions liable for overpayments made in good faith and based on proper documentation. They recommended that an institution not be held liable for the first payment it makes to a student pending verification of information. Several commenters suggested that the student, not the institution, should be held liable for overpayments resulting from student error on the application form.

Several commentes stated that institutions will be effectively required to withhold assistance until verification is completed because institutions will be reluctant to risk incurring the possible liabilities. Exposure to those liabilities, commenters insisted, will not necessarily be minimal as the preamble to the NPRM contends.

Several commenters recommended that students who have received an overpayment in an interion disbursement in excess of $500 and refuse to repay it should be reported to the Secretary. One commenter suggested exempting the institution from liability if the disbursement is made without the institution having any conflicting documentation.

Response: No change has been made. The Secretary is not requiring institutions to make disbursements to an applicant before the applicant completes the verification process. In addition, institutions may exercise discretion in determining whether to provide interim disbursements to individual applicants.

Comment: One commenter was concerned that timing would be a problem in implementing proposed § 668.58(a)(2). The commenter cited the possibility that an institution might certify a GSL loan application based on an application from an approved need analysis system using the edits and subsequently receive a SAR selecting the applicant for verification.

Response: No change has been made. In the example cited, the institution would not be liable for certifying the GSL loan application since it was based on an application processed through the edits and the edits did not select the application for verification. If the institution received the SAR prior to the GSL check, it may not process the check until the applicant completes the verification process. If the institution has already processed the chech and determines that the recommended loan amount has decreased by $200 or more, the institution is required to notify the student and the lender of its determination within thirty (30) days of the institution's determination that the borrower is ineligible for the loan amount that the institution previously certified.

Comment: Several commenters observed that the time required to collect information needed for verification may be more than the thirty (30) days allowed in § 668.58(c) for GSL checks to be held. Some commenters suggested that forty-five (45), sixty (60), ninety (90), one hundred and twenty (120), or one hundred and eighty (180) days would be more appropriate. One commenter suggested that each institution be allowed to establish its own policy regarding timeframes for receipt of data, based upon prior experience.

One commenter recommended that the institution be allowed to determine on a student-by-student basis when the check is to be sent to the lender. One commenter suggested that there should be discretion for cases in which the delay is not within the student's control.

Several commenters recommended that the thirty-day period for GSL checks be extended when the delay is caused by a Federal or State agency.

Response: A change has been made. The Secretary agrees that thirty days may be an insufficient period of time and is increasing the number of days to forty-five (45). However, in general, institutions would not be holding GSL checks since they may not certify GSL loan applications for selected applicants until the applicants complete the verification process.

Section 668.59 Consequences of an inaccurate application.

Comment: One commenter suggested that the Secretary extend the concept of the Zero SAI Charts in § 668.56(a)(2) to an index for low cost institutions to use as another tolerance in the Pell Grant Program for awards which do not change due to the application of the requirement that an award may not be greater than a percentage of the cost of attendance.

Response: No change has been made. To use such an index, the institution must first recalculate the applicant's SAI. The regulations already provide that if the institution recalculates an applicant's SAI, the applicant must resubmit his or her SAR only if the award changes.

Comment: Several commenters stated that the use of a net tolerance in § 668.59(b) is cumbersome and burdensome and that the example of a net tolerance in the preamble incorrectly treated the married couple deduction.

Response: A change has been made. The Secretary concurs with the commenters and has revised the tolerances in § 668.59(b) to state the tolerances in absolute dollar amounts. Thus, to determine if changes in dollar amounts exceed the tolerances, an institution adds together all changes in dollar amounts, disregarding whether the items increased or decreased in value or their effect on the applicant's expected family contribution. For example, if verification shows that an applicant's AGI changed from $8,000 to $7,500 and the U.S. tax paid changes from $500 to $700, the institution adds the differences on each item, i.e., $500 and $200, to arrive at the absolute number of $700. The institution then uses the absolute value of $700 in determining whether the tolerances are applicable.

Comment: A number of commenters suggested that § 668.59(b) specify a single tolerance for determining when an institution must recalculate an applicant's EFC.

A number of commenters stated that the $100 tolerance for dollar items in the Pell Grant Program was too low and would lead to unnecessary delays in payments to applicants due to corrections. Some commenters stated that the tolerance in the Pell Grant Program required an accuracy in reporting that was not commensurate with the accuracy of the verification documents or the need analysis process. One commenter questioned how a tolerance of $100 in the Pell Grant Program could be appropriate when the payment schedule cells are currently in increments of $100. Several commenters suggested that the tolerance levels currently in place for the Pell Grant Program should be retained.

Several commenters stated that the tolerance for the campus-based and GSL programs was too low. Some commenters observed that a $600 tolerance for the campus-based and GSL Programs will result in few errors requiring correction.

Response: A change has been made. The Secretary continues to believe that the reasons stated in the preamble of the NPRM are valid for setting the tolerances to determine whether an institution must recalculate an applicant's EFC. In setting the Pell Grant Program tolerance, the Secretary must consider the effect of a change in the applicant's information in determining the applicant's Pell Grant. However, recognizing that the tolerances in the NPRM may place an undue burden on institutions and that the tolerances are being restated as absolute values, the Secretary has revised them to be $200 for the Pell Grant Program and $800 for the campus-based and GSL programs. The Secretary is not establishing a single tolerance because of differences in calculating a student's EFC under the Pell Grant Program on one hand and the campus-based and GSL programs on the other.

Comment: Some commenters questioned the Secretary's legal authority to set the tolerance level for the Pell Grant Program's SAI at $100 in § 668.59(b) of the NPRM.

Response: No change has been made. The Secretary believes that, in general, a change in dollar items of $200 or less on a SAR when combined with no additional change in nondollar items will not affect the applicant's EFC to the extent that it will change that applicant's Pell Grant award. Therefore, under the Pell Grant statute, the Secretary's actions are in keeping with the provisions of section 411(a) of the HEA.

Comment: One commenter suggested that an institution should not be required to recalculate an EFC if nonfinancial information is found to be erroneous.

Response: No change has been made. Any change in nonfinancial information such as independent student status, number in household, and number in postsecondary educational institutional

has a major impact on an applicant's EFC. The Secretary, therefore, is requiring that an institution shall recalculate an applicant's EFC if there is any change in this information.

Comment: Several commenters suggested that the Secretary apply the tolerances to changes in awards or changes in EFC.

Several commenters suggested that for purposes of the campus-based and GSL programs, the decision to recalculate an applicant's EFC be left to the discretion of the institution, with the provision that a recalculation must occur if the revised information would result in a change in award of $200 or more.

One commenter suggested that the Secretary not require an applicant whose inaccurate application resulted in an underaward to resubmit a revised application.

Response: A change has been made. The purpose of the tolerances is to reduce the burden on institutions to recalculate an applicant's EFC and award. To state the tolerances in terms of changes in awards or EFC would place additional recalculation burdens on institutions.

An additional tolerance of a $200 change in award would result in unnecessary overawards. Therefore, the Secretary is not providing tolerances for changes in EFC or awards.

The Secretary has, however, revised the regulations to provide clarifications and to ease the burden on institutions with respect to adjusting an applicant's award due to changes in an EFC. For the Pell Grant Program, he has added § 668.59(b)(2)(ii) which provides that an institution may disburse an applicant's Pell Grant based upon the original SAR if the institution recalculates the applicant's SAI based on the verified information and determines that the applicant's award increases. If the applicant subsequently submits a corrected SAR, the institution must adjust the applicant's award to reflect the new SAI. For the campus-based and GSL programs, the Secretary has clarified proposed § 668.59(d)(2), § 668.59(c) of the final regulations, to provide that the institution shall adjust the applicant's financial aid package if the new EFC results in an overaward of campus-based aid or decreases the applicant's recommended loan amount.

Comment: Several commenters questioned whether an applicant must submit corrections to the need analysis system if changes in verified items exceeded the tolerances for campus-based or GSL programs. Commenters suggested that financial aid administrators should be granted authority to recalculate an applicant's EFC under those circumstances.

Response: No change has been made. The regulations do not require that an application for campus-based or GSL assistance be resubmitted with corrections to the need analysis system. The institution may recalculate the applicant's EFC.

Comment: Several commenters objected to the requirement in proposed § 668.59(f), § 668.59(e) in the final regulations, that an institution report to the borrower and lender a reduction in the recommended loan amount of a previously received GSL loan if as a result of verification the loan amount is reduced by $200 or more. One commenter questioned whether this reporting is necessary if adjustments to other aid will bring the applicant's total aid within his or her need.

Response: No change has been made. The Secretary believes that a borrower should receive only the amount of assistance for which he or she demonstrates need. The institution may adjust the applicant's other aid to bring his or her total aid within his or her need and, therefore, would no longer have an excess loan amount to report.

Comment: One commenter was concerned that § 668.59(e) would require an institution to cross-check each GSL recipient at each registration and require loan renegotiation if subsequent non-Title IV aid is received.

Response: No change has been made. This requirement would not apply to GSL applicants who received additional resources after their loan application was certified.

Comment: One commenter asked if the provisions of § 668.59(g) of the NPRM, § 668(f) of the final regulations, conflict with the provisions of § 668.14(g) of the NPRM published in the **Federal Register** on December 12, 1984.

Response: No change has been made. The provisions do not conflict with each other. The proposed provisions of § 668.14(g) are concerned with any applicants who may be falsifying information. Section 668.59(g) requires an institution to refer to the Secretary any situation where there is an unresolved dispute over the accuracy of information provided by the applicant if the applicant received funds on the basis of that information.

Section 668.60 Deadlines for submitting documentation and the consequences of failing to provide documentation.

Comment: Several commenters supported the provision in § 668.60(a)(1) in the NPRM that an institution establish what is a reasonable length of time for the applicant to provide documentation for the campus-based and GSL programs. Two commenters, however, felt the provision was inconsistent with § 668.60(a)(2) which allows an institution to waive its own time limit and § 668.60(a)(3) in the NPRM which restricts the time an institution may hold a GSL check for a prevously certified GSL. These sections have been renumbered as § 668.60(b)(1), § 668.60(b)(2), and § 668.60(b)(3) of the regulations.

Response: No change has been made. The Secretary believes that an institution should have the flexibility, whenever possible, to set the deadline for an applicant to submit documents for verification in the campus-based and GSL programs. The Secretary does not believe that § 668.60(b)(2) and (3) are inconsistent with § 668.60(b)(1). The Secretary has included § 668.60(b)(2) to provide additional flexibility to institutions and § 668.60(b)(3) to assure that an institution not hold a GSL check for an extended period of time.

Comment: One commenter recommended that the regulations be revised under § 668.60(a)(1)(i)(D) of the NPRM to read: (D) Endorse or disburse a GSL check to the applicant.

Response: A change has been made. The Secretary agrees that the language in the NPRM which prohibits only the "endorsement" of a GSL check is inadequate. He has revised the regulations to prohibit the "processing" of an applicant's GSL check which encompasses both endorsement and disbursement.

Comment: Regarding § 668.60(b) of the NPRM, § 668.60(c) in the final regulations, one commenter objected to a student receiving the lowest amount of a Pell Grant for which the student is eligible if the student submits a verified SAR after the deadline but before the time period established by the Secretary. The commenter believed the Secretary has no authority to deny students the funds for which they are eligible. One commenter recommended that the regulations permit an applicant the option of refiling with corrected data in those instances where his or her SAI woud be lower and the payment higher with the applicant having the right to accept less funds if he or she chooses not to refile.

Response: No change has been made. These provisions repeat those in § 690.77(f) of the Pell Grant Program regulations published on March 15, 1985 and similar provisions in previous regulations for the Pell Grant Program. As the Secretary noted in the comments and responses of the March 15 Pell

Grant Program regulations, these regulations provide that a student who has misreported information and been given an extension to correct that information not receive the additional benefit of a higher award.

Comment: The Sercretary received a number of comments concerning the provision of § 668.60(c) of the NPRM, § 668.60(d) of the final regulations, which precludes an applicant who did not provide documentation for a previous award year from receiving Title IV aid in the future unless the Secretary determines that the documentation is no longer needed. Some commenters believed this provision to be burdensome and that it will cause substantial delay in the aid process. Most commenters objected to precluding an applicant's receipt of aid in the future. The commenters believed that this approach is unreasonably punitive. Many of the commenters noted a variety of reasons why a student may not provide documentation, *e.g.*, "problems" of procuring documentation, uncooperative parents, and receipt of aid from other sources. A number of the commenters believed that an applicant should not be "automatically judged" as having provided false information. A few commenters noted that the concept of student eligibility requires that an applicant's eligibility be determined each award year. A number of commenters recommended that this provision be restricted to that award year. One commenter asked if the Secretary currently denies subsequent processing or payment of Pell Grant applications for those students who failed to complete verification during a given period. This commenter also asked how the information on Pell Grant verification is being transmitted from one institution to another for those students who transfer. A few commenters were unclear as to whether the requirement of this section applied to future years or within the same academic year. Some commenters asked how far into the future will these provisions apply; the suggestion was made to tie this provision to the existing record retention requirements. Some commenters asked how an institution will know there is no longer a need for documentation.

Response: A change has been made. If an applicant fails to provide the requested information, the Secretary will reserve the option to withhold any further Federal student assistance, including awards in future years. As in the current regulatory requirements for the Pell Grant Program (34 CFR 690.77(f)(4)), the Secretary has not limited this paragraph to receiving funds in the award year for which information was requested.

Comment: The Secretary received a number of comments concerning the proposal in the preamble to revise the requirements for the financial aid transcript in Subpart B of these regulations to include information regarding whether an applicant failed to provide documentation for verification of an application for a Pell Grant, campus-based aid, or a GSL loan if the applicant subsequently attends another institution and applies for Title IV aid.

Most commenters objected to revising the financial aid transcript to include information regarding whether an applicant failed to provide documentation for verification. Some commenters believed this revision to be too complex and burdensome for institutions. Many of the commenters' objections were based on a belief that there are a variety of reasons why an applicant did not provide documentation, *e.g.*, a student did not enroll, and that it is virtually impossible for an institution to determine if an applicant "failed" to provide documentation or if he or she refused to do so. A few commenters asserted that because the transcript already reflects refunds, there is no need to make this revision. One commenter recommended that the Secretary not allow interim disbursements; the commenter believed that then there would be no need for the transcript's revision. A few commenters requested clarification as to why the transcript should be revised if a student did not receive Title IV funds. Moreover, one commenter believed that this revision has no relevance to the second institutions because a new application will be required which will precipitate verification. One commenter recommended that instead of revising the financial aid transcript, the information should be collected on the student's financial aid application. Several recommended that if the transcript requirements are revised, the provision should be subject to the record retention requirements.

Some commenters supported revising the financial aid transcript to include information regarding whether an applicant failed to provide documentation for verification of an application for a Pell Grant, campus-based aid, or a GSL.

One commenter believed that this revision would discourage the intentional and persistent attempts by a few applicants to provide false information. Most support was contingent upon the condition that the transcript be changed only to reflect that documentation was not provided for those applicants who received title IV aid. These commenters believed that to withhold future aid because an applicant did not provide documentation is unreasonable for an applicant who did not benefit from title IV aid, that the transcript be revised only for applicants who transfer within the award year, that any revisions to the transcript be delayed until award year 1987–88 because institutions will be developing 1986–87 application materials before these regulations are published, or that this revision is valid only if applicants who were verified at the previous institution are excluded from verification at the subsequent institution. The commenters supported the collection of overpayments and noted that this was already possible via the transcript. The suggestion was made that the Secretary collect overpayments using the Pell Program as the precedent.

Response: A change has been made. The Secretary generally concurs with the commenters opposed to the proposal and, therefore, is not revising the financial aid transcript provision in Subpart B. The Secretary, however, is revising § 668.60(c) to require that an institution may not process campus-based aid or a GSL if directed by the Secretary. This change relieves the institution of the responsibility for knowing whether the applicant completed the verification process at another institution but does not restrict the institution from withholding campus-based aid or certifying a GSL loan application if directed by the Secretary.

Section 668.61 Recovery of funds.

Comment: One commenter questioned whether the requirements in § 668.61(a) apply to any overpayment or to those that are the result of the institution exercising its option to make an interim disbursement under proposed § 668.58(a)(1)(ii), § 668.58(a)(2)(ii) in the final regulations.

Response: A change has been made. The Secretary has clarified § 668.61 to clarify that these provisions apply only to those overpayments that are the result of disbursements under § 668.58(a)(2)(ii).

Comment: One commenter recommended that the Secretary clarify § 668.61(a)(2). The commenter assumed that the Secretary meant that an institution is required to reimburse a program account if it required an applicant to repay an overpayment but the applicant did not make the repayment. Another commenter questioned at what point in time an

institution is required to reimburse program accounts from its own funds.

Response: A change has been made. The Secretary has clarified this provision to state that if the applicant does not return the overpayment, the institution must make restitution of an overpayment from its own funds within sixty (60) days after the applicant's last day of enrollment but not later than the end of the award year in which the funds were disbursed, whichever comes first.

Comment: Several commenters suggested that it is unnecessarily punitive to require a school to repay an NDSL Program loan overpayment when the entire balance of the loan, including the overpayment, will eventually be collected from the applicant.

Response: No change has been made. Under § 668.58(a), if an institution exercises its option to provide an interim disbursement of NDSL funds to an applicant, the institution assumes liability for the funds disbursed. Therefore, if the institution is unable to eliminate the overpayment by adjusting the applicant's subsequent financial aid payment in the award year or by requiring the applicant to repay the overpayment, the institution shall restore to its NDSL fund from its own funds an amount equal to the overpayment, and the applicant's NDSL balance is reduced by the amount of the overpayment reimbursed to the NDSL fund by the institution.

Comment: Several commenters asked for clarification of circumstances which would necessitate recovery of GSL Program loan funds under § 668.61(b) when verification is required before the application may be certified.

Response: No change has been made. Verification is not always required before a loan may be certified. For example, an institution may certify a GSL based on the output document of an approved need analysis system using the edits which shows that the applicant is not selected. If the institution subsequently received a SAR selecting the applicant for verification based on edits used only in the Pell Grant processing system, the institution may determine after verification that the information used in certifying the GSL was inaccurate and the applicant received a larger GSL than he or she was eligible to receive.

Comment: One commenter objected to any requirement that the school notify both the State guarantee agency and the lender when an overaward is discovered during verification because the school would not know who the lender and guarantee agency are.

Response: A change has been made. Under § 682.612(b)(2) of the GSL Program regulations, an institution is required to keep a record of the lender for each loan received by its students. The Secretary, therefore, has revised § 668.61(b) to require that an institution inform only the student and the lender.

Comment: Several commenters asked if institutions will continue to be held "faultless" when a student receives aid after the GSL application is certified by the school.

Response: No change has been made. Under § 668.61(b), the Secretary is requiring only that the institution follow procedures for making the lender aware of the need to adjust the applicant's loan amount. This paragraph does not establish any institutional liability.

General Comments and Responses

Comment: A number of commenters criticized the quality control studies of the Office of Student Financial Assistance conducted in 1979, 1981, and 1983 that documented large numbers of applicants and their parents misreporting information regarding their family and financial status in the Pell Grant Program. Several commenters argued that the Secretary could not infer that error in the campus-based and GSL programs was the same or similar to error in the Pell Grant Program because of differences between these programs and the Pell Grant Program. Several commenters stated that the definitions of error in the quality control studies were misleading and not useful.

Response: No change has been made. The Pell Grant quality control studies identified significant applicant error in reporting information on the application form used to calculate a Pell Grant. The information in this application is often identical to the information used to determine the amount of assistance received by an applicant under the campus-based and GSL programs and often is reported on the same application form used to determine his or her assistance under the Pell Grant, campus-based, and GSL programs. The Secretary, therefore, believes that the findings of the Pell Grant quality control studies with respect to applicant error on the application form are relevant to the campus-based and GSL programs.

The definitions of error used in the quality control studies were designed to identify areas where the program requirements permit the reporting of information that result in correct awards as well as those areas where incorrect awards result from not following the program requirements. The identification of these types of error have led to the modification of program requirements. The principal example in these regulations is the requirement that applicants update their household size, number attending postsecondary educational institutions, and dependency status at the time of verification. Previously, applicants were not allowed to update this information from the time of application. In the quality control studies it was considered an error not to use the best available information (i.e., updated information) even though the program requirements restricted institutions to using only the information that was correct as of the date of application.

Comment: Several commenters predicted that the increase in administrative burden as a result of the NPRM would increase the potential for administrative error. Other commenters feared that the administrative burden imposed by the verification requirements would force schools to drop internal practices which have been effective in reducing error. A number of commenters cited the use of the worksheet for untaxed income and benefits from the student aid application as a major source of burden that does not yield any significant improvement in the accuracy of the application information.

Several commenters stated that their institutions already perform 100 percent verification and claim that the NPRM's requirements only complicate the process by adding meaningless paperwork and time-consuming detail to an already complex process.

Two commenters stated that these regulations impose burdens that should result in them being classified as major regulations under Executive Order 12291.

Response: Changes have been made. It has always been the Secretary's intention that these regulations not impose an unwarranted burden on institutions. The Secretary has, therefore, made a number of changes designed to eliminate any unwarranted burden on institutions. Examples of these changes include the following:

- Revising the requirements for updating information under § 668.55.
- Limiting the required items to be verified under untaxed income and benefits in § 668.56 to social security benefits, child support, and those items that can be verified using the tax return and, thus, eliminating the use of the student aid application worksheet for untaxed income and benefits as a verification document.
- Eliminating the requirement that a Pell Grant applicant who is a dependent

student must verify his or her base year income.

The Secretary has reviewed the regulations, including the changes he has made, and determined that they continue not to be classified as major under Executive Order 12291 because they do not meet the criteria for major regulations established in that Order.

Comment: Several commenters recommended that the Secretary delay the implementation of the verification requirements to provide additional time to disseminate information and to make adjustments at the institutions.

Response: No change has been made. The Secretary believes that these regulations must be implemented for the 1986–87 award year to reduce the error rates identified in quality control studies.

Comment: Several commenters requested that the Secretary increase the amount of the administrative cost allowance paid to institutions to offset the costs of verification in the Pell Grant and campus-based programs. Commenters also recommended that the Secretary make payments to cover the administrative costs of including the GSL Program in the integrated verification system.

Response: No change has been made. The amounts of administrative cost allowances are set by statute. In the case of GSL Program, the Secretary is not authorized to pay an administrative cost allowance.

Comment: A few commenters inferred that the underlying assumption of the verification requirements is that families or students are deliberately providing inaccurate information.

Response: No change has been made. The commenter's inference is incorrect. These regulations are intended to reduce applicant error. The Secretary is not imputing the motives for such error.

Comment: Several commenters recommended that the Secretary provide lengthy and detailed training sessions throughout the country to explain the verification requirements. Some commenters suggested the sessions should take place by January 1986 to be effective. Some commenters recommended that the Secretary publish a handbook to guide financial aid administrators.

Response: No change has been made. The Secretary expects to provide as much training as possible based on the available resources and will schedule the training as early as possible. Currently, the Secretary expects to begin training in March, 1986. The Secretary will be publishing a handbook on verification for 1986–87.

Comment: Several commenters were concerned that these regulations would discourage some applicants, especially low income students, from applying for financial aid, and they would drop out of school.

Response: No change has been made. The Secretary believes that these regulations do not impair the ability of the vast majority of students to complete the process of applying for financial assistance and, thus, should not be a factor in the students' decisions about their academic careers.

Comment: One commenter noted that the regulations do not explicitly provide that a financial aid administrator may use professional judgment and override the results of the verification process with regard to the campus-based and GSL programs. The commenter assumed that the financial aid administrator would continue to have this authority.

Response: No change has been made. The financial aid administrator does not have the authority to waive the requirements of these regulations.

Comment: A number of commenters questioned or disagreed with the Secretary's certification that the proposed regulations would not have a significant economic impact on a substantial number of small entities. The commenters believed that the regulations will significantly increase the workload for student financial aid offices, requiring small institutions to employ additional staff or to upgrade data processing capabilities, and increasing printing, postage and other administrative costs. Some commenters pointed out that graduate and professional schools do not currently participate in the Pell Grant validation system. The regulations would impose new requirements on these institutions. Other commenters stressed processing delays that could disproportionately affect the neediest students.

Response: No change has been made. The small entities affected by these regulations are small institutions of higher education. In order to identify small institutions and to assess the impact of these regulations on those institutions, using actual current data, one must select an objective measure for determining institutional size. In lieu of a formal definition, it is useful to adopt the proposed definition of small institution of higher education published by the Secretary on January 16, 1981 (46 FR 3920), defining small institutions as those with a total student population of fewer than 550.

These regulations require all institutions participating in the Pell Grant, campus-based, and GSL programs to verify the application information of selected applicants. The Pell Grant Program already has similar requirements, and these regulations extend those requirements to the campus-based and GSL programs. Since the same or similar application information is used in all of these programs, and applicants usually apply for assistance under all of these programs, the results of verification in the Pell Grant Program would affect applications for assistance under the campus-based and GSL programs whether or not these regulations were issued. For this reason, the additional costs for small institutions are not expected to be significant.

With respect to graduate and professional schools, most of these schools are part of large institutions of higher education, and only a small number exist as separate institutions of higher education.

The Regulatory Flexibility Act is not applicable to students, just small entities.

For these reasons, the Secretary affirms his certification under the Regulatory Flexibility Act that the regulations will not have a significant economic impact on a substantial number of small entities.

Comment: In response to the request for comments on the information collection requirements in these regulations under the Paperwork Reduction Act of 1980, a number of commenters expressed their belief that these regulations will increase their information collection burden. One commenter suggested that the Secretary provide a validation worksheet to reduce the burden on institutions.

Response: Changes have been made. As noted above, it has always been the Secretary's intention that these regulations not impose an unwarranted burden on institutions, and the Secretary, therefore, has made changes in the regulations designed to reduce the burden on institutions. The most important of these changes was the elimination of the student aid application worksheet as a verification document for untaxed income and benefits. Another example of such a change is the elimination of the verification of a Pell Grant applicant's base year income if the applicant is a dependent student. The institution, therefore, is no longer required to collect the applicant's tax return in addition to the parents' return. In addition, the Secretary will be providing a verification worksheet to any applicant whose SAR is selected for verification and will provide copies of the worksheet to institutions.

Comment: In response to the request for comments under the "Assessment of Educational Impact" in the preamble of the NPRM, a few commenters stated that the information requested in these regulations was available from other agencies of the United States. All of these commenters noted that the income tax return information is available from the Internal Revenue Service, and one commenter noted that other sources of information to be verified should be obtainable from the Social Security Administration, Veterans Administration, Immigration and Naturalization Service, and Department of Health and Human Services.

Response: No change has been made. With respect to income tax return information, the Secretary is exploring this issue with the Treasury Department, but it is not possible to accomplish what the commenters suggest at this time due to technical difficulties. With respect to the other sources cited by one of the commenters, the Secretary is exploring implementation of tape matches with some of these agencies or already has them in place if technically feasible. Previously, the Department has had a tape match for veterans educational benefits. However, such a match is not effective since veterans educational benefits are reported as projected income for the award year. In addition, the Veteran Administration does not have information in its files at the time applications are processed for new veterans requesting assistance and does not have enrollment data for an award year until the fall of that year or later.

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Friday
March 14, 1986

Part III

Department of the Interior

National Park Service

36 CFR Parts 1 and 12
National Cemetery Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1 and 12

National Cemetery Regulations

AGENCY: National Park Service, Interior.
ACTION: Final rule.

SUMMARY: This rulemaking revises and deletes portions of existing regulations governing the administration, operation and maintenance of the national cemeteries under the jurisdiction of the National Park Service. Adopted revisions refer to and adopt Veterans Administration policy and standards pertaining to national cemetery operations and National Park Service standards for the protection of cultural resources. These revisions are necessary to comply with changes in Federal statutory law and to update and standardize procedures for the operation of national cemeteries. The regulations emphasize the dual mission of the National Park Service to operate national cemeteries as shrines to veterans and as significant cultural resources. They also provide park superintendents and the general public a clear set of standards and procedures that apply to the management of national cemeteries.

EFFECTIVE DATE: April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Edwin C. Bearss, Chief, History Division, National Park Service, P.O. Box 37127, Washington, DC 20013–7127, Telephone: 202–343–8163.

SUPPLEMENTARY INFORMATION:

Background

The National Park Service (NPS) administers fourteen national cemeteries formerly under the jurisdiction of the War Department. These cemeteries are:

1. Andersonville, GA
2. Andrew Johnson, TN
3. Antietam, MD
4. Battleground, Washington, DC
5. Chalmette, LA
6. Custer Battlefield, MT
7. Fort Donelson, TN
8. Fredericksburg, VA
9. Gettysburg, PA
10. Poplar Grove, VA
11. Shiloh, TN
12. Stones River, TN
13. Vicksburg, MS
14. Yorktown, VA

Of these cemeteries, only five remain active and open for additional interments. Others, although inactive, may still have valid reservations to be honored for future interments.

In 1973, the National Cemetery Service was established within the Veterans Administration (VA) by Pub. L. 93–43 (38 U.S.C. 1000 *et seq.*), effectively eliminating the Department of the Army from the administration of most national cemeteries. The NPS and VA subsequently entered into a verbal agreement whereby the VA would continue to provide assistance to the NPS previously provided by the War Department and the Department of the Army. The VA administers more than 100 national cemeteries and provides several important support services to the NPS such as bulk headstone purchases, verification of the character of a veteran's discharge and records maintenance.

In 1937, the Secretary of the Interior's Advisory Board on National Parks, Historic Sites, Buildings and Monuments commented on and redefined the objectives of the national cemeteries administered by the NPS as follows:

> National cemeteries are those areas which have been set aside as resting places for members of the fighting forces of the United States.
>
> The function of national cemeteries is to serve as suitable and dignified burial-grounds for the men and women who have been interred in them.

Until recently, NPS superintendents with responsibilities for management of national cemeteries had no servicewide policy or guidelines to provide for consistent administration and protection of these 14 areas. Each cemetery was operated generally in compliance with NPS regulations codified in 36 CFR Part 12 and patterned after Army regulations, but a great many local variations in management practices occurred. In 1985, the NPS adopted NPS–61, *Guidelines for National Cemeteries*. This guideline is based on applicable Federal statutory law and follows very closely the VA policy contained in VA M40–2, *Manual of Operations of National Cemeteries* (1984). Most national cemeteries within the National Park System are administered as integral parts of larger historical parks, and represent a continuum of use dating back to periods before the establishment of those historical parks. Where NPS–61 differs from VA policy, it does so primarily in areas reflecting the significance attached to national cemeteries as important cultural resources. NPS–61 provides consistent policy direction and guidelines for national cemeteries administered by the NPS that can be applied uniformly by park superintendents. The role of the VA remains one of providing the support services logically supplied by the lead agency involved in national cemetery operations.

Serious inconsistencies exist between the current NPS regulations codified in 36 CFR Part 12, the provisions of Federal statutory law and NPS and VA policies that apply to the management of national cemeteries. This rulemaking corrects these deficiencies by eliminating references to the Department of the Army, basing eligibility requirements and other interment criteria on the provisions of existing Federal statutory law, applying statutory penalty provisions to violations of certain regulations and by providing clear guidance to park superintendents and the general public concerning standards and procedures that apply to the operation of national cemeteries within the National Park System. The regulations also emphasize the fact that, while the NPS adopts and complies with VA operational standards for national cemeteries, the protection, maintenance and public use of these cemeteries will be conducted in accordance with applicable NPS legislation and standards for the preservation of cultural resources.

Section-by-Section Analysis

As currently codified in Title 36 of the Code of Federal Regulations, Part 12 consists of eight regulations divided in two categories, Visitor Use Regulations and Informational Guidelines, which have been in effect since 1971. Since NPS General Regulations pertaining to Resource Protection, Public Use and Recreation codified in 36 CFR Part 2 are quite extensive and apply within national cemeteries, there is little need for additional regulations in Part 12 pertaining to the same concerns. Therefore, the revisions to the regulations in Part 12 remain primarily procedural and informational in nature; the few that pertain to visitor use are a result of the unique atmosphere and purposes of national cemeteries that are not adequately addressed by the provisions of NPS General Regulations.

This rulemaking revises 36 CFR as follows:

1. The statutory penalty provision in Part 1 is revised to apply to the few public use provisions of Part 12.

In Part 12:

2. The existing section describing applicability and scope has been updated and clarified.

3. A new section has been added describing the purpose of national cemeteries.

4. A new section has been added to define certain standard terms used throughout Part 12.

5. The section pertaining to services and ceremonies has been revised to prohibit special events and demonstrations except for committal services and a limited number of official commemorative events.

6. The existing section pertaining to interments and disinterments has been divided into two separate sections, each of which has been revised and expanded.

7. The sections pertaining to headstones and markers, monuments and private memorials have been reorganized and simplified for purposes of clarification.

8. The sections pertaining to cemetery maintenance and the use and display of the flag have been deleted.

9. A section has been added to provide guidance on the use of floral and commemorative tributes.

10. A section has been added that prohibits recreational activities within a national cemetery.

11. A section has been added to address requirements of the Office of Management and Budget pertaining to information collection.

The following provides specific information pertaining to each of the revised or new sections:

Section 1.3 Penalties.

Two paragraphs of this section are revised to correct an inadvertent omission in the July, 1983, revision of NPS General Regulations (48 FR 30291), when the penalty provision in Part 12 was deleted without a corresponding revision making the penalty provision in Part 1 applicable to the regulations in Part 12. These penalty provisions are taken from Federal statutory law and apply to violations of all NPS regulations pertaining to public use and resources protection. The provision in paragraph (a) applies to Andersonville and Andrew Johnson National Cemeteries; the provision in paragraph (b) applies to all other national cemeteries administered by the NPS.

Section 12.1 Applicability and Scope.

This section makes clear that the regulations in Part 12 supplement the General and Special Regulations found elsewhere in 36 CFR and are generally procedural in nature.

Section 12.2 Purpose of National Cemeteries.

This new section emphasizes the purpose of the national cemeteries administered by the NPS. The language reflects direction provided by Federal statutory law and provides park superintendents general guidance under which to exercise the discretionary authority provided by NPS General Regulations in 36 CFR Parts 1 and 2. A superintendent may not authorize activities that are in derogation of the values and purposes for which the national cemetery was established except as may be specifically provided for by Congress.

Section 12.3 Definitions.

This new section defines sixteen terms used in these regulations and supplements the more extensive list of definitions found in § 1.4 which also apply to Part 12. Listing definitions in one section provides clarity and consistency and eliminates the need for defining terms within individual regulations.

Section 12.4 Special events and demonstrations.

This section revises the existing § 12.2 to prohibit the conducting of special events and demonstrations, as these terms are defined in § 12.3, except for official commemorative events on Memorial Day, Veterans Day, and other dates designated by the superintendent as having special historic and commemorative significance for the particular national cemetery. Examples of such days include Lincoln Fellowship Day at Gettysburg National Cemetery and the anniversary of the Battle of the Little Bighorn at Custer Battlefield National Cemetery. A superintendent's designation of the limited number of such commemorative days that apply to a national cemetery would take place in accordance with the public notice requirements and procedures found in § 1.7 of the General Regulations. Many activities and events that are appropriate and even facilitated or supported by the NPS in other park areas or in other portions of a park area containing a national cemetery are totally inappropriate in a national cemetery because of its protected atmosphere of peace calm, tranquility and reverence. The restriction prohibiting special events and demonstrations within national cemeteries reflects the substantial government interest that exists in maintaining this protected atmosphere where individuals can quietly contemplate and reflect upon the significance of the contributions made to the nation by those interred. The NPS believes that official commemorative events conducted on a very limited number of occasions constitute the maximum extent that this protected atmosphere should be disturbed. Ample opportunities exist for persons desiring to conduct special events and demonstrations to do so in areas adjacent to or near the national cemeteries that are the subject of this regulation. The restriction does not apply to committal services which are integral to the purpose of national cemeteries.

Section 12.5 Interments.

This section is a revision of § 12.3 and sets forth the eligibility criteria for interments specified by Federal statutory law (38 U.S.C. 1002). Minor revisions have been made to the general policy and procedures for an interment and requirements for burial permits. This section now makes clear that the NPS has adopted the VA policy of one-gravesite-per-family-unit, and that no new requests for gravesite reservations will be accepted. The NPS will continue to honor existing reservations made in writing. Certain provisions of the paragraph pertaining to burial sections represent departures from VA policy. Provisions requiring an interment plan, requiring that gravesite dimensions conform to certain specifications and restricting burial section expansion are necessary to maintain the historic character of these cemeteries as significant cultural resources.

Section 12.6 Disinterments and exhumations.

The provisions in existing § 12.3 pertaining to disinterments and exhumations have been placed in a separate section, revised and expanded. The existing policy that a burial is considered permanent, with a disinterment allowed only pursuant to specific conditions, is reemphasized. A permit requirement is instituted and provisions made for the NPS to recover agency costs incurred pursuant to a disinterment through establishment of a fee. The Special Use Permit, a form already in use and approved by the Office of Management and Budget, will be the permit used for this purpose. Responsibilities of the next-of-kin are set forth in detail. Failure to obtain a permit, violation of a permit condition and failure to pay the required fee are prohibited by this section. Court-ordered exhumations are generally exempt from the provisions of this section.

Section 12.7 Headstones and markers.

This section combines and revises the provisions of existing §§ 12.4 and 12.5 and provides specific guidance, conditions and application procedures for the installation of private headstones and markers. These provisions are necessary in order to maintain consistency in the appearance of a national cemetery, to maintain its

historic character and values and to facilitate cemetery maintenance operations.

Section 12.8 Memorial headstones and markers.

This section revises some of the provisions of existing § 12.6 and sets forth the eligibility criteria for memorialization in a national cemetery as provided by Federal statutory law (38 U.S.C. 1003). Application procedures are also specified.

Section 12.9 Commemorative monuments.

This section is also a revision of certain provisions of existing § 12.6 and details the application procedures to be followed and the approvals required before a monument may be installed. It also specifies that such monument, when approved by the Director, may be installed only under the conditions that there be no expense or liability incurred by the NPS and that title to the monument will vest in the NPS.

Section 12.10 Floral and commemorative tributes.

This new section restricts the types of items and materials that may be placed on a grave. Certain items are prohibited and others are allowed only in certain containers and at specific times designated by the superintendent pursuant to discretionary authority provided in § 1.5 of the General Regulations. These designations must be made in accordance with the public notice provisions of § 1.7 and be compiled in writing as required in paragraph (b) of that section. The restrictions contained in this section are necessary to maintain consistency in the types of floral containers and decorations used in a cemetery, to protect headstones, markers and monuments from unnecessary damage and in the interest of the safety of park visitors and that of cemetery employees involved in maintenance operations.

Section 12.11 Recreational activities.

This section prohibits engaging in a recreational activity, as defined in § 12.3, within a national cemetery. Although engaging in such activities is appropriate in many park areas, and may be within other portions of a park area containing a national cemetery, persons engaged in recreational activities within a national cemetery would conflict with the solemn commemorative character of the area by disrupting its protected atmosphere of peace and tranquility. This regulation again reflects the substantial government interest that exists in maintaining this atmosphere. These restrictions are not intended to inhibit walking, hiking, casual strolling or sitting by individuals while contemplating the significance of the national cemetery or the contributions of those persons interred there.

Section 12.12 Information collection.

This section addresses the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The information collection requirements (permits, applications, etc.) contained in §§ 12.6, 12.7, 12.8 and 12.9 have been submitted to the Office of Management and Budget and been approved.

Summary of Public Comments

The NPS published a proposed rule and requested public comments on this rulemaking on October 28, 1985 (50 FR 43581); no written public comments were received in response. One written comment was received from a NPS official questioning the need to prohibit jogging in national cemeteries. The NPS position remains as stated in the proposed rule and this document, that recreational activities are inappropriate in a national cemetery because of their disruptive influence on the atmosphere of peace and tranquility that the NPS is responsible to protect. The final rule is published unchanged.

The NPS also received several telephone inquiries from persons wishing to confirm the fact that the NPS would continue to be responsible for bearing the cost of the interment of an eligible person. The NPS continues to bear those costs.

Drafting Information

The primary authors of these regulations are David McCormack, Andrew Johnson National Historic Site; Andy Ringgold, Branch of Ranger Activities, Washington, D.C.; and John Tucker, Andersonville National Historic Site. Several other employees with expertise in the management of national cemeteries contributed significantly to the their development.

Paperwork Reduction Act

The information collection requirements contained in §§ 12.6, 12.7, 12.8 and 12.9 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024–0026.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are negligible. The regulations do not impose significant additional costs to the expenses involved in a national cemetery burial and the number of persons affected is minimal.

The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area of causing physical damage to it;

(b) Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships of land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based in this determination, this final rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects

36 CFR Part 1

National parks, Penalties.

36 CFR Part 12

Cemeteries, Military personnel, National parks, Veterans.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART I—GENERAL PROVISIONS

1. By revising the authority citation to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460l–6a(e), 462(k).

2. By revising § 1.3 (a) and (b) to read as follows:

§ 1.3 Penalties.

(a) A person convicted of violating a provision of the regulations contained in Parts 1 through 5, 7, 12 and 13 of this chapter, within a park area not covered in paragraphs (b) or (c) of this section, shall be punished by a fine not exceeding $500 or by imprisonment not exceeding 6 months, or both, and shall be adjudged to pay all costs of the proceedings.

(b) A person who knowingly and willfully violates any provision of the regulations contained in Parts 1 through 5, 7 and 12 of this chapter, within any national military park, battlefield site, national monument, or miscellaneous memorial transferred to the jurisdiction of the Secretary of the Interior from that of the Secretary of War by Executive Order No. 6166, June 10, 1933, and enumerated in Executive Order No. 6228, July 28, 1933, shall be punished upon conviction thereof by a fine of not more than $100, or by imprisonment for not more than 3 months, or by both.

Note.—These park areas are enumerated in a note under 5 U.S.C. 901.

* * * * *

3. By revising Part 12 to read as follows:

PART 12—NATIONAL CEMETERY REGULATIONS

Sec.

12.1 Applicability and scope.
12.2 Purpose of National Cemeteries.
12.3 Definitions.
12.4 Special events and demonstrations.
12.5 Interments.
12.6 Disinterments and exhumations.
12.7 Headstones and markers.
12.8 Memorial headstones and markers.
12.9 Commemorative monuments.
12.10 Floral and commemorative tributes.
12.11 Recreational activities.
12.12 Information collection.

Authority: 16 U.S.C. 1, 3, 9a, and 462(k); E.O. 6166, 6228 and 8428.

§ 12.1 Applicability and scope.

The regulations in this part apply to the national cemeteries administered by the National Park Service. These regulations supplement regulations found in Parts 1–5 and 7 of this chapter and provide procedural guidance for the administration, operation and maintenance of these cemeteries.

§ 12.2 Purpose of National Cemeteries.

National cemeteries are established as national shrines in tribute to the gallant dead who have served in the Armed Forces of the United States. Such areas are protected, managed and administered as suitable and dignified burial grounds and as significant cultural resources. As such, the authorization of activities that take place in national cemeteries is limited to those that are consistent with applicable legislation and that are compatible with maintaining the solemn commemorative and historic character of these areas.

§ 12.3 Definitions.

The following definitions apply only to the regulations in this part:

"Burial section" means a plot of land within a national cemetery specifically designated to receive casketed or cremated human remains.

"Close relative" means a surviving spouse, parent, adult brother or sister, or adult child.

"Commemorative monument" means a monument, tablet, structure, or other commemorative installation of permanent materials to honor more than one veteran.

"Demonstration" means a demonstration, picketing, speechmaking, marching, holding a vigil or religious service or any other like form of conduct that involves the communication or expression of views or grievances, whether engaged in by one or more persons, that has the intent, effect or likelihood to attract a crowd or onlookers. This term does not include casual park use by persons that does not have an intent or likelihood to attract a crowd or onlookers.

"Eligible person" means an individual authorized by Federal statute and VA Policy to be interred or memorialized in a national cemetery.

"Government headstone" means a standard upright stone, provided by the Veterans Administration, of the same design currently in use in a national cemetery to identify the interred remains.

"Gravesite reservation" means a written agreement executed between a person and the National Park Service to secure a gravesite prior to the death of an eligible person.

"Headstone" means a permanent stone placed vertically on a grave to identify the interred remains.

"Historic enclosure" means a permanent fence, wall, hedge, or other structure that surrounds the burial sections and defines the unique historic boundary of a national cemetery.

"Marker" means a permanent device placed horizontally on a grave to identify the interred remains.

"Memorial headstone" means a private or government headstone placed in a memorial section of a national cemetery with the words "In Memory Of" inscribed to honor a deceased eligible person whose remains could not be interred in the national cemetery.

"NPS Policy" means the National Park Service's *Guidelines for National Cemeteries, NPS–61.*

"Private headstone" means an upright stone provided by a person at no expense to the government and in lieu of a government headstone.

"Recreational activity" means any form of athletics, sport or other leisure pursuit or event, whether organized or spontaneous, that is engaged in by one or more persons for the primary purpose of exercise, relaxation or enjoyment, including but not limited to the following: jogging, racing, skating, skateboarding, ball playing, kite flying, model airplane flying, throwing objects through the air, sunbathing, bicycling and picknicking. This term does not include walking, hiking or casual strolling.

"Special event" means a sports event, pageant, celebration, historical reenactment, entertainment, exhibition, parade, fair, festival or similar activity that is not a demonstration, whether engaged in by one or more persons, that has the intent, effect or likelihood to attract a crowd or onlookers. This term does not include casual park use by persons that does not have an intent or likelihood to attract a crowd or onlookers.

"VA Policy" means the current editions of the Veterans Administration's Manuals that pertain to the administration of the National Cemetery System.

§ 12.4 Special events and demonstrations.

Conducting a special event or demonstration, whether spontaneous or organized, is prohibited except for official commemorative events conducted for Memorial Day, Veterans Day and other dates designated by the superintendent as having special historic and commemorative significance to a particular national cemetery. Committal services are excluded from this restriction.

§ 12.5 Interments.

(a) *Who may be interred.* A person's eligibility for burial in a national cemetery is determined in accordance with the provisions of Federal statutory law. Interments are conducted in accordance with NPS policy and VA Policy.

(b) *Burial permit.* (1) A burial permit is required in accordance with the laws and regulations of the State and local municipality within whose boundaries the cemetery is located.

(2) The remains of a member of the Armed Forces who dies on active duty may be interred prior to receipt of a burial permit.

(3) The superintendent shall process a burial permit in accordance with VA Policy.

(c) *Gravesite assignment.* (1) Gravesite assignment and allotment are made according to VA Policy which specifies that only one gravesite is authorized for the burial of an eligible member of the Armed Forces and eligible immediate family members. Exceptions to this practice may be approved only by the Director.

(2) The superintendent is responsible for the actual assignment of a gravesite.

(3) The superintendent may not accept a new gravesite reservation. A gravesite reservation granted in writing prior to the adoption of the one-gravesite-per-family-unit restriction shall be honored as long as the person remains eligible.

(d) *Burial sections.* (1) The superintendent of each national cemetery shall develop an interment plan for burial sections in keeping with the historic character of the national cemetery, to be approved by the Regional Director.

(2) The superintendent shall specify gravesite dimensions that conform to the historic design of the national cemetery.

(3) Expansion of a burial section is prohibited without the approval of the Regional Director.

(4) An interment is authorized only with a burial section; the superintendent may not authorize an interment within a memorial section.

(5) Cremated remains may be scattered in a national cemetery in conformance with the provisions of § 2.62 of this chapter and applicable State laws.

(6) Expansion of a national cemetery outside the confines of its historic enclosure is prohibited.

§ 12.6 Disinterments and exhumations.

(a) Interment of an eligible person's remains is considered permanent. Disinterment and removal of remains are allowed only for the most compelling of reasons and may be accomplished only under the supervision of the superintendent.

(b) Except for a directed exhumation conducted pursuant to paragraph (f) of this section, a disinterment is allowed only pursuant to the terms and conditions of a permit issued by the superintendent.

(c) A disinterment shall be accomplished at no cost to the National Park Service. The superintendent shall establish a fee designed to recover the costs associated with supervising and administering a disinterment, including the costs of opening and closing the grave and redressing any disturbed graves or headstones.

(d) The next-of-kin is responsible for making all arrangements and incurring all financial obligations related to a disinterment. These arrangements and obligations include, but are not limited to the following:

(1) Compliance with State and local health laws and regulations;

(2) Engaging a funeral director;

(3) Recasketing the remains;

(4) Rehabilitation of the gravesite according to conditions established by the superintendent;

(5) Providing the superintendent a notorized affidavit by each living close relative of the deceased and by the person who directed the initial interment, if living, and even though the legal relationship of such person to the decedent may have changed, granting permission for the disinterment; and

(6) Providing the superintendent a sworn statement, by a person having first hand knowledge thereof, that those who supplied such affidavits comprise all the living close relatives of the decedent, including the person who directed the initial interment.

(e) The following are prohibited:

(1) Failure to obtain a permit required pursuant to this section;

(2) Violation of a condition established by the superintendent or of a term or condition of a permit issued in accordance with this section; or

(3) Failure to pay a fee prescribed by the superintendent in accordance with this section.

(f) The directed exhumation of an eligible person's remains shall be accomplished upon receipt by the superintendent of an order issued by a State or Federal court of competent jurisdiction. The superintendent shall retain court orders and other pertinent documents in the national cemetery files as a permanent record of the action.

(g) To the extent practicable, a directed exhumation shall be accomplished without expense to the National Park Service and without direct participation by national cemetery employees.

(h) The superintendent shall coordinate a directed exhumation with the ordering court, assure compliance with all State and local laws and supervise disinterment activities on site.

(i) If reinterment of exhumed remains is to be elsewhere, the superintendent may reassign the gravesite for use in connection with another interment.

§ 12.7 Headstones and markers.

(a) Government headstones and markers authorized to be furnished at government expense are provided in accordance with NPS Policy and VA Policy.

(b) The erection of a marker or monument at private expense to mark a grave in lieu of a government headstone or marker is allowed only in certain national cemetery sections in which private headstones and markers were authorized as of January 1, 1947, and only with the prior approval of the Director. The name of the person(s) responsible for the purchase and erection of the private headstone or marker may not appear on the headstone or marker or be identified elsewhere in the cemetery as the donor(s) of the private headstone or marker.

(c) A person who requests authorization to erect a private headstone or marker shall provide the following information:

(1) A list of the names of each person to be inscribed upon the private headstone or marker;

(2) The written approval of the next-of-kin and the person who directed the burial of each person whose name is to be inscribed; and

(3) A scale plan depicting the details of design, materials, finish, carving, lettering and arrangement of the inscription and the foundation of the proposed private headstone or marker.

(d) The Director's approval of a request is conditioned upon the applicant's granting to the National Park Service the substantive right to remove and dispose of the private headstone or marker if, after it is installed, the applicant fails to maintain the private headstone or marker in a condition specified by the Director.

(e) When a private headstone or marker has been erected at a veteran's grave in a national cemetery, and the next-of-kin desires to inscribe thereon the name and appropriate data pertaining to an eligible family member of the deceased whose remains will not be interred, such inscription may be accomplished with the prior approval of the superintendent. Appropriate commemorative data may be inscribed when space permits. The words "In Memoriam" or "In Memory Of" are mandatory elements of such an inscription.

(f) Except as may be authorized by the Director or by Federal statutory law for making a group burial, the erection of a mausoleum, an overground vault or a headstone or marker determined by the superintendent not to be in keeping with the historic character of the national cemetery is prohibited. An underground vault may be placed at the time of interment at no expense to the National Park Service.

§ 12.8 Memorial headstones and markers.

(a) *Who may be memorialized.* (1) A person's eligibility for memorialization in a national cemetery is determined in accordance with the provisions of Federal statutory law.

(2) The superintendent may authorize the installation of a memorial headstone or marker of an eligible person provided that no more than one individual

memorial headstone or marker is authorized for each eligible person. The erection of an individual memorial marker to a person is not allowed in the same national cemetery in which the decedent's name is inscribed on a group burial headstone or marker.

(b) *Application.* (1) The person eligible to submit an application requesting a memorial headstone or marker is the next-of-kin of the decedent to be memorialized. An application received from a close relative will be honored if it is submitted on behalf of the next-of-kin or if the next-of-kin is deceased.

(2) An applicant for a memorial headstone or marker shall submit such a request to the superintendent.

§ 12.9 Commemorative monuments.

(a) *Application.* (1) A person requesting authorization to erect a commemorative monument shall submit such a request to the Director. The Director's approval should be obtained prior to fabrication of the commemorative marker since approval for installation is conditioned upon compliance with other specifications found in this section and all applicable provisions of this Part.

(2) An applicant for authorization to erect a commemorative monument shall include the following information in the application:

(i) A list of the persons to be memorialized and the other data desired to be inscribed on the commemorative movement; and

(ii) A scale plan depicting the details of the design, materials, finish, carving, lettering and the arrangement of the inscription proposed for the commemorative monument.

(b) *Specifications.* (1) The Director may only authorize a commemorative monument that conforms to the type, size, materials, design, and specifications prescribed for the historic design of the individual cemetery section in which it is proposed for installation.

(2) The Director may not approve a commemorative monument that bears an inscription that includes the name of the person(s) responsible for its purchase or installation.

(c) *Expense.* A commemorative monument approved by the Director may be installed only under the conditions that there be no expense or liability incurred by the National Park Service in connection with its purchase, fabrication, transportation, delivery and erection.

(d) Title to a commemorative monument vests in the National Park Service upon its acceptance by an official representative of the Director.

§ 12.10 Floral and commemorative tributes.

The placement on a grave of fresh cut or artifical flowers in or on a metal or other non-breakable rod or container designated by the superintendent is allowed at times designated by the superintendent. The placement of a statue, vigil light, or other commemorative object on a grave, or the securing or attaching of any object to a headstone, marker or commemorative monument is prohibited.

§ 12.11 Recreational activities.

Engaging in a recreational activity is prohibited.

§ 12.12 Information collection.

The information collection requirements contained in §§ 12.6, 12.7, 12.8 and 12.9 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and assigned clearance number 1024–0026. The information is being collected to obtain information necessary to issue permits and will be used to grant administrative benefits. The obligation to respond is required in order to obtain a benefit.

P. Daniel Smith,
Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–5574 Filed 3–13–86; 8:45 am]

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federal register

Friday
March 14, 1986

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1260

Beef promotion and research; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1260

Beef Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Beef Promotion and Research Act of 1985 (Act), approved December 23, 1985 (7 U.S.C. 2901–2918), authorizes the establishment of a national, industry -funded and -operated beef promotion and research program. In response to an invitation to submit proposals published in the February 14, 1986, issue of the **Federal Register**, the Agricultural Marketing Service has received an industry proposal for a beef promotion and research order. That industry proposal on which comments are being requested is set forth below. All comments will be considered before issuing a final rule establishing a beef promotion and research order.

Additionally, notice is hereby given that a public meeting will be held during the comment period to facilitate a better understanding of the intent and application of the proposed order. The record of the meeting will also be considered in the development of a final rule. All interested persons are invited to attend.

DATES:

Date of public meeting: The meeting will convene at 9:00 a.m., eastern standard time, on Thursday, April 17, 1986.

Date for comments: Comments must be received by April 28, 1986.

ADDRESS: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs and Procurement Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA, P.O. Box 23762, Washington, DC 20026–3762. Comments will be available for public inspection during regular business hours at the above office in Room 2610 South Bldg., 14th and Independence Avenue SW.; Washington, DC 20250.

Place of meeting: Jefferson Auditorium, 14th and Independence Avenue SW., South Bldg., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp (202–447–2650).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Invitation to submit proposals—published February 14, 1986 (51 FR 5543). Proposed Rule—Certification and Nomination Procedures for Cattlemen's Beef Promotion and Research Board published February 21, 1986 (51 FR 6258).

Regulatory Impact Analysis

This action was reviewed under USDA procedures established to implement Executive Order No. 12291 and Departmental Regulation number 1512–1 and is hereby classified as a nonmajor rule. Accordingly, a regulatory impact analysis is not required. This action was also reviewed under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule is published to effectuate the declared policy of the Act, that it is in the public interest to establish an orderly procedure for financing and carrying out a coordinated program of promotion and research designed to strengthen the beef industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products.

Comments and Public Meeting

Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Livestock and Seed Division's Marketing Programs and Procurement Branch and must make reference to the date and page number of this issue of the **Federal Register**. Comments submitted pursuant to this document will be made available for public inspection during regular business hours. Comments must be received by April 28, 1986.

Additionally, notice is given that a public meeting will be held beginning at 9:00 a.m., eastern standard time, on Thursday, April 17, 1986, at the Jefferson Auditorium, 14th and Independence Avenue SW., South Bldg., Washington, DC.

The meeting will be conducted by a presiding officer chosen by the Department. The proceedings of such meeting will be transcribed and considered in the development of a final rule. The purpose of the meeting is to provide an opportunity for a full discussion on the proposal to facilitate a better understanding of the intent and application of the proposed rule.

Anyone wishing to present data, views, or arguments concerning the proposed rule should do so through exhibits, written statements, or oral presentation. All those making oral presentations are encouraged to submit their presentations in writing. One original and three copies of written statements must be provided for the record. Persons attending the meeting will be allowed to ask questions directed at participants giving oral presentation. It is anticipated that the proponents of this proposal will attend the meeting to explain its various provisions and to answer questions.

Any interested person shall be given an opportunity to appear and be heard with respect to matters relevant and material to the proposed Beef Promotion and Research Order. However, the presiding officer may limit the number of times and the amount of time that any one person may be heard and, insofar as practicable, exclude views and data which are immaterial, irrelevant or unduly repetitious. Such action will be intended to limit the amount of corroborative or cumulative material presented and prevent undue prolongation of the meeting.

Copies of the transcript of the meeting will not be available for distribution through the Hearing Clerk's office. However, the transcript will be available for public inspection during normal business hours. Anyone wishing to purchase a copy of the transcript should make arrangements with the reporter at the meeting.

Paperwork Reduction

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the forms, reporting, and recordkeeping included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They will not become effective prior to OMB approval. Background:

The Beef Promotion and Research Act (Title XVI Subtitle A, of the Food Security Act of 1985) approved December 23, 1985, authorizes the Secretary of Agriculture to establish a national beef promotion and research program. The program will be funded by a $1 per head assessment on all cattle marketed in the United States, and an equivalent assessment on imported cattle, beef, and beef products.

The Act provides for submission of proposals for a beef promotion and research order by industry organizations or any interested persons. The Act requires that such order provide for the establishment of a Cattlemen's Beef Promotion and Research Board. The Board would be comprised of cattle producers and importers nominated by State producers and farm organizations and importer organizations, respectively, for appointment by the Secretary to the Board.

The Agricultural Marketing Service issued an invitation to submit proposals for an initial order in the February 14, 1986, issue of the **Federal Register**. The Agency also issued for comment a proposed rule; "Certification and Nomination Procedures for the Cattlemen's Beef Promotion and Research Board;" in the February 21, 1986, issue of the **Federal Register**. The proposed rule was published so that State organizations, associations, and others who may select nominees for the Cattlemen's Beef Promotion and Research Board may begin planning for a nomination process as soon as possible. Since the nomination procedures may take considerable time to complete, early establishment of such procedures should prevent unnecessary delay in selecting nominees and appointing a Board.

In response to the invitation to submit proposals, one proposed order was received from the National Cattlemen's Association. As provided in the Act, the Agricultural Marketing Service is publishing this proposed order for comment. The Agricultural Marketing Service will consider all comments received before issuing a final rule.

List of Subjects in 7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreements, Meat and meat products, Beef and beef products.

The proposal, set forth below, has not received the approval of the Secretary of Agriculture.

1. The Authority citation for 7 CFR Part 1260 continues to read as follows:

Authority: 7 U.S.C. 2901–2918.

2. It is hereby proposed by the National Cattlemen's Association that Title 7 of the Code of Federal Regulations be amended by adding the following sections:

Part 1260—Beef Promotion and Research Order

Definitions

Section 1260.101 Department.

"Department" means the United States Department of Agriculture.

Section 1260.102 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

Section 1260.103 Board.

"Board" means the Cattlemen's Beef Promotion and Research Board established pursuant to § 1260.141.

Section 1260.104 Committee.

"Committee" means the Beef Promotion Operating Committee established pursuant to § 1260.161.

Section 1260.105 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

Section 1260.106 Collecting person.

"Collecting person" means any person responsible for collecting assessments pursuant to § 1260.172, including but not limited to, producers that market beef or beef products derived from cattle of their own production either directly to consumers, or through retail or wholesale markets, any packer, stockyard owner, market agency, order buyer, or dealer, who pays a producer for cattle purchased from such producer, brand inspectors responsible for collecting assessments pursuant to State beef promotion programs, and importers. When used in this subpart—

(a) The term "stockyard" means any place, establishment, or facility commonly known as stockyards, conducted, operated, or managed for profit or nonprofit as a public market for livestock producers, feeders, market agencies, and buyers, consisting of pens, or other enclosures, and their appurtenances, in which live cattle or calves are received, held, or kept for sale or shipment in commerce.

(b) The term "packer" means any person engaged in the business (1) of buying livestock in commerce for purposes of slaughter, or (2) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or (3) of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce.

(c) The term "stockyard owner" means any person engaged in the business of conducting or operating a stockyard.

(d) The term "market agency" means any person engaged in the business of (1) buying or selling in commerce livestock on a commission basis or (2) furnishing stockyard service;

(e) The term "dealer" means any person, not a market agency, engaged in the business of buying or selling in commerce livestock, either on his or her own account or as the employee or agent of the vendor or purchaser; and

(f) The term "order buyer" means any person engaged in the business of buying or selling in commerce livestock on a commission basis.

Section 1260.107 State.

"State" means each of the 50 States.

Section 1260.108 United States.

"United States" means the 50 States and the District of Columbia.

Section 1260.109 Unit.

"Unit" means each State, group of States or class designation which is represented on the Board pursuant to § 1260.141.

Section 1260.110 Referendum.

"Referendum" means the referendum to be conducted by the Secretary pursuant to the Act whereby producers and importers shall be given the opportunity to vote to determine whether the continuance of this subpart is favored by a majority of producers and importers voting.

Section 1260.111 Fiscal Year.

"Fiscal Year" means the calendar year or such other annual period as the Board may determine.

Section 1260.112 Federation.

"Federation" means the Beef Industry Council of the National Live Stock and Meat Board, or any successor organization to the Beef Industry Council, which includes as its State affiliates the qualified State Beef Councils.

Section 1260.113 Established National Non-profit Industry Governed Organizations.

"Established National Non-profit Industry Governed Organizations" means any organizations which:

(a) Are non-profit organizations pursuant to section 501(c) (3), (5) or (6) of the Internal Revenue Code, 26 U.S.C. 501(c) (3), (5) and (6);

(b) Are governed by a board of directors representing the cattle or beef industry on a national basis whose Board is composed of a majority of producers; and

(c) Was active and ongoing before the enactment of the Act.

Section 1260.114 Eligible organization.

"Eligible organization" means any organization which has been certified by the Secretary pursuant to §§ 1260.500 through 1260.631 of this Part.

Section 1260.115 Qualified State Beef Council.

"Qualified State Beef Council" means a beef promotion entity that is authorized by State statute or that is organized and operating within a State that receives voluntary assessments or contributions; conducts beef promotion, research, and consumer and industry information programs; that is recognized by the Board as the beef promotion entity in such State.

Section 1260.116 Producer.

"Producer" means any person who owns or acquires ownership of cattle; except that a person shall not be considered to be a producer if the person's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee, or other service fee, including persons that acquire ownership of cattle to facilitate the transfer of ownership from the seller to a third party, and the person's only compensation for such transfer is a commission, handling fee or other service fee. The Board may, with the approval of the Secretary, make rules or regulations identifying certain transactions which the Board determines are transactions in the ordinary course of business designed to facilitate the transfer of ownership for a commission or a fee.

Section 1260.117 Importer.

"Importer" means any person who imports cattle, beef, or beef products from outside the United States.

Section 1260.118 Cattle.

"Cattle" means live domesticated bovine animals regardless of age.

Section 1260.119 Beef.

"Beef" means flesh of cattle.

Section 1260.120 Beef Products.

"Beef Products" means edible products produced in whole or in part from beef, exclusive of milk and products made therefrom.

Section 1260.121 Imported Beef or Beef Products.

(a) "Imported Beef or Beef Products" means products which are imported into the United States which the Secretary determines contains a substantial amount of beef or beef products including those products which have been assigned one or more of the following numbers in the Tariff Schedule of the United States:

Live Cattle	*Assessment*
100.0130	$1.00/hd
100.0140	$1.00/hd
100.0150	$1.00/hd
100.0180	$1.00/hd
100.4000	$1.00/hd
100.4300	$1.00/hd
100.4500	$1.00/hd
100.5000	$1.00/hd
100.5300	$1.00/hd
100.5500	$1.00/hd

Beef and Veal	*Assessment*
106.1020	$.21 cent/lb
106.1040	$.21 cent/lb
106.1060	$.29 cent/lb
106.1080	$.77 cent/lb
107.2000	$.27 cent/lb
107.2520	$.27 cent/lb
107.4000	$.38 cent/lb
107.4500	$.38 cent/lb
107.4820	$.38 cent/lb
107.4840	$.38 cent/lb
107.5220	$.40 cent/lb
107.5240	$.40 cent/lb
107.5500	$.29 cent/lb
107.6100	$.29 cent/lb
107.6200	$.29 cent/lb
107.6300	$.29 cent/lb

(b) The Secretary shall have the authority to add, modify, change or delete Tariff Schedule numbers identifying beef or beef products in the event that Tariff Schedule numbers included in the Tariff Schedule of the United States are added, modified, changed or deleted.

(c) The Secretary may, through promulgation of rules or regulations, increase or decrease the level of assessment for imported beef and beef products based upon live animal equivalencies.

Section 1260.122 Promotion.

"Promotion" means any action, including paid advertising, to advance the image and desirability of beef and beef products with the express intent of improving the competitive position and stimulating sales of beef and beef products in the marketplace.

Section 1260.123 Research.

"Research" means studies testing the effectiveness of market development and promotion efforts, studies relating to the nutritional value of beef and beef products, other related food science research, and new product development.

Section 1260.124 Consumer information.

"Consumer information" means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchasing, preparing, and use of beef and beef products.

Section 1260.125 Industry information.

"Industry information" means information and programs that will lead to the development of new markets, marketing strategies, increased efficiency, and activities to enhance the image of the cattle industry.

Section 1260.126 Plans and Projects.

"Plans and Projects" means promotion, research, consumer information and industry information plans, studies or projects pursuant to §§ 1260.149, 1260.150, 1260.167, 1260.168 and 1260.191.

Section 1260.127 Marketing.

"Marketing" means the sale or other disposition in commerce of cattle, beef or beef products.

Section 1260.128 Act.

"Act" means Title XVI, Subtitle A of the Food Security Act of 1985, Pub. L. 99–198 and any amendments thereto.

Section 1260.129 Customs Service.

"Customs Service" means the United States Customs Service of the United States Department of the Treasury established pursuant to 19 U.S.C. 2071.

Cattlemen's Beef Promotion and Research Board

Section 1260.141 Establishment and Membership.

(a) There is hereby established a Cattlemen's Beef Promotion and Research Board of one hundred and twelve (112) members. For purposes of nominating producers to the initial Board, the United States shall be divided into 41 geographical units and one unit representing importers and the number of Board members from each unit shall be as follows:

Unit	January 1, 1986	
	Cattle and calves (1,000 head)	Directors
1. Alabama	1,780	2
2. Arizona	1,050	1
3. Arkansas	1,750	2
4. California	5,000	5
5. Colorado	2,850	3
6. Florida	2,120	2
7. Georgia	1,700	2
8. Idaho	1,750	2
9. Illinois	2,470	2
10. Indiana	1,570	2
11. Iowa	4,950	5
12. Kansas	5,800	6
13. Kentucky	2,480	2
14. Louisiana	1,240	1
15. Michigan	1,410	1
16. Minnesota	3,400	3
17. Mississippi	1,430	1
18. Missouri	4,800	5
19. Montana	2,450	2
20. Nebraska	5,800	6
21. Nevada	610	1
22. New Mexico	1,390	1
23. New York	1,970	2
24. North Carolina	1,100	1
25. North Dakota	2,000	2
26. Ohio	1,840	2
27. Oklahoma	5,200	5
28. Oregon	1,575	2
29. Pennsylvania	1,960	2
30. South Carolina	635	1
31. South Dakota	3,600	4
32. Tennessee	2,500	3
33. Texas	13,600	14

Unit	January 1, 1986	
	Cattle and calves (1,000 head)	Directors
34. Utah	790	1
35. Virginia	1,840	2
36. West Virginia	520	1
37. Wisconsin	4,280	4
38. Wyoming	1,325	1
39. Northwest		2
Washington	1,460	
Alaska	9	
Hawaii	209	
Total	1,678	
40. Northeast		1
Massachusetts	100	
Maine	135	
Vermont	350	
New Hampshire	69	
Total	654	
41. Mid-Atlantic		1
Maryland	370	
Delaware	27	
Rhode Island	7	
Connecticut	100	
New Jersey	97	
D.C.	0	
Total	601	
42. Importers	4,230	4

(b) The Board shall be composed of cattle producers and importers appointed by the Secretary from nominations submitted pursuant to § 1260.143. A producer may only be nominated to represent the unit in which that producer is a resident.

(c) At least every three (3) years, and not more than every two (2) years, the Board shall review the geographic distribution of cattle inventories throughout the United States and the volume of imported cattle, beef and beef products and, if warranted, shall recommend reapportionment of units and/or the modification of the number of Board members from units in order to best reflect the geographic distribution of cattle production volume in the United States and the volume of imported cattle, beef or beef products into the United States.

(d) The Board may recommend to the Secretary a modification in the number of cattle per unit necessary for representation on the Board.

(e) The following formula will be used to determine the number of Board members for each unit who shall serve on the Board:

(1) Each geographic unit or State that includes a total cattle inventory equal to or greater than five hundred thousand (500,000) head of cattle shall be entitled to one representative on the Board;

(2) States which do not have total cattle inventories equal to or greater than five hundred thousand (500,000) head of cattle shall be grouped, to the extent practicable, into geographically contiguous units each of which have a combined total inventory of not less than 500,000 head of cattle and such unit(s) shall be entitled to at least one representative on the Board;

(3) Importers shall be represented by a single unit, with the number of Board members representing such unit based upon a conversion of the total volume of imported cattle, beef or beef products in to live animal equivalencies;

(4) Each unit shall be entitled to representation by an additional Board member for each one million (1,000,000) head of cattle within the unit which exceeds the initial five hundred thousand (500,000) head of cattle within the unit qualifying such unit for representation.

(f) In determining the volume of cattle within the units, the Board and the Secretary shall utilize the information received by the Board pursuant to §§ 1260.201 and 1260.202, industry data and data published by the Department.

Section 1260.142 Term of Office.

(a) The members of the Board shall serve for terms of three years, except that the members appointed to the initial Board shall serve, proportionately, for terms of one, two and three years. To the extent possible, the terms of Board members from the same unit shall be staggered for the initial Board.

(b) Each member shall continue to serve until a successor is appointed by the Secretary.

(c) No member shall serve more than two consecutive three year terms in such capacity.

Section 1260.143 Nominations.

All nominations authorized under this section shall be made in the following manner:

(a) Nominations shall be obtained by the Secretary from eligible organizations. An eligible organization shall only submit nominations for positions on the Board representing units in which such eligible organization can establish that it is certified as an eligible organization to submit nominations for that unit. If the Secretary determines that a unit is not represented by an eligible organization, then the Secretary shall solicit nominations for representation of that unit from individual producers residing in that unit.

(b) Nominations for representation of the importer unit may be submitted by (1) organizations which represent importers of cattle, beef, or beef products, as determined by the Secretary, or (2) individual importers of cattle, beef or beef products. Individual importers submitting nominations for representation of the importer unit must establish to the satisfaction of the Secretary that such person submitting the nomination is an importer of cattle, beef or beef products.

(c) After the establishment of the initial Board, the Department shall announce when a vacancy does or will exist. Nominations for subsequent Board members shall be submitted to the Secretary not less than sixty days prior to the expiration of the terms of the members whose terms are expiring, in the manner as described in § 1260.143 (a) or (b). In the case of vacancies due to reasons other than the expiration of a term of office, successor Board members shall be appointed pursuant to § 1260.146.

(d) Where there is more than one eligible organization representing producers in a unit, they may caucus and jointly nominate one qualified person for each position representing that unit on the Board for which a member is to be appointed. If joint agreement is not reached with respect to any such nominations, or if no caucus is held, each eligible organization may submit to the Secretary one nomination for each appointment to be made to represent that unit.

Section 1260.144 Nominee's agreement to serve.

Any producer or importer nominated to serve on the Board shall file with the Secretary at the time of the nomination a written agreement to:

(a) Serve on the Board if appointed; and

(b) Disclose any relationship with any beef promotion entity or any organization that has a contractual relationship with the Board.

Section 1260.145 Appointment.

(a) From the nominations made pursuant to § 1260.143(a), the Secretary shall appoint the members of the Board on the basis of representation provided for in § 1260.141.

(b) Producers or importers serving on the Board of Directors of the Federation shall not be eligible for appointment to serve on the Board for a concurrent term.

Section 1260.146 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Board, the secretary shall request that nominations for a successor for the vacancy be submitted by the eligible organization(s) representing producers of the unit represented by the vacancy. If no eligible organization(s) represents producers in such unit, then the Secretary shall determine the manner in

which nominations for the vacancy are submitted.

Section 1260.147 Procedure.

(a) At a properly convened meeting of the Board, a majority of the members shall constitute a quorum, and any action of the Board at such a meeting shall require the concurring votes of at least a majority of those present at such meeting. The Board shall establish rules concerning timely notice of meetings.

(b) When in the opinion of the chairperson of the Board emergency action is considered necessary, and in lieu of a properly convened meeting, the Board may take action upon the concurring votes of a majority of its members by mail, telephone, or telegraph, but any such action by telephone shall be confirmed promptly in writing. In the event that such action is taken, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force as though such action had been taken at a regular or special meeting of the Board.

Section 1260.148 Compensation and reimbursement.

The members of the Board shall serve without compensation but shall be reimbursed for necessary and reasonable expenses incurred by them in the performance of their duties under this subpart.

Section 1260.149 Powers of the Board.

The Board shall have the following powers:

(a) To administer the provisions of this subpart in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this subpart;

(c) To receive or initiate, investigate, and report to the Secretary complaints of violations of the provisions of this subpart;

(d) To adopt such rules for the conduct of its business as it may deem advisable;

(e) To recommend to the Secretary amendments to this subpart; and

(f) With the approval of the Secretary, to invest, pending disbursement pursuant to a plan or project, funds collected through assessments authorized under § 1260.172, in, and only in, obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

Section 1260.150 Duties.

The Board shall have the following duties:

(a) To meet not less than annually, and to organize and select from among its members a chairperson, a vice-chairperson and a treasurer and such other officers as may be necessary;

(b) To elect from its members an executive committee of no more than 11 or no less than 9 members, whose membership shall, to the extent practicable, reflect the geographic distribution of cattle numbers or their equivalent. The Vice-Chairperson of the Board shall serve as Chairperson of the Executive Committee and the Chairperson and the Treasurer of the Board shall serve as members of the Executive Committee;

(c) To delegate to the executive committee the authority to administer the terms and provisions of this subpart under the direction of the Board and within the policies determined by the Board;

(d) To elect from its members 10 representatives to the Beef Promotion Operating Committee which shall be composed of 10 members from the Board and 10 members elected by the Federation;

(e) To utilize the resources, personnel and facilities of established national non-profit industry-governed organizations to and to contract for the services of such organizations as it may deem necessary and define the duties and determine the manner of compensation for such services of each;

(f) To review and, if approved, submit to the Secretary for approval, budgets prepared by the Committee on a fiscal period basis of the Committee's anticipated expenses and disbursements in the administration of the Committee's responsibilities, including probable costs of promotion, research, and consumer information and industry information plans or projects, and also including a general description of the proposed promotion, research, consumer information and industry information programs contemplated therein;

(g) To prepare and submit to the Secretary for approval, budgets on a fiscal period basis of the Board's overall anticipated expenses and disbursements including the Committee's anticipated expenses, in the administration of this subpart;

(h) To maintain such books and records, which shall be available to the Secretary for inspection and audit, and to prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, and to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it;

(i) To establish an interest bearing escrow account with a bank which is a member of the Federal Reserve System and to deposit into such account an amount equal to the product obtained by multiplying—(1) the total amount of funds received by the Board during the period prior to the referendum; by (2) the greater of—

(ii) The average percentage of assessment refunds paid to producers under State beef promotion, research and consumer information programs financed through producer assessments, as determined by the Board for the year of 1985; or

(iii) 15 percent;

(j) To pay refunds to producers requesting refunds in a manner consistent with the following conditions:

(1) If continuation of this subpart is approved pursuant to the referendum, the Board shall continue to place the amounts required under (i) above in the escrow account until all requests for refunds are paid; or

(2) If the continuation of the order is not approved pursuant to the referendum and the amount deposited in the escrow account is less than the amount of refunds requested, the Board shall prorate the amount deposited in such account among all eligible persons who request a refund of assessments paid.

(k) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(l) To cause its books to be audited by a certified public accountant at least once each fiscal period and at such other times as the Secretary may request, and submit a copy of each such audit to the Secretary;

(m) To give the Secretary the same notice of meetings of the Board as is given to members in order that the Secretary, or his representative may attend such meetings;

(n) To review applications submitted by State beef promotion organizations pursuant to § 1260.161 and to make determinations with regard to such applications;

(o) To submit to the Secretary such information pursuant to this subpart as may be requested; and

(p) To encourage the coordination of programs of promotion, research, consumer information and industry information designed to strengthen the beef industry's position in the marketplace and to maintain and

expand domestic and foreign markets and uses for beef and beef products.

Beef Promotion Operating Committee

Section 1260.161 Establishment and Membership.

(a) There is hereby established a Beef Promotion Operating Committee of 20 members. The Committee shall be composed of 10 Board members elected by the Board and 10 producers elected by the Federation.

(b) Board representation on the Committee shall consist of the Chairperson, Vice-Chairperson and Treasurer of the Board, and seven representatives of the Board who will be duly elected by the Board to serve on the Committee. The seven representatives to the Committee elected by the Board shall, to the extent practical, reflect the geographic and unit distribution of cattle numbers, or the equivalent thereof.

(c) Federation representation on the Committee shall consist of the Federation chairperson, Vice-Chairperson, and eight duly elected producer representatives of the Federation Board of Directors who are members or ex officio members of the Board of Directors of a Qualified State Beef Council. The eight representatives of the Federation elected to serve on the Committee shall, to the extent practical, reflect the geographic distribution of cattle numbers. The Federation shall submit the names of the representatives elected by the Federation to serve on the Committee and the manner in which such election was held and that such representatives are producers and are members or ex officio members of the Board of Directors of a Qualified State Beef Council on the Federation Board of Directors. When the Secretary is satisfied that the above conditions are met, the Secretary shall certify such representatives as eligible to serve on the Committee.

Section 1260.162 Term of office.

(a) The members of the Committee shall serve for a term of 1 year.

(b) No member shall serve more than six consecutive terms.

Section 1260.163 Vacancies.

To fill any vacancy occasioned by the death, removal, resignation, or disqualification of any member of the Committee, the Board or the Federation, depending upon which organization is represented by the vacancy, shall submit the name of a successor for the position in the manner utilized to elect representatives pursuant to § 1260.161 (b) and (c) above.

Section 1260.164 Procedure.

(a) Attendance of at least 15 members of the Committee shall constitute a quorum at a properly convened meeting of the Committee. Any action of the Committee shall require the concurring votes of at least two-thirds of the members present. The Committee shall establish rules concerning timely notice of meetings.

(b) When in the opinion of the chairperson of the Committee emergency action must be taken before a meeting can be called, the Committee may take action upon the concurring votes of no less than two-thirds of its members by mail, telephone, or telegraph. Action taken by this emergency procedure is valid only if all members are notified and provided the opportunity to vote and any telephone vote is confirmed promptly in writing. Any action so taken shall have the same force and effect as though such action had been taken at a properly convened meeting of the Committee.

Section 1260.165 Compensation and reimbursement.

The members of the Committee shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, incurred by them in the performance of their duties under this subpart.

Section 1260.166 Officers of the Committee.

The following persons shall serve as officers of the Committee:

(a) The Chairperson of the Board shall be Chairperson of the Committee.

(b) The Chairperson of the Federation shall be Vice-Chairperson of the Committee.

(c) The Treasurer of the Board shall be Treasurer of the Committee.

(d) The Committee shall elect or appoint such other officers as it may deem necessary.

Section 1260.167 Powers of the Committee.

The Committee shall have the following powers:

(a) To receive and evaluate, or on its own initiative develop, and budget for plans or projects to promote the use of beef and beef products as well as projects for research, consumer information and industry information and to make recommendations to the Secretary regarding such proposals;

(b) To select committees and subcommittees of Committee members, and to adopt such rules for the conduct of its business as it may deem advisable;

(c) To establish committees of persons other than Committee members to advise the committee and pay the necessary and reasonable expenses and fees of the members of such committees;

Section 1260.168 Duties of the Committee.

The Committee shall have the following duties:

(a) To meet and to organize;

(b) To contract with established national non-profit industry-governed organizations to utilize existing industry facilities, personnel and resources;

(c) To disseminate information to Board members;

(d) To prepare and submit to the Board for approval, budgets on a fiscal period basis of its anticipated expenses and disbursements in the administration of its responsibilities, including probable costs of promotion, research, consumer information and industry information plans or projects, and also including a general description of the proposed promotion, research, consumer information and industry information programs contemplated therein;

(e) To develop and submit to the Secretary for approval, promotion, research, consumer information and industry information plans or projects;

(f) With the approval of the Secretary, to enter into contracts or agreements with Established National Non-profit Industry Governed Organizations for the implementation and conduct of activities authorized under §§ 1260.167 and 1260.191 and for the payment of the cost of such activities with funds collected through assessments pursuant to § 1260.172. Any such contract or agreement shall provide that:

(1) The contractors shall develop and submit to the Committee a budget or budgets which shall show the estimated cost to be incurred for such activity or projects;

(2) Any such plan or project shall become effective upon approval of the Secretary; and

(3) The contracting party shall keep accurate records of all of its transactions and make periodic reports to the Committee or Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary, the Committee or the Board may require. The Secretary or agents of the Committee or the Board may audit periodically the records of the contracting party;

(g) To prepare and make public, at least annually, a report of its activities carried out and an accounting for funds received and expended;

(h) To give the Secretary the same notice of meetings of the Committee and

its subcommittees and advisory committees in order that the Secretary, or his representative, may attend such meetings;

(i) To submit to the Board and Secretary such information pursuant to this subpart as may be requested; and

(j) To encourage the coordination of programs of promotion, research, consumer information and industry information designed to strengthen the cattle industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products.

Expenses

Section 1260.171 Expenses.

(a) The Board is authorized to incur such expenses (including provision for a reasonable reserve) as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with this subpart. Administrative expenses incurred by the Board shall not exceed 5 percent of the projected revenue of that fiscal period. Such expenses shall be paid from assessments collected pursuant to §1260.172. Expenses for the maintenance and expansion of foreign markets for beef and beef products shall be limited to an amount equal to or less than the total amount of assessments paid pursuant to §1260.172 (a) and (b).

(b) The Board shall reimbuse the Secretary, from assessments collected pursuant to §1260.172, for administrative costs incurred by the Department to carry out its responsibilities pursuant to this subpart after the effective date of this subpart.

(c) The Board shall establish an interest bearing escrow account with a bank that is a member of the Federal Reserve System and shall deposit in such account an amount equal to the percentage determined by the Board to be held in reserve for the payment of refunds pursuant to §1260.173.

Section 1260.172 Assessments.

(a) Each person making payment to a producer for cattle purchased from such producer shall be a collecting person and shall collect an assessment from the producer, and each producer shall pay such assessment to the collecting person, at the rate of one dollar per head of cattle purchased and such collecting person shall remit the assessment to the Board or a Qualified State Beef Council pursuant to §1260.172(g).

(b) Any producer marketing cattle of that producer's own production in the form of beef or beef products to consumers, either directly or through retail or wholesale outlets, or for export purposes, shall remit to a Qualified State Beef Council or the Board an assessment on such cattle at the rate of one dollar per head of cattle or the equivalent thereof.

(c) The United States shall pay an assessment to the Board on all such cattle and beef or beef products in an amount determined by the Secretary, to be the equivalent of one dollar per head of cattle imported.

(d) In determining the assessment due from each producer pursuant to §1260.172 (a) and (b), a producer who is contributing to a Qualified State Beef Council(s) shall receive a credit from the Board for contributions to such Council, but not to exceed 50 cents per head of cattle assessed.

(e) In order for a producer described in § 1260.172 (a) and (b) to receive the credit authorized in § 1260.172(d), the Qualified State Beef Council or the collecting person must establish to the satisfaction of the Board that the producer has contributed to a Qualified State Beef Council.

(f) The collection of assessments pursuant to § 1260.172 (a), (b) and (c) shall begin with respect to cattle purchased or beef and beef products imported on and after the effective date of this section and shall continue until terminated by the Secretary. If the Board is not constituted by the date the first assessments are to be collected, the Secretary shall have the authority to receive the assessments on behalf of the Board. The Secretary shall remit such assessments to the Board when it is constituted.

(g) Each person responsible for the remittance of the assessment pursuant to § 1260.172 (a) and (b) shall remit the assessment to the Qualified State Beef Council in the State from which the cattle originated prior to sale, or if there is no Qualified State Beef Council within such State, the assessment shall be remitted directly to the Board. However, the Board, with the approval of the Secretary, may authorize Qualified State Beef Councils to propose modifications to the foregoing "state of origin" rule to ensure effective coordination of assessment collections between Qualified State Beef Councils. Qualified State Beef Councils and the Board shall coordinate assessment collection procedures to ensure that producers selling or marketing cattle in interstate commerce are required to pay only one assessment per individual sale of cattle. For the purpose of this subpart, "rule of origin" means the State where the cattle were located at time of sale, or the State in which the cattle were located prior to sale if such cattle were transported interstate for the sole purpose of sale. Assessments shall be remitted not later than the fifteenth day of the month following the month in which the cattle was purchased or marketed. The assessments due upon imported cattle, beef and beef products shall be remitted to the Customs Service upon importation of the cattle, beef or beef products to the United States.

(h) If a State law or regulation promulgated pursuant to State law requires the payment and collection of a mandatory, nonrefundable assessment of more than fifty (50) cents per head on the sale and purchase of cattle, or the equivalent thereof for beef and beef products as described in § 1260.172 (a) and (b) above for use by a Qualified State Beef Council to fund activities similar to those described in § 1260.191, and such State law or regulation authorizes the issuance of a credit of that amount of the assessment which exceeds fifty (50) cents to producers who waive any right to the refund of the assessment credited by the State due pursuant to this subpart, then *any producer* subject to such State law or regulation who pays only the amount due pursuant to such State law or regulation and this subpart, including any credits issued, shall thereby waive that producer's right to receipt from the Board of a refund of such assessment for that portion of such refund for which the producer received credit pursuant to such State law or regulation.

(i) Money remitted pursuant to this subpart shall be in the form of a negotiable instrument made payable to the "Qualified State Beef Council" or "Cattlemen's Beef Promotion and Research Board." Remittances and reports specified in § 1260.201 shall be mailed to the location designated by the Board.

§ 1260.173 Refunds.

Any producer or importer from whom an assessment is collected and remitted to the Board, or who pays an assessment directly to the Board, under authority of the Act and this subpart, and who is not in favor of supporting the promotion and research program as provided for in this subpart shall have the right to demand and receive from the Board a refund of such assessment, or a pro rata share thereof, upon submission of proof satisfactory to the Board that the producer or importer paid the assessment for which refund is sought. Any such demand shall be made by such producer or importer in accordance with the provisions of this subpart and in a manner consistent with regulations

prescribed by the Board and approved by the Secretary.

Section 1260.174 Procedure for obtaining refund.

Each producer or importer who pays an assessment pursuant to the Act and this subpart during the period prior to the referendum may obtain a refund of such assessment only by following the procedures prescribed in this section and any regulations prescribed by the Board and approved by the Secretary.

(a) *Application form.* A producer or importer shall obtain a Board-approved refund application form from a Qualified State Beef Council or the Board. Such form may be obtained by written request to a Qualified State Beef Council or the Board and the request shall bear the producer's or importer's signature or properly witnessed mark.

(b) *Submission of refund application to Board.* Any producer or importer requesting a refund shall mail an application on the prescribed form to a Qualified State Beef Council or the Board within 60 days from the date the assessments were due by such producer or importer. The refund application shall show (1) the producer's or importer's name and address; (2) collecting person's name and address; (3) number of head of cattle, or its equivalent on which a refund is requested; (4) total amount of refund requested; (5) date or inclusive dates on which assessments were paid; (6) certification that the producer or importer did not collect the assessment from another producer or importer; and (7) the producer's or importer's signature or properly witnessed mark.

(c) *Proof of payment of assessment.* The Account of Sale given to the producer or importer by the collecting person or a copy thereof, or such other evidence deemed satisfactory to the Board, shall accompany the producer's or the importer's refund application.

(d) *Payment of refunds.* Board shall pay refund requests or a prorata share thereof within 90 days of the date the results of the referendum are released by the Secretary. Refunds shall be paid in a manner consistent with § 1260.150(j).

Section 1260.175 Late-payment charge.

Any unpaid assessments due to the Board pursuant to § 1260.172 shall be increased 2.0 percent each month beginning with the day following the date such assessments were due. Any remaining amount due, which shall include any unpaid charges previously made pursuant to this section, shall be increased at the same rate on the corresponding day of each month thereafter until paid. For the purpose of this section, any assessment that was determined at a date later than prescribed by this subpart because of a person's failure to submit a report to the Board when due shall be considerd to have been payable by the date it would have been due if the report had been filed when due. The timeliness of a payment to the Board shall be based on the applicable postmark date or the date actually received by the Qualified State Beef Council or Board, whichever is earlier.

Section 1260.176 Adjustment of accounts.

Whenever the Board or the Department determines money is due the Board or that money is due such person from the Board, such person shall be notified of the amount due. The person shall then remit any amount due the Board by the next date for remitting assessments as provided in § 1260.172(g). Overpayments shall be credited to the account of the person remitting the overpayment and shall be applied against amounts due in succeeding months.

Section 1260.181 Qualified State Beef Councils.

(a) Any beef promotion entity that is authorized by State statute or is organized and operating within a State, that receives assessments or contributions from producers and conducts beef promotion, research, consumer information and/or industry information programs may apply for certification of qualification so that producers may receive credit pursuant to § 1260.172(d) for contributions to such organization. The Board shall review such applications for certification and shall make a determination as to certification of such applicant.

(b) In order for the State Beef Council to be certified by the Board as a Qualified State Beef Council, the Council must:

(1) Conduct activities as defined in § 1260.191 that are intended to strengthen the beef industry's position in the marketplace;

(2) Submit to the Board a report describing the manner in which assessments are collected and the procedure utilized to ensure that assessments due are paid;

(3) Certify to the Board that such Council will collect assessments paid on cattle originating from the State or unit within which the Council operates and shall establish procedures for ensuring compliance with this subpart with regard to the payment of such assessments;

(4) Certify to the Board that such organization shall remit to the Board assessments paid and remitted to the Council, minus authorized credits issued to producers pursuant to § 1260.172(d), by the last day of the month in which the assessment was remitted to the Qualified State Beef Council;

(5) Councils which are authorized or required to pay refunds to producers must certify to the Board that any requests from producers for refunds from the Council for contributions to such Council by the producer will be honored by forwarding to the Board that portion of such refunds equal to the amount of credit received by the producer for contributions to the Council pursuant to § 1260.172(d);

(6) Certify to the Board that the Council will furnish the Board with an annual report by a certified public accountant of all funds remitted to such Council pursuant to this subpart and any other reports and information the Board or Secretary may request; and

(7) Not use Council funds collected pursuant to this subpart for the purpose of influencing governmental policy or action, or to fund plans or projects which make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product.

Section 1260.191 Promotion, Research, Consumer Information and Industry Information.

The Committee shall receive and evaluate or, on its own initiative develop, and submit to the Secretary for approval any plans for projects authorized in §§ 1260.149, 1260.150, 1260.167, 1260.168, and this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate plans or projects for promotion, research, consumer information and industry information, with respect to beef and beef products designed to strengthen the beef industry's position in the marketplace and to maintain and expand domestic and foreign markets and uses for beef and beef products;

(b) The establishment and conduct of research and studies with respect to the sale, distribution, marketing and utilization of beef and beef products and the creation of new products thereof, to the end that marketing and utilization of beef and beef products may be encouraged, expanded, improved or made more acceptable in the United States and foreign markets;

(c) Each plan or project authorized under paragraph (a) and (b) of this

section shall be periodically reviewed or evaluated by the Committee to insure that each such plan or project contributes to an effective program of promotion, research, consumer information and industry information. If it is found by the Committee that any such plan or project does not further the purposes of the Act, then the Committee shall terminate such plan or project;

(d) In carrying out any plan or project of promotion or advertising implemented by the Committee, no reference to a brand or trade name of any beef product shall be made without the approval of the Board and the Secretary. In addition, no such plans or projects shall make use of unfair or deceptive acts or practices with respect to the quality, value or use of any competing product; and

(e) No funds collected by the Board under this subpart shall in any manner be used for the purpose of influencing governmental policy or action, except to recommend to the Secretary amendments to this subpart.

Reports, Books and Records

Section 1260.201 Reports.

Each importer, person marketing cattle, beef or beef products of that person's own production directly to consumers or exporting such cattle, beef or beef products, and each collecting person making payment to producers and responsible for the collection of the assessment under § 1260.172 shall be required to report to the Board periodically such information as may be required by the regulations prescribed by the Board and approved by the Secretary. Such information may include but not be limited to the following:

(a) The number of cattle purchased, initially transferred or which, in any other manner, is subject to the collection of assessment, and the dates of such transaction;

(b) The number of cattle imported; or the equivalent thereof of beef or beef products;

(c) The amount of assessment remitted;

(d) The basis, if necessary, to show why the remittance if less than the number of head of cattle multiplied by one dollar; and,

(e) The date any assessment was paid.

Section 1260.202 Books and Records.

Each person who is subject to this subpart, and other persons subject to § 1260.201, shall maintain and make available for inspection by the Secretary such books and records as are necessary to carry out the provisions of this subpart and the regulations issued hereunder, including such records as are necessary to verify any reports required. Such records shall be retained for at least 2 years beyond the fiscal period of their applicability.

Section 1260.203 Confidential treatment.

All information obtained from such books, records or reports under the Act and this subpart shall be kept confidential by all persons, including employees and agents and former employees and agents of the Board, all officers and employees and all former officers and employees of the Department, and by all officers and employees and all former officers and employees of contracting organizations having access to such information, and shall not be available to Board members or any other producers or importers. Only those persons having a specific need for such information in order to effectively administer the provisions of this subpart shall have access to this information. In addition, only such information so furnished or acquired as the Secretary deems relevant shall be disclosed to them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit: (a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and (b) the publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this subpart, together with a statement of the particular provisions of the subpart violated by such person.

Miscellaneous

§ 1260.211 Proceedings after termination.

(a) Upon the termination of this subpart the Board shall recommend not more than 11 of its members to the Secretary to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all the funds and property, owned, in the possession of or under the control of the Board, including unpaid claims or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contract or agreements entered into by it pursuant to § 1260.150 and 1260.168.

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such persons as the Secretary may direct; and

(4) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligation imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be used, to the extent practicable, in the interest of continuing one or more of the promotion, research, consumer information or industry information plans or projects authorized pursuant to this subpart.

Section 1260.212 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may hereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or,

(c) Affect or impair any rights or remedies of the United States, or of the Secretary, or of any person, with respect to any such violation.

Section 1260.213 Personal liability.

No member, employee or agent of the Board or the Committee, including employees or agents of a Qualified State Beef Council acting on behalf of the Board, shall be held personally responsible, either individually or jointly, in any way whatsoever, to any person for errors in judgment, mistakes or other acts of either commission or omission, of such member of employee,

except for acts of dishonesty or willful misconduct.

Section 1260.214 Patents, copyrights, inventions and publications.

(a) Any patents, copyrights, inventions or publications developed through the use of funds collected by the Board under the provisions of this subpart shall be the property of the U.S. Government as represented by the Board, and shall, along with any rents, royalties, residual payments, or other income from the rental, sale, leasing, franchising, or other uses of such patents, copyrights, inventions or publications, inure to the benefit of the Board. Upon termination of this subpart, § 1260.211 shall apply to determine disposition of all such property.

(b) Should patents, copyrights, inventions or publications be developed through the use of funds collected by the Board under this subpart and funds contributed by another organization or person, ownership and related rights to such patents, copyrights, inventions or publications shall be determined by agreement between the Board and the party contributing funds towards the development of such patent, copyright, invention or publication in a manner consistent with (a) above.

Section 1260.215 Amendment.

Amendments to the subpart may be proposed, from time to time, by the Board, or by any organization or association certified pursuant to §§ 1260.250 through 1260.258 of this part, or by any interested person affected by the provisions of the Act, including the Secretary.

Section 1260.216 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstances is held invalid, the validity of the remainder of this subpart of the applicability thereof to other persons or circumstances shall not be affected thereby.

Done at Washington, DC, March 11, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

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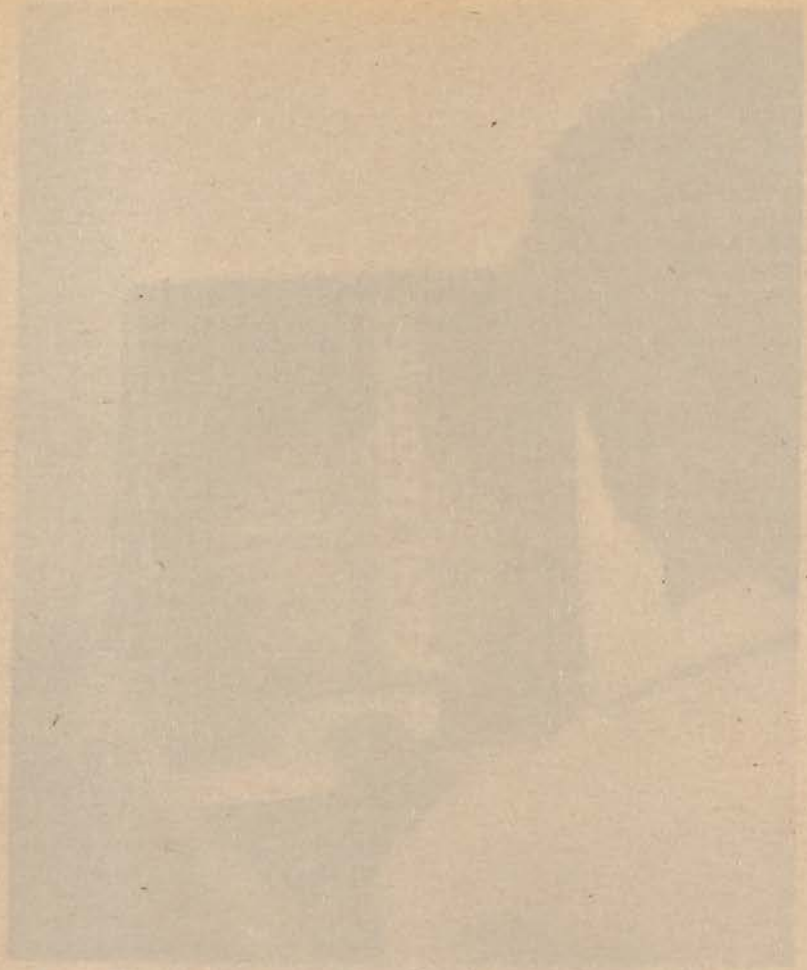

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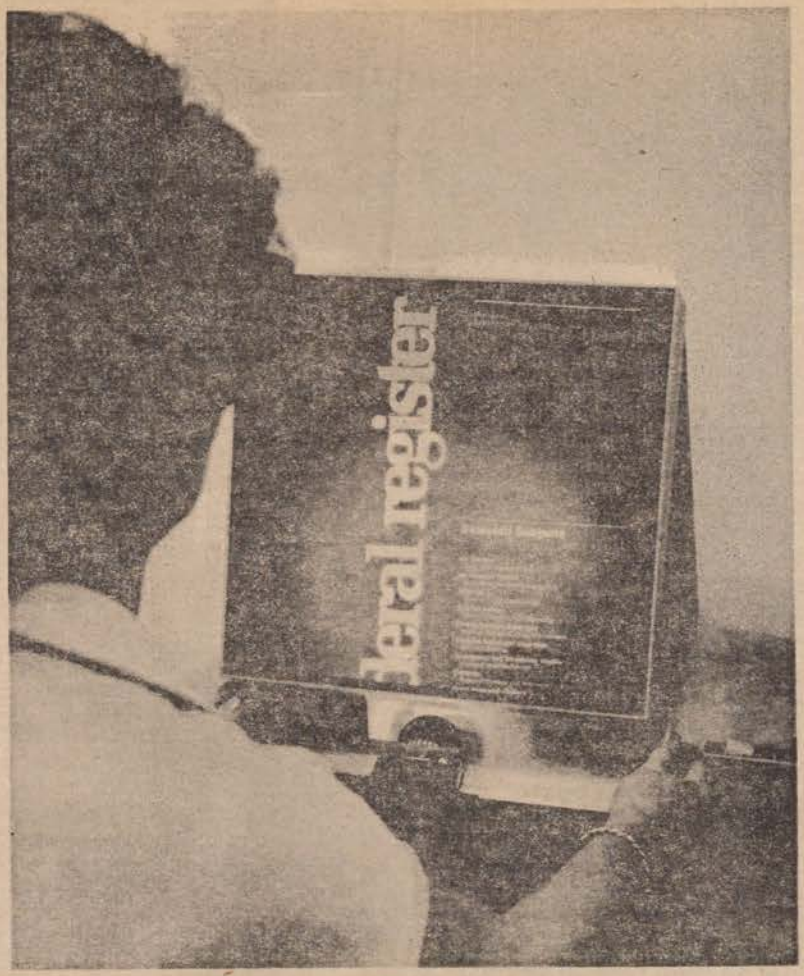

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