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Friday
March 21, 1986

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

Selected Subjects

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

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

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

WHO: The Office of the Federal Register.

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

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

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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Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

Handling of Almonds Grown in California; Administrative Rules and Regulations Governing Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action makes a correction in the administrative rules and regulations issued under the Federal marketing order for California almonds. A final rule published in the Federal Register on April 13, 1977 (42 FR 19321) established a paragraph concerning reserve reporting as § 981.474(c). However, that paragraph was never published in the Code of Federal Regulations. On November 20, 1985, a paragraph concerning custom processing reporting was published as § 981.474(c) by a final rule published in the Federal Register (50 FR 47707). This action corrects this error of designating two separate paragraphs as § 981.474(c) by redesignating the paragraph concerning reserve reporting as § 981.474(d) and allowing the paragraph concerning custom processing reporting to remain § 981.474(c).

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

SUPPLEMENTARY INFORMATION: This action corrects § 981.474 of Subpart—Administrative Rules and Regulations (7 CFR 981.401-981.474; 50 FR 16451, 24174, 30263, and 47707) by redesignating a paragraph which was inadvertently omitted from the Code of Federal Regulations. This subpart is issued under the marketing agreement and Order No. 981 (7 CFR 981), both as amended, regulating the handling of almonds grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The redesignated paragraph concerns reporting requirements for handlers diverting reserve almonds to noncompetitive outlets. The paragraph was originally published in the Federal Register on April 13, 1977 (42 FR 19321) as § 981.474(c). However, the paragraph was inadvertently omitted from the Code of Federal Regulations. This omission has had no adverse effect on handler compliance with the provision's reporting requirements as all affected persons were aware of the regulation.

A regulation involving custom processing reporting was inadvertently published as § 981.474(c) by a final rule published in the Federal Register on November 20, 1985 (50 FR 47707). This action corrects this error of designating two separate paragraphs as § 981.474(c) by redesignating the paragraph concerning reserve reporting as § 981.474(d) and allowing the paragraph concerning custom processing to remain § 981.474(c).

List of Subjects in 7 CFR Part 981

Marketing agreements and order, Almonds, California.

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. Section 981.474 is amended by adding a new paragraph (d) as follows:

§ 981.474 Other reports.

* * * * *

(d) *Reserve reports.* In any crop year when reserve almonds are diverted to noncompetitive outlets, such handler shall report such handler's intentions to divert on ABC Form 13 and the completion of diversion on ABC Form 14. Upon notice to all handlers, the Board may waive the requirements to file ABC Form 13 for diversion of almonds to noncompetitive outlets which are acceptable to the Board.

Dated: March 14, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 86-6140 Filed 3-20-86; 8:45 am]
BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40, 51, 74 and 150

Material Balance Reports of Source Material and Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations concerning the submission of material balance inventory reports of source material and special nuclear material. The rule will reduce the reporting requirements imposed on affected licensees without adversely affecting the domestic safeguards program or NRC's ability to satisfy existing international and domestic safeguards commitments. This action eliminates the requirement to submit a statement of material balance for U.S. origin source material for all licensees except those reporting under the U.S./IAEA Safeguards Agreement. It also eliminates the requirement to report the composition of ending inventory on Form 742C for all except nuclear reactor licensees and licensees reporting under the Agreement.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: June Robertson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 427-4233.

SUPPLEMENTARY INFORMATION:

Background

Currently, NRC licensees authorized to possess more than 350 grams of special nuclear material are required to submit an inventory report for each material type on Forms 742 and 742C as of March 31 and September 30 each

year. Also, NRC and Agreement State licensees authorized to possess more than 1,000 kilograms of source material are required to submit a yearly statement of their source material holdings as of September 30 each year. This information is necessary to the domestic inspection program and is needed to provide to the Australian and Canadian Governments a periodic report showing the inventory of all the materials in each U.S. facility that is subject to their respective bilateral agreements. As a part of a reevaluation of the safeguards data collection and processing requirements, the NRC examined the possibility of eliminating the requirements for licensees to report inventories on Forms 742 (Material Balance Report) and 742C (Physical Inventory Listing) for most licensees. It concluded that, with the exception of those licensees reporting under the U.S./IAEA Safeguards Agreement, the requirements for reporting inventories on Material Balance Reports could be deleted. It also concluded, however, that it needed a composition of ending inventory to be submitted on Form 742C by licensees of nuclear reactors for meeting its domestic responsibilities. Therefore, it decided to retain the requirements for submitting Form 742C for nuclear reactor licensees and licensees reporting under the U.S./IAEA Safeguards Agreement.

Proposed Rule

For licensees other than those reporting under the U.S./IAEA Safeguards Agreement, the proposed rule (50 FR 19695, May 10, 1985) would have eliminated the requirement to submit Form 742. For all licensees other than those with nuclear reactors and those reporting under the U.S./IAEA Safeguards Agreement, the proposed rule woud have eliminated the requirement to submit Form 742C. Instead, the NRC would have computer-generated for each licensee, an inventory report based on material transaction reports submitted to it on Form 741 for special nuclear material and foreign origin source material. (In a separate rulemaking action effective July 16, 1984 (49 FR 24705, June 15, 1984), the requirement to report domestic transfers of U.S. origin source material was deleted. Only imports, exports, and domestic transfers of foreign origin source material are currently reported to the transaction data base.) This NRC-generated report would have been submitted to the licensee for review and verification with the licensee's book inventory data or with the results of a physical inventory by the licensee, as the case may be. The licensee would then have submitted any supplemental data necessary to reconcile any difference between the NRC's data and its data.

The proposed amendment would have affected approximately 350 NRC and Agreement State licensees of which approximately 150 are small independent industrial manufacturers each with an estimated annual gross income of less than $1 million and a staff of fewer than 500 people. The NRC concluded that, as a result of this change, the reporting requirements for each affected special nuclear material licensee would have been reduced by two reports per year and the reporting requirements for each affected source material licensee would have been reduced by one statement per year. The process of the licensee verification of the computer-generated report would have affected partially the reduction in licensee reporting, but the net requirements on licensees was thought to be less than those of generating and submitting the currently required reports.

When 10 CFR Part 74 was published on February 25, 1985 (50 FR 7575), it contained the MC&A regulatory requirements for low enrichment uranium (LEU) licensees. Certain safeguards-related recordkeeping and reporting requirements, formerly found in Part 70, were also moved to new Part 74 in order to separate them from safety reporting requirements. The reporting requirement for SNM physical inventory results is therefore included in Part 74.

On March 12, 1984 (49 FR 9362), the NRC published a final rule which implemented section 102(2) of the National Environmental Policy Act of 1969 as amended (NEPA). Section 51.22 identifies the type of regulatory and licensing actions which may be eligible for categorical exclusion. The categorical exclusion in 10 CFR 51.22(c)(3) which applies to amendments to the Commission's regulations which relate to recordkeeping and reporting requirements includes Part 70 but does not include Part 74. When Part 74 was promulgated in February 1985, portions of the existing recordkeeping requirements in Part 70 and all of the reporting requirements in Part 70, both of which were specifically covered by the environmental impact categorical exclusion in § 51.22(c)(3), were transferred to Part 74. At that time, however, the requisite conforming amendment to add Part 74 to the list of parts identified in § 51.22(c)(3) was not made. To remedy this inadvertent oversight, a conforming amendment is now being made to 10 CFR 51.22(c)(3) to add Part 74 to the list of parts referenced in that categorical exclusion.

Summary of Public Comments

The sixty-day comment period for the proposed rule expired on July 9, 1985. The NRC received comments from twelve respondents. The comments were mixed as to whether or not an actual reduction in reporting requirements would be achieved.

Proposed § 40.64

There were no public comments received which specifically addressed this proposed section. However, the NRC determined to revise this section (which deals with reports on material balances of source material) so that it is compatible with its revisions to proposed § 74.13 (discussed below) on material balance statements of special nuclear material. The NRC has revised existing § 40.64 by explicitly eliminating the requirement for reporting material balances of source material by licensees who possess only domestic origin source material. This fulfills the intent, implicit in the proposed procedure for an NRC-generated report to not require this information.

Proposed § 70.53

As a consequence of the promulgation of 10 CFR Part 74 on March 27, 1985 (50 FR 7575), reporting requirements of Part 70 are now contained in Part 74. All changes proposed to § 70.53 are therefore contained in § 74.13 as described below.

Revised § 74.13

Four commenters, all power reactor licensees, opposed the proposed revision. They pointed out that a requirement to verify and update the proposed report generated by NRC was likely to increase rather than decrease a power reactor licensee's reporting effort. It was also pointed out that there was a workload associated with changing the existing licensees' programs and procedures and that the result might be a degradation of the accounting systems. One of the commenters opposing adoption of the proposed amendment to this section also suggested that NRC revise DOE Form RW-859 to allow reporting of current isotopes by assembly. This would allow elimination of Forms 742 and 742C for reactor licensees which report composition of special nuclear material on an assembly basis. Seven commenters, four power reactor licensees, too university reactor licensees and one fuel facility licensee, supported the proposed amendments. Some of these commenters suggested

modifications to the amendments as proposed. (One of these supporting the amendment pointed out that promulgation of new Part 74 now makes it necessary to reflect changes to reporting requirements in Part 74 as well as in Part 70. This suggestion has been adopted.)

After reviewing the comments, NRC has concluded that replacing licensee-generated reports of material balances for both source material and special nuclear material with an NRC-generated report is likely to increase rather than decrease licensees' reporting efforts. Licensees would be obliged to retain most of their current accounting and reporting programs and procedures in addition to verifying and updating data produced outside of that system. For that reason, NRC is abandoning the proposal to generate material balance reports and to require source material and special nuclear material licensees to verify and update them. It will continue to require special nuclear material licensees to submit reports of material balances on Form 742.

By retaining the requirements for licensees to submit Form 742 and by not adopting the proposed amendments, the suggestions by two power reactor licensees and by a fuel facility licensee to extend the period for verifying the NRC-generated report become moot. Similarly, the suggestion by a power reactor licensee to tie the date for submission of Form 742C to that of Form 742 is also moot.

The proposal is being adopted to eliminate the requirement for licensees other than those reporting under the US/IAEA Safeguards Agreement and those with nuclear reactors (power, test, research and others) to report composition of inventory semi-annually on Form 742C.

A number of suggestions unrelated to the proposal to generate an NRC report were not adopted. (1) A suggestion that Form 741 (Material Transaction Report) be revised to simplify its completion by licensees was not adopted because this was outside the scope of the original proposal. (2) Another commenter suggested eliminating the requirement for nuclear reactor licenses to submit material balance information entirely. This suggestion was not adopted because it was determined that use of the Form 742 by nuclear reactor licensees was necessary to ensure the accounting of material by these licensees on a periodic basis. (3) A suggestion to revise DOE Form RW-859 to provide current isotopes on an assembly basis was not adopted. That form is currently undergoing revision by DOE. After completion of that revision, modification to provide NRC reporting requirements may be explored. (4) Another suggestion that licensees of "small" reactors be excused from submitting this report was also not adopted. Low power reactors do not produce substantial changes in the isotopic composition of their fuel over considerable periods of time. Nonetheless, there is no readily distinguishing feature for identifying reactors to be excused from the requirement. This suggestion, however, may become part of another effort to reduce the reporting requirements imposed upon nonpower reactor licensees.

Proposed § 150.17

No comments were received specifically addressing this proposed amendment. This section is being revised to be consistent with § 40.64(b), the other portion of regulations treating source material.

Environmental Impact: Categorical Exclusion

The NRC has determined that the amendments to Parts 40, 51 and 74 in this final regulation are the type of action described in categorical exclusion of 10 CFR 51.22(c)(3) and that the amendment to Part 150 in this final regulation is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule had been approved by the Office of Management and Budget. OMB approval Nos. 3150-004, 3150-0020, 3150-0032, 3150-0058, 3150-0123.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of the draft analysis may be obtained from June Robertson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 427-4233.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not have a significant economic impact upon a substantial number of small entities due to the fact that all affected licensees will experience a decrease in their reporting requirements.

The final rule reduces the number of specific licensees required to report inventories of nuclear materials under 10 CFR 40.64 and 150.17 from 350 to 250. Currently, approximately 200 of these licensees submit two reports each year to report inventories of special nuclear materials. The remaining 150 licensees submit one report each year to report holdings of source material. The economic impact on all licensees will be reduced because approximately 100 small licensees which currently complete a report(s) will not report inventories at all. Currently, the time needed to complete the report is two hours.

The approximately 100 licensees which need not complete and submit an inventory report are small independent industrial licensees which currently submit one report each year. This is a reduction of (2 hrs×100) 200 hours each year.

The average small independent industrial licensee has an annual gross income of less than $1 million and employs fewer than 500 people. The cost for complying with the reduced requirement does not pose an economic impact. There will be no additional cost for any licensee as a result of these amendments.

Backfit Analysis

On May 10, 1985 (50 FR 19695), the Commission published in the **Federal Register** proposed amendments to the NRC's safeguards data collection and reporting requirements. The proposed amendments would have eliminated the requirement for licensees possessing special nuclear material (SNM) with more than 350 grams of contained uranium-235 to complete and submit semiannual Material Balance Reports, DOE/NRC Form 742. In its stead, NRC proposed to prepare a report of material balance for each licensee based upon information submitted by these licenses on Nuclear Material Transaction Reports, DOE/NRC Form 741. The NRC report was then to be reviewed, corrected, and updated by licensees as necessary. Power reactor licensees would have been subject to these revised procedures. The Commission intended by this change to reduce the reporting burden.

Four power reactor licensees commented that these proposed

amendments were more likely to increase their reporting effort than decrease it. In view of this comment, these proposed rules that would have required changes in the recordkeeping and reporting requirements for power reactor licensees have been deleted from the final rule. Power reactor licensee reporting requirements will remain unchanged. Because there is nothing in the final amendments that requires a change in any component system, or procedure at a nuclear power reactor, the Commission's backfit rule (10 CFR 50.109) is not applicable to this rulemaking proceeding.

List of Subjects

10 CFR Part 40

Governmental contracts, Hazardous materials—transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, Uranium.

10 CFR Part 51

Administrative practice and procedure, Environmental impact statement, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

10 CFR Part 74

Accounting, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 150

Hazardous materials—transportation, Intergovernmental relations, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 522 and 553, the NRC is adopting the following amendments to 10 CFR Parts 40, 51, 74 and 150.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

1. The authority citation for Part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95-604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97-415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 40.3, 40.25(d)(1)-(3), 40.35(a)-(d), 40.41 (b) and (c), 40.46, 40.51 (a) and (c), and 40.63 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 40.25 (c), (d) (3), and (4), 40.26(c)(2), 40.35(e), 40.42, 40.61, 40.62, 40.64 and 40.65 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 40.64, paragraph (b) is revised to read as follows:

§ 40.64 Reports.

* * * * *

(b) Except as specified in paragraphs (d) and (e) of this section, each licensee authorized to possess at any one time and location more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, shall submit to the Commission within 30 days after September 30 of each year a statement of its foreign origin source material inventory. This statement must be submitted to the address specified in the reporting instructions (NUREG/BR-0007), and include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee. Copies of the reporting instructions may be obtained by writing to the U.S. Nuclear Regulatory Commission, Division of Safeguards, Washington, DC 20555.

* * * * *

PART 51—ENVIRONMENTAL PROTECTION REGULATIONS FOR DOMESTIC LICENSING AND RELATED REGULATORY FUNCTIONS

1. The authority citation for Part 51 continues to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Subpart A also issued under National Environmental Policy Act of 1969, secs. 102, 104, 105, 83 Stat. 853-854, as amended (42 U.S.C. 4332, 4334, 4335); and Pub. L. 95-604, Title II, 92 Stat. 3033-3041. Section 51.22 also issued under sec. 274, 73 Stat. 688, as amended by 92 Stat. 3036-3038 (42 U.S.C. 2021).

2. In § 51.22, paragraph (c)(3) is revised to read as follows. Paragraph (c) introductory text is shown for the convenience of the reader.

§ 51.22 Criterion for and identification of licensing and regulatory actions eligible for categorical exclusion.

* * * * *

(c) The following categories of actions are categorical exclusions:

* * * * *

(3) Amendments to Parts 20, 30, 31, 32, 33, 34, 35, 40, 50, 51, 60, 61, 70, 71, 72, 73, 74, 81 and 100 of this chapter which relate to (i) procedures for filing and reviewing applications for licenses or construction permits or other forms of permission or for amendments to or renewals of licenses or construction permits or other forms of permission; (ii) recordkeeping requirements; or (iii) reporting requirements; and (iv) actions on petitions for rulemaking relating to these amendments.

* * * * *

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

3. The authority citation for Part 74 continues to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846).

For the purposes of sec. 223, 63 Stat. 958, as amended (42 U.S.C. 2273); §§ 74.31, 74.81, and 74.82 are issued under secs. 161b and 161i, 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b), 2201(i)); and §§74.11, 74.13, and 74.15 are issued under sec. #161o 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

4. In § 74.13, paragraph (a)(1) is revised to read as follows:

§ 74.13 Material status reports.

(a)(1) Each licensee authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit to the Commission (on DOE/NRC Form 742, Material Balance Report) material balance reports concerning special nuclear material received, produced, possessed, transferred, consumed, disposed of, or lost by it. Each nuclear reactor licensee, as defined in §§ 50.21 and 50.22 of this chapter, also shall prepare (on DOE/NRC Form 742C, Physical Inventory Listing) a statement of the composition of the ending inventory, and submit it to the Commission as an attachment to each material balance report. Each licensee shall compile a report as of March 31 and September 30 of each year and file it within 30 days after the end of the period covered by the report. The

Commission may permit a licensee to submit such reports at other times when good cause is shown. In preparing and submitting the reports described in this paragraph, each licensee shall comply with the printed instructions for completing the particular form.

* * * * *

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

6. The authority citation for Part 150 continues to read as follows:

Authority: Section 161, 68 Stat. 948, as amended, sec. 274, 73 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114). Section 150.14 also issued sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073). Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273): §§ 150.20(b)(2)–(4) and 150.21 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 150.14 is issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 150.16–150.19 and 150.20(b)(1) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

7. In § 150.17, paragraph (b) is revised to read as follows:

§ 150.17 Submission to the Commission of source material reports.

* * * * *

(b) Except as specified in paragraph (d) of this section and § 150.17a, each person authorized to possess at any one time and location, under an Agreement State license, more than 1,000 kilograms of uranium or thorium, or any combination of uranium or thorium, shall submit to the Commission within 30 days after September 30 of each year, a statement of the licensee's foreign origin source material inventory. This statement must be submitted to the address specified in the printed instructions (NUREG/BR–0007) and must include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee. Copies of the reporting instructions may be obtained by writing to U.S. Nuclear Regulatory Commission, Division of Safeguards, Washington, DC 20555.

* * * * *

Dated at Bethesda, Maryland, this 11th day of March, 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Acting Executive Director for Operations.

[FR Doc. 86–6268 Filed 3–20–86; 8:45 am]

BILLING CODE 7590–01–M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Ch. XII

Termination of Functions; Revocation of Regulations

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule, Notice of Termination of Depository Institutions Deregulation Committee, Revocation of Regulations, Delegation of Authority over Records and Residual Matters.

SUMMARY: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221; 12 U.S.C. 3501 et seq.) ("DIDA") mandates that on March 31, 1986, the Depository Institutions Deregulation Committee ("DIDC") be terminated. Pub. L. 96–211, Title II, section 210; 12 U.S.C. 3509. In accordance with that requirement, this document revokes the regulations of the DIDC and removes the regulations of the DIDC from the Code of Federal Regulations since they no longer have any legal existence. All future correspondence concerning the DIDA should be directed to the Assistant Secretary of Treasury (Domestic Finance).

EFFECTIVE DATE: 12:01 A.M., April 1, 1986.

FOR FURTHER INFORMATION CONTACT: John Bowman, Office of the General Counsel, Department of Treasury, Room 2026, Main Treasury Building, Washington, DC 20220 (202) 566–8737.

SUPPLEMENTARY INFORMATION: The DIDC has resolved to delegate to the Assistant Secretary of the Treasury (Domestic Finance) the authority to deal with any residual matters relating to the disposition of records and Freedom of Information Act requests and the permanent responsibility and authority to take all necessary and appropriate actions incidental to the termination of the DIDC's operations. Because the DIDC's regulations have no further legal existence, the DIDC voted to take such actions as are necessary to revoke those regulations and remove them from the Code of Federal Regulations: 12 CFR Parts 1201, 1202, 1203, 1204. These CFR sections deal with rules of organization and procedure for the DIDC, rules regarding availability of DIDC information, rules regarding public observation of the DIDC meetings, and rules regarding interest on deposits. Readers are referred to 31 CFR, Subtitle A, for regulations concerning the Office of the Assistant Secretary of the Treasury (Domestic Finance).

The DIDC has determined that notice and public procedure on this rule are unnecessary, pursuant to 5 U.S.C. 553(b), since there is no authority for the DIDC to exist or exercise any authority after March 31, 1986. The DIDA has terminated the DIDC effective March 31, 1986. Pub. L. 96–221, Title II, section 210; 12 U.S.C. 3509. For these same reasons, the DIDC has determined that a delayed effective date for this rule is unnecessary and contrary to the public interest pursuant to 5 U.S.C. 553(d)(3).

Accordingly, for the reasons set out in the preamble, 12 CFR is amended by removing Parts 1201, 1202, 1203, 1204 and vacating Chapter XII.

List of Subjects in 12 CFR Chapter XII

Banks, Banking, Savings and loan associations.

Authority: Title II of Pub. L. 96–221; 12 U.S.C. 3501 et seq.

Dated: March 18, 1986.

Mark G. Bender,

Executive Secretary of the Depository Institutions Deregulation Committee.

[FR Doc. 86–6277 Filed 3–20–86; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

Special Air Traffic Rules; High Density Traffic Airports Slot Allocation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting to withdraw high density traffic airport slots.

SUMMARY: On March 7, 1986, the Department issued a Special Federal Aviation Regulation which announced the date and location of lotteries to reallocate certain air carrier slots at LaGuardia, O'Hare International, and Washington National Airports (51 FR 8632, March 12, 1986). A lottery to allocate five percent of slots at the three airports will be held on March 27, 1986. A lottery will be held on March 26, 1986, to withdraw slots from incumbent air carriers at each airport as necessary to make a total of five percent of slots

available. At the request of affected incumbent carriers, the drawing to determine the order in which carriers will select the slots to be withdrawn has been rescheduled for 1:00 p.m. on March 25. This will provide carriers subject to withdrawal of slots additional time to plan for the actual withdrawal on March 26.

This notice announces a meeting to conduct a drawing to determine the order in which incumbent air carriers at LaGuardia, O'Hare, and Washington National Airports will select slots to be withdrawn. The meeting will be held at FAA Headquarters on March 25, 1986.

DATE: The meeting will be held on Tuesday, March 25, 1986, at 1:00 p.m.

ADDRESS: The meeting will be held at FAA Headquarters, Third Floor Auditorium, 800 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Manager, Airspace and Air Traffic Law Branch, AGC-230, Telephone: (202) 426-3691, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of Special Federal Aviation Regulation No. 48, "Special Slot Withdrawal and Reallocation Procedures," by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 426-8058. Communications must identify the amendment number of the document.

Public Process

This notice announces a meeting to conduct a drawing to determine the order in which incumbent air carriers will select slots for withdrawal at LaGuardia, O'Hare, and Washington National Airports. The meeting is open to the public and all interested persons are invited to attend. The meeting will begin at 1:00 p.m. on Tuesday, March 25, 1986, at FAA Headquarters, in the Third Floor Auditorium.

Issued in Washington, DC, on March 17, 1986.

E. Tazewell Ellett,

Chief Counsel.

[FR Doc. 86-6176 Filed 3-20-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 760]

United States Steel Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified a 1924 order (8 F.T.C. 1) issued against respondent by deleting a requirement that the company included specific price and transportation information on its contracts and invoices.

DATES: Order issued July 21, 1924. Modifying Order issued March 10, 1986.

FOR FURTHER INFORMATION CONTACT: FTC/L-301, Daniel P. Ducore, Washington, DC 20580. (202) 634-4642.

SUPPLEMENTARY INFORMATION: In the Matter of United States Steel Corporation, et al.

List of Subjects in 16 CFR Part 13

Steel, Trade practices.

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

Federal Trade Commission

Order Reopening and Modifying Order Issued on July 21, 1924

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

[Docket No. 760]

In the Matter of United States Steel Corporation, *et al.*

On November 7, 1985, respondent United States Steel Corporation ("USS") filed its "Request to Reopen and Set Aside in Part and Modify in Part the Order" ("Request"), pursuant to section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), and § 2.51 of the Commission's Rules of Practice. The Request asked the Commission to reopen the proceeding in Docket No. 760 and to modify the order issued by the Commission in this case on July 21, 1924, by deleting paragraph 3, which requires USS to state clearly on its contracts and invoices how much is charged for the steel f.o.b. the producing or shipping point and how much, if any, is charged for the actual transportation. USS also asks that the order be modified to specify that, "Quotations and sales may be made on a net delivered price basis so long as there is no concerted refusal to quote or sell rolled steel products f.o.b. the plant where the products are manufactured or from which they are shipped." USS' request was placed on the public record for thirty days; no comments were received.

After reviewing USS' request and other available information, the Commission has concluded that the public interest warrants reopening and modification of the order to eliminate paragraph 3. The requirement that price and transportation information be included on USS' contracts and invoices for rolled steel products was adopted principally as a fencing-in restraint ancillary to the order's prohibitions against the use of the "Pittsburgh Plus" or other basing point pricing system and against price discrimination. USS has shown that since the deregulation of railroad freight rates by the Staggers Rail Act of 1980, 49 U.S.C. 10701 *et seq.*, enacted by Congress to promote competition by allowing carriers to negotiate confidential contract rates with their customers, many carriers have insisted that USS not disclose their negotiated rates. This change in the legal framework within which carriers and USS now operate, and the carriers' insistence upon confidentiality within that new framework, represents a changed condition of fact warranting elimination of the order's requirement that the actual freight charge appear on contracts and invoices between USS and its customers. Disclosure of USS' rates in its invoices allows USS' competitors to discover any favorable terms which it has negotiated with carriers and would reduce the incentive of a rail carrier to offer USS a favorable rate. Elimination of Paragraph 3 is therefore in the public interest because it will enable USS to compete effectively for contract rates.

The disclosure requirements of paragraph 3 appear to have served their remedial purpose. There is no indication that USS has used the "Pittsburgh Plus" or other basing point system of pricing or engaged in price discrimination of the type contemplated by the order since July 21, 1924. Nothing in the record suggests that the requirements of paragraph 3 are now needed to ensure that basing point pricing or price discrimination are not reinstituted by USS.

With respect to the remainder of the Request, which asks that the order be modified to specify that, "Quotations and sales may be made on a net delivered price basis so long as there is no concerted refusal to quote or sell rolled steel products f.o.b. the plant where the products are manufactured or from which they are shipped," such

modification is not necessary. Once paragraph 3 is deleted, the remaining provisions of the order do not restrict USS' ability to quote or sell on a net delivered price basis. Rather, these provisions only ban quoting or selling of rolled steel products at "Pittsburgh Plus" prices, which the order defines as adding to the price of products shipped from points outside Pittsburgh amounts equal to the freight if the products had been shipped from Pittsburgh, or upon any other basing point. Net delivered pricing would not, therefore, be precluded so long as there was no charge for fictitious freight.

Accordingly, it is ordered that this matter be, and it hereby is, reopened and that paragraph 3 of the order be, and it hereby is, deleted.

Issued: March 10, 1986.

By the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-6183 Filed 3-20-86; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6653; 34-23026; 35-24051; 39-1089; IC-14992; IA-1017]

Approved Information Collections; Current OMB Expiration Dates

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending Subpart N of Part 200 relating to collection requirements under the Paperwork Reduction Act to reflect current OMB expiration dates for approved information collections.

EFFECTIVE DATE: March 21, 1986.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Fogash, Deputy Executive Director, SEC, 450 Fifth Street, NW., Washington, DC 20549 (202) 272-2142.

SUPPLEMENTARY INFORMATION: The Commission will amend Subpart N periodically to reflect current information.

The Commission finds that this amendment, concerning the display of the control numbers and expiration dates assigned to information collection requirements of the Commission by the Office of Management and Budget pursuant to the Paperwork Reduction Act, pertains only to procedural matters; it is therefore not subject to the provisions of the Administrative Procedure Act, 5 U.S.C. 551 et seq., requiring advance notice and opportunity for comment. Accordingly, it is effective upon publication in the **Federal Register.**

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of Information, Privacy, Reporting and recordkeeping requirements, Securities.

Text of Amendment

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

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Subpart N—Commission Information, Collection Requirements Under the Paperwork Reduction Act: OMB, Control Nos. and Expiration Dates

The authority citation for Part 200, Subpart N continues to read as follows:

Authority

44 U.S.C. 3507(f); secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 3(b), 12, 13, 14, 15(d), 23(a), 48 Stat. 882, 902, 904, 905, 901; secs. 203(a), 1, 3, 8, 49 Stat. 704, 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 4, 5, 6(d), 78 Stat. 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; 1503; secs. 8, 9, 10, 89 Stat. 117, 118, 119; sec. 308(b), 90 Stat. 57; sec. 18, 89 Stat. 155; secs. 202, 203, 204, 91 Stat. 1494, 14981500; sec. 20(a), 49 Stat. 833; sec. 319, 53 Stat. 1173; sec. 38, 54, Stat. 841; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78c(b), 781, 78m, 78n, 78o(d), 78w(a), 796(a), 77sss(a), 80a-37.

Section 200.800 is amended by revising the OMB control number and expiration date for Rule 17Ad4 (b) and (c); by adding Form N-7, Form S-4, Form N-14, Form F-4, Form ET, Form ID, Form SE, Form TA-2, Form N-SAR, Rule 2a19-1, Rule 26a-3, Form N-3, and Form N-4; by deleting Form C-3, Form S-12, Form S-14, Rule 17a-12, Rule 17a-16, Rule 17a-17, Rule 17a-20, Rule 24b-2, Form 2-MD, Form X-17a-12(1), Form X-17a-12(2), Form X-17A-16(1), Form X-17A-16(2), Form X-17a-17, Rule 48(b), Form N-1R, Form N-30A-2, Form N-30A-3, Form N-5R and Form N-1Q; and revising certain expiration dates in paragraph (b) as follows:

§ 200.800 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

Information collection requirement	17 CFR Part or section where identified and described	Current OMB control No.	Expiration date
Revise:			
Regulation S-X	Part 210	3235-0009	Jan. 31, 1989.
Regulation S-K	Part 229	3235-0071	Jan. 31, 1989.
Rule 236	§ 230.236	3235-0095	Mar. 31, 1987.
Regulation A	§§ 230.251 through 230.264	3235-0286	Jan. 31, 1989.
Regulation B	§§ 230.300 through 230.345	3235-0093	May 31, 1987.
Regulation C	§§ 230.400 through 230.494	3235-0074	Mar. 31, 1987.
Regulation D	§§ 230.501 through 230.506	3235-0076	Jan. 31, 1988.
Rule 604	§ 230.604	3235-0232	June 30, 1987.
Rule 605	§ 230.605	3235-0232	June 30, 1987.
Rule 606	§ 230.606	3235-0232	June 30, 1987.
Rule 607	§ 230.607	3235-0232	June 30, 1987.
Rule 609	§ 230.609	3235-0232	June 30, 1987.
Regulation F	§§ 230.651 through 230.656	3235-0094	Oct. 31, 1987.
Form S-1	§ 239.11	3235-0065	Sept. 30, 1988.
Form S-2	§ 239.12	3235-0072	Sept. 30, 1988.
Form S-3	§ 239.13	3235-0073	Sept. 30, 1988.
Form N-1A	§ 239.15A	3235-0307	Dec. 31, 1986.
Form S-6	§ 239.16	3235-0184	Sept. 30, 1987.
Form S-11	§ 239.18	3235-0067	Sept. 30, 1988.
Form S-18	§ 239.28	3235-0098	Nov. 30, 1986.
Form S-15	§ 239.29	3235-0053	Mar. 31, 1988.
Form F-1	§ 239.31	3235-0258	May 31, 1988.
Form F-2	§ 239.32	3235-0257	May 31, 1988.

Information collection requirement	17 CFR Part or section where identified and described	Current OMB control No.	Expiration date
Form F-3	§ 239.33	3235-0256	May 31, 1988.
Form F-6	§ 239.36	3235-0292	Jan. 31, 1989.
Form S-R	§ 239.61	3235-0124	Oct. 31, 1987.
Form 1-A	§ 239.90	3235-0286	Jan. 31, 1989.
Form 2-A	§ 239.91	3235-0286	Jan. 31, 1989.
Form 3-A	§ 239.92	3235-0286	Jan. 31, 1989.
Form 4-A	§ 239.93	3235-0286	Jan. 31, 1989.
Form 5-A	§ 239.94	3235-0286	Jan. 31, 1989.
Form 6-A	§ 239.95	3235-0286	Jan. 31, 1989.
Form 7-A	§ 239.96	3235-0286	Jan. 31, 1989.
Schedules A, B, C, D	§ 239.101	3235-0093	Mar. 31, 1987.
Form 1-G	§ 239.101	3235-0093	Mar. 31, 1987.
Form 3-G	§ 239.101	3235-0093	Mar. 31, 1987.
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Form 1-E	§ 239.200	3235-0232	June 30, 1987.
Form 2-E	§ 239.201	3235-0233	Jan. 31, 1988.
Form 1-F	§ 239.300	3235-0094	Oct. 31, 1987.
Form D	§ 239.500	3235-0076	Jan. 31, 1988.
Rule 6a-1	§ 240.6a-1	3235-0017	Sept. 30, 1988.
Rule 6a-2	§ 240.6a-2	3235-0022	Sept. 30, 1988.
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Rule 11Ab2-1	§ 240.11Ab2-1	3235-0043	Sept. 30, 1987.
Rule 12a-5	§ 240.12a-5	3235-0079	Oct. 31, 1987.
Regulation 12B	§ 240.12b-1 through 240.12b-36	3235-0062	Oct. 31, 1987.
Rule 12d1-3	§ 240.12d1-3	3235-0109	Oct. 31, 1987.
Rule 12d2-1	§ 240.12d2-1	3235-0081	Oct. 31, 1987.
Rule 12d2-2	§ 240.12d2-2	3235-0080	Oct. 31, 1987.
Rule 12f-1	§ 240.12f-1	3235-0128	Oct. 31, 1987.
Rule 12f-2	§ 240.12f-2	3235-0248	Nov. 30, 1987.
Rule 12f-3	§ 240.12f-3	3235-0249	Nov. 30, 1987.
Rule 12g3-2	§ 240.12g3-2	3235-0119	Jan. 31, 1989.
Regulation 13D/G	§ 240.13d-1 through 240.13d-7	3235-0145	Sept. 30, 1988.
Schedule 13D	§ 240.13d-101	3235-0145	Sept. 30, 1988.
Schedule 13G	§ 240.13d-102	3235-0145	Sept. 30, 1988.
Rule 13e-1	§ 240.13e-1	3235-0305	Feb. 28, 1989.
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Rule 13e-4	§ 240.13e-4	3235-0203	Feb. 28, 1989.
Schedule 13e3	§ 240.13e-100	3235-0007	June 30, 1986.
Schedule 13e-4	§ 240.13e-101	3235-0203	Feb. 28, 1989.
Regulation 14A	§§ 240.14a-1 through 240.14a-12	3235-0059	Sept. 30, 1988.
Schedule 14A	§ 240.14a-101	3235-0059	Sept. 30, 1988.
Schedule 14B	§ 240.14a-102	3235-0059	Sept. 30, 1988.
Regulation 14C	§ 240.14c-1	3235-0057	Sept. 30, 1988.
Schedule 14C	§ 240.14c-101	3235-0057	Sept. 30, 1988.
Regulation 14D	§ 240.14d-1 through 240.14d-9	3235-0102	Jan 31, 1987.
Schedule 14d-1	§ 240.14d-100	3235-0102	Jan. 31, 1987.
Schedule 14d-9	§ 240.14d-101	3235-0102	Jan. 31, 1987.
Regulation 14E	§§ 240.14e-1 through 240.14e-2	3235-0102	Jan. 31, 1987.
Rule 14f-1	§ 240.14f-1	3235-0108	Dec. 31, 1987.
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Rule 15Aa-1	§ 240.15Aa-1	3235-0030	Sept. 30, 1987.
Rule 15Aj-1	§ 240.15Aj-1	3235-0044	Sept. 30, 1987.
Rule 15b1-1	§ 240.15b1-1	3235-0012	May 31, 1988.
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Rule 15b1-3	§ 240.15b1-3	3235-0011	May 31, 1988.
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Rule 15b2-1	§ 240.15b2-1	3235-0014	Sept. 30, 1987.
Rule 15b3-1	§ 240.15b3-1	3235-0013	Sept. 30, 1987.
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Rule 15Ba2-1	§ 240.15Ba2-1	3235-0083	Sept. 30, 1988.
Rule 15Ba2-2	§ 240.15Ba2-2	3235-0080	Oct. 31, 1987.
Rule 15Ba2-4	§ 240.15Ba2-4	3235-0089	Oct. 31, 1987.
Rule 15Ba2-5	§ 240.15Ba2-5	3235-0088	Oct. 31, 1987.
Rule 15Ba2-6	§ 240.15Ba2-6	3235-0086	Oct. 31, 1987.
Rule 15Bc3-1	§ 240.15Bc3-1	3235-0087	Oct. 31, 1987.
Rule 15c2-5	§ 240.15c2-5	3235-0198	Nov. 30, 1987.
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Rule 15c3-1	§ 240.15c3-1	3235-0200	May 31, 1987.
Rule 15c3-3	§ 240.15c3-3	3235-0078	Apr. 30, 1987.
Rule 15c1-7	§ 240.15c1-7	3235-0134	Oct. 31, 1987.
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Rule 17a-3	§ 240.17a-3	3235-0033	May 31, 1988.
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Rule 17a-5	§ 240.17a-5	3235-0123	May 31, 1987.
Rule 17a5(c)	§ 240.17a5(c)	3235-0199	Sept. 30, 1988.
Rule 17a-7	§ 240.17a-7	3235-0131	Oct. 31, 1986.
Rule 17a-8	§ 240.17a-8	3235-0092	Nov. 30, 1987.
Rule 17a-10	§ 240.17a-10	3235-0122	Oct. 31, 1987.
Rule 17a-11	§ 240.17a-11	3235-0085	Sept. 30, 1987.
Rule 17a-13	§ 240.17a-13	3235-0035	Oct. 31, 1987.
Rule 17a-19	§ 240.17a-19	3235-0133	Oct. 31, 1987.
Rule 17a-22	§ 240.17a-22	3235-0196	Nov. 30, 1987.
Rule 17Ab2-1 (a) and (e)	§ 240.17Ab2-1 (a) and (e)	3235-0195	Nov. 30, 1987.
Rule 17Ac2-1 (a) and (c)	§ 240.17Ac2-1 (a) and (c)	3235-0084	June 30, 1988.
Rule 17Ac3-1(a)	§ 240.17Ac3-1	3235-0151	Oct. 31, 1987.

Information collection requirement	17 CFR Part or section where identified and described	Current OMB control No.	Expiration date
Rule 17Ad2 (c), (d) and (h)	§ 240.Ad2 (c), (d) and (h)	3235-0130	Oct. 31, 1987.
Rule 17Ad4 (b) and (c)	§ 240.17Ad4 (b) and (c)	3235-0341	Jan. 31, 1989.
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Rule 17Ad-11	§ 240.17Ad(11)	3235-0274	Jan. 31, 1989.
Rule 17Ad-13	§ 240.17Ad(13	3235-0275	Jan. 31, 1989.
Rule 17f-1(b)	§ 240.17f-1(b)	3235-0032	Nov. 30, 1988.
Rule 17f-1(c)	§ 240.17f-1(c)	3235-0037	Nov. 30, 1988.
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Rule 17f-2(a)	§ 240.17f-2(a)	3235-0034	Oct. 31, 1988.
Rule 17f-2(c)	§ 240.17f-2(c)	3235-0029	Sept. 30, 1987.
Rule 17f-2(d)	§ 240.17f-2(d)	3235-0028	Sept. 30, 1987.
Rule 17f-2(e)	§ 240.17f-2(e)	3235-0031	Sept. 30, 1988.
Rule 17f-5	§ 240.17f-5	3235-0269	Sept. 30, 1988.
Rule 19b-4	§ 240.19b-4	3235-0045	Sept. 30, 1987.
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Rule 19d-2	§ 240.19d-2	3235-0205	Nov. 30, 1987.
Rule 19d-3(b)-(1)	§ 240.19d-3(b)-(1)	3235-0240	Nov. 30, 1987.
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Rule 24b-1	§ 240.24b-1	3235-0194	Nov. 30, 1987.
Form 1	§ 249.1	3235-0017	Sept. 30, 1988.
Form 1-A	§ 249.1a	3235-0022	Sept. 30, 1988.
Form 25	§ 249.25	3235-0080	Oct. 31, 1987.
Form 26	§ 249.26	3235-0079	Oct. 31, 1987.
Form 27	§ 249.27	3235-0248	Nov. 30, 1987.
Form 28	§ 249.28	3235-0249	Nov. 30, 1987.
Form 3	§ 249.103	3235-0104	Nov. 30, 1987.
Form 4	§ 249.104	3235-0287	Jan. 31, 1989.
Form 8-A	§ 249.208a	3235-0056	Oct. 31, 1987.
Form 8-B	§ 249.208b	3235-0068	Sept. 30, 1988.
Form 10	§ 249.210	3235-0064	Sept. 30, 1988.
Form 18	§ 249.218	3235-0121	May 31, 1988.
Form 20-F	§ 249.220f	3235-0288	May 31, 1987.
Form 6-K	§ 249.306	3235-0116	May 31, 1988.
Form 8-K	§ 249.308	3235-0060	Oct. 31, 1987.
Form 10-Q	§ 249.308a	3235-0070	Sept. 30, 1988.
Form 10-K	§ 249.310	3235-0063	Feb. 28, 1989.
Form 10-C	§ 249.310c	3235-0191	Nov. 30, 1987.
Form 11-K	§ 249.311	3235-0082	Mar. 31, 1987.
Form 18-K	§ 249.318	3235-0120	May 31, 1988.
Form 12b-25	§ 249.322	3235-0058	Mar. 31, 1988.
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Form 13F	§ 249.325	3235-0006	Jan. 31, 1988.
Form 8	§ 249.460	3235-0141	Mar. 31, 1987.
Form BD	§ 249.501	3235-0012	May 31, 1988.
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Form X-17A-5	§ 249.617	3235-0123	May 31, 1987.
Form X-17A-19	§ 249.635	3235-0133	Oct. 31, 1987.
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Form X-15AA-1	§ 249.801	3235-0030	Sept. 30, 1987.
Form X-15AJ-1	§ 249.802	3235-0044	Sept. 30, 1987.
Form X-15AJ-2	§ 249.803	3235-0044	Sept. 30, 1987.
Form 19b-4	§ 249.819	3235-0045	Sept. 30, 1987.
Form SIP	§ 249.1001	3235-0043	Sept. 30, 1987.
Form MSD	§ 249.1100	3235-0083	Sept. 30, 1988.
Form MSDW	§ 249.1110	3235-0087	Oct. 31, 1987.
Form X-17f-1A	§ 249.1200	3235-0037	Nov. 30, 1988.
Form TA-1	§ 249b.100	3235-0084	June 30, 1988.
Form TA-W	§ 249b.101	3235-0151	Oct. 31, 1987.
Form CA-1	§ 249b.200	3235-0195	Nov. 30, 1987.
Rule 1(a)	§ 250.1(a)	3235-0170	Sept. 30, 1988.
Rule 1(b)	§ 250.1(b)	3235-0170	Sept. 30, 1988.
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Rule 2	§ 250.2	3235-0161	Sept. 30, 1988.
Rule 3	§ 250.3	3235-0160	Sept. 30, 1988.
Rule 7	§ 250.7	3235-0165	Sept. 30, 1988.
Rule 7(d)	§ 250.7(d)	3235-0165	Sept. 30, 1988.
Rule 20(b)	§ 250.20(b)	3235-0125	Sept. 30, 1988.
Rule 20(d)	§ 250.10(d)	3235-0163	Sept. 30, 1988.
Rule 24	§ 250.24	3235-0126	Sept. 30, 1988.
Rule 26	§ 250.26	3235-0183	Sept. 30, 1988.
Rule 29(a)	§ 250.29a	3235-0149	Sept. 30, 1988.
Rule 29(b)	§ 250.29(b)	3235-0149	Sept. 30, 1988.
Rule 42	§ 250.42	3235-0171	Sept. 30, 1988.
Rule 44	§ 250.44	3235-0147	Sept. 30, 1988.
Rule 45	§ 250.45	3235-0154	Sept. 30, 1988.
Rules 47(b) and 20(d)	§§ 250.47(b) and 250.20(d)	3235-0163	Sept. 30, 1988.
Rule 48(b)	§ 250.48(b)	3235-0156	Sept. 30, 1988.
Rule 50	§ 250.50	3235-0126	Sept. 30, 1988.
Rule 62	§ 250.62	3235-0152	Sept. 30, 1988.
Rule 71(a)	§ 250.71(a)	3235-0173	Sept. 30, 1988.
Rule 72	§ 250.72	3235-0149	Sept. 30, 1988.
Rule 83	§ 250.83	3235-0181	Sept. 30, 1988.
Rule 87	§ 250.87	3235-0182	Sept. 30, 1988.
Rule 88	§ 250.88	3235-0182	Sept. 30, 1988.
Rule 93	§ 250.93	3235-0153	Sept. 30, 1988.
Rule 94	§ 250.94	3235-0153	Sept. 30, 1988.

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Rule 95	§ 250.95	3235-0162	Sept. 30, 1988.
Rules 100(a), 20(c) and 23	§§ 250.100(a), 250.20(c) and 250.23	3235-0125	Sept. 30, 1988.
	Part 256	3235-0153	Sept. 30, 1988.
	Part 256(a)	3235-0153	Sept. 30, 1988.
	Part 257	3235-0306	Sept. 30, 1988.
Form U5A	§ 259.5a	3235-0170	Sept. 30, 1988.
Form U5B	§ 259.5b	3235-0170	Sept. 30, 1988.
Form U5S	§ 259.5s	3235-0164	Sept. 30, 1988.
Form U-12(1)A	§ 259.12(a)	3235-0173	Sept. 30, 1988.
Form U-12(1)B	§ 259.12(b)	3235-0173	Sept. 30, 1988.
Form U-13E-1	§ 259.213	3235-0162	Sept. 30, 1988.
Form U-R-1	§ 259.221	3235-0152	Sept. 30, 1988.
Form U-13-60	§ 259.313	3235-0153	Sept. 30, 1988.
Form U-3A-2	§ 259.402	3235-0161	Sept. 30, 1988.
Form U-3A3-1	§ 259.403	3235-0160	Sept. 30, 1988.
Form U-7d	§ 259.404	3235-0165	Sept. 30, 1988.
Form U-A	§ 259.501	3235-0125	Sept. 30, 1988.
Rules 7a-15 through 7a-37	§§ 260.7a-15 through 260.7a-37	3235-0132	Dec. 31, 1987.
Form T-1	§ 269.1	3235-0110	Dec. 31, 1987.
Form T-2	§ 269.2	3235-0111	Dec. 31, 1987.
Form T-3	§ 269.3	3235-0105	Dec. 31, 1987.
Form T-4	§ 269.4	3235-0107	Dec. 31, 1987.
Rule 2A-7	§ 270.2a-7	3235-0268	Sept. 30, 1987.
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Rule 6c-7	§ 270.6c-7	3235-0276	Jan. 31, 1987.
Rule 6e	§ 270.6e-2(b)(9)	3235-0177	Jan. 31, 1987.
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Rule 8b-11	§ 270.8b-11	3235-0176	Jan. 31, 1987.
Rule 8b-16	§ 270.8b-16	3235-0176	Jan. 31, 1987.
Rule 8b-20	§ 270.8b-20	3235-0176	Jan. 31, 1987.
Rule 8b-21(b)	§ 270.8b-21(b)	3235-0176	Jan. 31, 1987.
Rule 8b-25	§ 270.8b-25	3235-0176	Jan. 31, 1987.
Rule 8b-32(b)	§ 270.8b-32(b)	3235-0176	Jan. 31, 1987.
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Rule 11a-2	§ 270.11a-2	3235-0272	Jan. 31, 1989.
* * *	* * * *		
Rule 17a-7(b)	§ 270.17a-7(f)	3235-0214	Jan. 31, 1988.
Rule 17a-8	§ 270.17a-8	3235-0235	Jan. 31, 1988.
Rule 17e-1	§ 270.17e-1	3235-0217	Oct. 31, 1987.
Rule 17f-1	§ 270.17f-1	3235-0222	Feb. 28, 1989.
Rule 17f-2	§ 270.17f-2	3235-0223	Oct. 31, 1988.
Rule 17f-4	§ 270.17f-4	3235-0225	Aug. 31, 1987.
Rule 17f-1(g)	§ 270.17f-1(g)	3235-0213	Jan. 31, 1989.
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Rule 18f-1	§ 270.18f-1	3235-0211	Jan. 31, 1988.
Rule 19a-1	§ 270.19a-1	3235-0216	Jan. 31, 1988.
Rule 20a-1(b)	§ 270.20a-1(b)	3235-0158	Sept. 30, 1988.
Rule 20a-2	§ 270.20a-2	3235-0158	Sept. 30, 1988.
Rule 20a-3	§ 270.20a-3	3235-0158	Sept. 30, 1988.
Rule 22d-4	§ 270.22d-4	3235-0234	Jan. 31, 1988.
Rule 23c-1	§ 270.23c-1	3235-0260	Feb. 28, 1989.
Rule 24f-1	§ 270.24f-1	3235-0155	Jan. 31, 1988.
Rule 24f-2	§ 270.24f-2	3235-0159	Jan. 31, 1988.
Rule 30a-1	§ 270.30a-1	3235-0219	Jan. 31, 1988.
Rule 30b2-1	§ 270.30b2-1	3235-0220	Jan. 31, 1988.
Rule 30d-1	§ 270.30d-1	3235-0025	Dec. 31, 1987.
Rule 31a-1	§ 270.31a-1	3235-0178	Mar. 31, 1987.
Rule 31a-2	§ 270.31a-2	3235-0179	Sept. 30, 1988.
Form N-5	§ 274.5	3235-0169	Feb. 28, 1989.
Form N-8A	§ 274.10	3235-0175	Jan. 31, 1988.
Form N-1	§ 274.11	3235-0027	Feb. 28, 1989.
Form N-1A	§ 274.11a	3235-0307	Dec. 31, 1986.
Form N-2	§ 274.11a-1	3235-0026	Dec. 31, 1987.
Form N-8B-2	§ 274.12	3235-0186	Feb. 28, 1989.
Form N-8B-3	§ 274.13	3235-0166	Dec. 31, 1987.
Form N-8B-4	§ 274.14	3234-0247	Dec. 31, 1987.
Form N-6F	§ 274.15	3235-0238	Jan. 31, 1988.
Form N-18f	§ 274.51	3235-0211	Jan. 31, 1988.
Form N-17d-1	§ 274.200	3235-0229	Jan. 31, 1988.
Form N-23C-1	§ 274.201	3235-0230	Jan. 31, 1988.
Form N-8F	§ 274.218	3235-0157	Jan. 31, 1988.
Form N-6E1-1	§ 274.301	3235-0177	Jan. 31, 1988.
Rule O-2	§ 275.0-2	3235-0240	Jan. 31, 1989.
Form N-54A	§ 275.53	3235-0237	Jan. 31, 1988.
Form N-54C	§ 275.54	3235-0236	Jan. 31, 1988.
Rule 203-1	§ 275.203-1	3235-0049	June 30, 1988.
Rule 203-2	§ 275.203-2	3235-0313	June 30, 1988.
Rule 204-1	§ 275.204-1	3235-0048	June 30, 1988.
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Rule 204-3	§ 275.204-3	3235-0047	Jan. 31, 1989.
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Rule 206(4)-2	§ 275.206(4)-2	3235-0241	Jan. 31, 1989.
Rule 206(4)-3	§ 275.206(4)-3	3235-0242	Feb. 28, 1989.
Form ADV	§ 279.1	3235-0049	June 30, 1988.
Form ADV-W	§ 279.2	3235-0313	Jan. 31, 1989.
Form ADV-S	§ 279.3	3235-0046	Sept. 30, 1987.
Form 4-R	§ 279.4	3235-0240	Jan. 31, 1989.

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Form 5-R	§ 279.5	3235-0240	Jan. 31, 1989.
Form 6-R	§ 279.6	3235-0240	Jan. 31, 1989.
Form 7-R	§ 279.7	3235-0240	Jan. 31, 1989.
Add:			
Form N-7	§ 239.16A	3235-0338	June 30, 1988.
Form S-4	§ 239.25	3235-0324	Jul. 31, 1987.
Form N-14	§ 239.23	3235-0336	May 31, 1988.
Form F-4	§ 239.34	3235-0325	Jul. 31, 1987.
Form ET	§ 239.62	3235-0329	Oct. 31, 1986.
Form ID	§ 239.63	3235-0328	Oct. 31, 1986.
Form SE	§ 239.64	3235-0327	Oct. 31, 1986.
Form TA-2	§ 249b.102	3235-0337	June 30, 1988.
Form N-SAR	§ 249.330	3235-0330	Mar. 31, 1988.
Form SE	§ 249.444	3235-0327	Oct. 31, 1986.
Form ET	§ 249.445	3235-0329	Oct. 31, 1986.
Form ID	§ 249.446	3235-0328	Oct. 31, 1986.
Form SE	§ 259.603	3235-0327	Oct. 31, 1986.
Form ET	§ 259.601	3235-0329	Oct. 31, 1986.
Form ID	§ 259.602	3235-0328	Oct. 31, 1986.
Form SE	§ 269.7	3235-0327	Oct. 31, 1986.
Form ET	§ 269.5	3235-0329	Oct. 31, 1986.
Form ID	§ 269.6	3235-0328	Oct. 31, 1986.
Rule 2a19-1	§ 270.2a19-1	3235-0332	Dec. 31, 1988.
Rule 26a-3	§ 270.26a-3	3235-0333	Dec. 31, 1987.
Form N-3	§ 274.11b	3235-0316	Apr. 30, 1987.
Form N-4	§ 274.11c	3235-0318	Apr. 30, 1987.
Form N-SAR	§ 274.101	3235-0330	Mar. 31, 1988.
Form SE	§ 274.403	3235-0327	Oct. 31, 1986.
Form ET	§ 274.401	3235-0329	Oct. 31, 1986.
Form ID	§ 274.402	3235-0328	Oct. 31, 1986.
Form N-7	§ 274.12A	3235-0338	June 30, 1988.
Delete:			
Form C-3	§ 239.5	3235-0112	Nov. 30, 1984.
Form S-12	§ 239.19	3235-0112	Nov. 30, 1984.
Form S-14	§ 239.23	3235-0052	Oct. 31, 1984.
Rule 17a-12	§ 240.17a-12	3235-0192	Dec. 31, 1984.
Rule 17a-16	§ 240.17a-16	3235-0038	Sept. 30, 1984.
Rule 17a-17	§ 240.17a-17	3235-0039	Sept. 30, 1984.
Rule 17a-20	§ 240.17a-20	3235-0207	Dec. 31, 1984.
Rule 24b-2	§ 240.24b-2	3235-0127	Nov. 30, 1984.
Form 2-MD	§ 249.402	3235-0215	Dec. 31, 1984.
Form X-17a-12(1)	§ 249.619	3235-0192	Dec. 31, 1984.
Form X-17a-12(2)	§ 249.620	3235-0193	Dec. 31, 1984.
Form X-17a-16(1)	§ 249.631	3235-0038	Sept. 30, 1984.
Form X-17a-16(2)	§ 249.632	3235-0040	Sept. 30, 1984.
Form X-17a-17	§ 249.633	3235-0039	Sept 30, 1984.
Rule 48(b)	§ 250.48(b)	3235-0156	Dec. 31, 1984.
Form N-1R	§ 274.101	3235-0227	Oct. 31, 1985.
Form N-30A-2	§ 274.201	3235-0051	Oct. 31, 1984.
Form N-30A-3	§ 274.103	3235-0051	Oct. 31, 1984.
Form N-5R	§ 274.105	3235-0210	Dec. 31, 1984.
Form N-1Q	§ 274.106	3235-0248	Oct. 31, 1985.

Dated: March 17, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-6209 Filed 3-20-86; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Part 270

[Release No. IC-14983; File No. S7-30-85]

Acquisition and Valuation of Certain Portfolio Instruments by Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Adoption of final rule and rule amendments.

SUMMARY: The Commission is adopting amendments to an existing rule that permits money market funds to use the amortized cost method of valuing their portfolio securities or the penny-rounding method of computing their price per share. The amendments will allow funds replying on the rule to acquire put options and to treat variable rate or floating rate debt securities with periodic demand features, a type of put option, as short-term debt securities under certain conditions. The amendments also clarify the responsibilities that the existing rule assigns to money market fund directors and allow money market funds to rely on a high quality rating assigned by a nationally recognized statistical rating organization that does not control and is not controlled by or under common control with the issuer of or any insurer, guarantor or provider of credit support for the rated securities.

The Commission is also adopting an amendment to an existing rule that exempts certain investment company acquisitions of securities issued by persons engaged in securities related activities in order to clarify the circumstances under which investment companies may acquire demand features and another type of put option known as standby commitments. Finally, the Commission is adopting a new rule that allows registered investment companies to assign a fair value of zero to standby commitments.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Jack W. Murphy, Attorney, (202) 272-2048 or Elizabeth K. Norsworthy, Chief, (202) 272-2048, Office of Regulatory Policy, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

After the effective date, questions should be directed to the Office of the Chief Counsel, (202) 272-2030, Division of Investment Management, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today is adopting amendments to rules 2a-7 [17 CFR 270.2a-7] and 12d3-1 [17 CFR 270.12d3-1] and adopting rule 2a41-1 [17 CFR 270.2a41-1] under the Investment Company Act of 1940 [15 U.S.C. 80a-1, *et seq.*] ("Act").

Last July, the Commission proposed amendments to rules 2a–7 and 12d3–1 and adoption of new rule 2a41–1 [1] to give money market funds more flexibility to acquire certain types of put options known as demand features and standby commitments. The fifteen commentators on the proposal generally supported the initiative taken by the Commission, but believed that certain aspects of the proposal should be modified or eliminated. Those comments are reflected in the final version of the rule and rule amendments as discussed below.

Subject to specified conditions, rule 2a–7 allows certain open-end investment companies known as money market funds to use either the amortized cost method of valuing their portfolio securities [2] or the penny-rounding method of pricing their securities. [3] The rule requires money market funds using the above methods to limit their investments to instruments that are of high quality and that have a remaining maturity of one year or less. Funds relying on the rule must also maintain an average dollar-weighted portfolio maturity of no more than 120 days. [4]

The amendments to rule 2a–7 permit money market funds relying on the rule to acquire put options, including demand features and standby commitments, under certain conditions. The final version of the rule uses the term "put" to describe the type of options that may be acquired, instead of the term "liquidity put" that was used in the proposal. As proposed, the final rule imposes a five percent limitation on the puts that a fund may acquire from the same institution. However, unlike the proposal, the final rule tracks section 5(b)(1) of the Act [15 U.S.C. 80a–5(b)(1)] and rule 5b–2 thereunder [17 CFR 270.5b–2] by imposing that limitation with respect to only 75 percent of a fund's portfolio and allowing a fund to invest up to ten percent of its assets in unconditional puts or other securities issued by the same institution. [5]

The final rule also clarifies the circumstances under which a demand feature or standby commitment may be considered to be of high quality. Both the long-term and the short-term aspects of demand instruments must be of high quality before they can be acquired by a fund relying on the rule unless the demand feature is unconditional. In that event, the fund may focus only on the short-term quality of the instrument. This provision modifies the proposal which would have required that a fund examine both the short-term and long-term aspects of any demand instrument before treating the instrument as a short-term debt security. The final version of the rule also makes it clear that a fund may not acquire a standby commitment unless a determination has been made that the issuer of the commitment presents a minimal risk of default.

As in the proposal, the amendments permit funds relying on rule 2a–7 to use certain demand features to shorten the maturity of variable and floating rate instruments. [6] In the final version of the rule, such demand features must entitle the fund to receive the principal amount of the underlying security or securities and must be exercisable either (i) at any time on no more than thirty days' notice; or (ii) at specified intervals not exceeding one year and upon no more than thirty days' notice. Since the proposal would have prescribed a seven day minimum notice period, a note has been added to the final rule to remind money market fund directors of their responsibility to ensure that the fund has sufficient liquidity.

As in the proposal, amended rule 2a–7 simply states the conditions that must be satisfied before a demand feature can be used to shorten the maturity of the security or securities underlying the feature. While the directors, of course, remain ultimately responsible for that decision, the amended rule no longer requires them to make an explicit finding with respect to each instrument. [7]

Finally, rule 2a–7 is amended to allow money market funds to rely on a high quality rating if the rating is assigned by a nationally recognized statistical rating organization ("NRSRO") that does not control and is not controlled by or under common control with the issuer of, or any insurer, guarantor or provider of credit support for the securities. The final rule refers only to that aspect of the Act's definition of "affiliated person" that includes any person directly or indirectly controlling, controlled by or under common control with another person and not, as proposed, to all aspects of that definition. [8]

Rule 12d3–1 provides exemptive relief from section 12(d)(3) of the Act [15 U.S.C. 80a–12(d)(3)] to allow investment companies to purchase or otherwise acquire securities issued by persons engaged in securities related activities. The amendment to rule 12d3–1 permits any type of investment company—not just money market funds relying on rule 2a–7—to acquire puts issued by persons engaged in securities related activities so long as the company complies with the same diversification requirements that are found in amended rule 2a–7. Finally, the Commission is adopting rule 2a41–1 under section 2(a)(41) of the Act [15 U.S.C. 80a–2(a)(41)] essentially as proposed to allow investment companies to assign a fair value of zero

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[1] *See* Investment Company Act Release No. 14607 (July 1, 1985) [50 FR 27982] ("proposing release").

[2] A money market fund using the amortized cost method of valuation values the debt securities in its portfolio and other assets at acquisition cost. The interest earned on each portfolio debt security (plus any discount received or less any premium paid upon purchase) is then accrued ratably over the remaining maturity of the security. By declaring these accruals to its shareholders as a daily dividend, the money market fund is able to set a fixed price per share, which is usually $1.00.

The final version of the rule retains the description of the amortized cost method that appears in the existing rule. Although the proposal would have clarified that language, the Commission has decided to retain the original language because the commentators expressed so much concern that the proposed change might have some hidden meaning.

[3] A money market fund using the penny-rounding pricing method values portfolio securities for which market quotations are readily available at current market value, and other securities and assets at fair value as determined in good faith by the board of directors. The current net asset value per share is then rounded to the nearest one percent, allowing the fund to maintain a fixed price per share (usually $1.00). Penny-rounding funds may also use the amortized cost valuation method to value portfolio securities having a remaining maturity of sixty days or less. *See* Investment Company Act Release No. 13380 (July 11, 1983) [48 FR 32555] adopting the existing rule ("adopting release") at footnote 44, *citing* Investment Company Act Release No. 9786 (May 31, 1977), 42 FR 28999.

The final version of the rule retains the description of penny-rounding that appears in the existing rule. As in the case of the description of the amortized cost method that appears in the existing rule, the Commission had proposed to describe the penny-rounding method more precisely. The original rule language is retained to assuage commentator concern as to any hidden meaning behind the proposed language change.

[4] Generally, the maturity of an instrument is considered to be the period remaining until the date noted on the face of the instrument as the date on which the principal amount must be paid.

[5] An unconditional put is defined in the rule as a put that is readily exercisable in the event of a default in the payment of principal or interest on the underlying security or securities. Conversely, a conditional put would not be readily exercisable in the event of default.

[6] As proposed, the definitions of variable and floating rate in struments have been clarified.

[7] *See* the proposing release, *supra* note 1, at notes 40–43 and accompanying text. *See also* adopting release, *supra* note 3, at notes 19–25 and accompanying text.

Also, as proposed, parenthetical references to "trustees" that appear in the existing rule are deleted because the definition of "director" in section 2(a)(12) of the Act [15 U.S.C. 80a–2(a)(12)] specifically includes a member of a board of trustees.

[8] *See* section 2(a)(3) [15 U.S.C. 80a–2(a)(3)]. Control is defined in section 2(a)(9) of the Act [15 U.S.C. 80a–2(a)(9)] to include direct or indirect ownership of more than 25 percent of the voting securities of a company.

to standby commitments under certain conditions.

Since the proposing release described in detail the market changes and exemptive applications that prompted the proposed rule and rule amendments, this release focuses on the changes that have been made in the proposal to reflect the comments received.

Discussion

A. Amendments to Rule 2a–7

1. *Puts that may be acquired by funds relying on the rule and puts that may be used to shorten maturity.* The final amendments to rule 2a–7 use the general term "put" to describe the options that money market funds relying on the rule may acquire. A put is defined as a right to sell a specified underlying security or securities within a specified period of time and at a specified exercise price, that may be sold, transferred or assigned only with the underlying security or securities.[9]

The proposed amendments used the term "liquidity puts" to refer to the put options that funds relying on the rule could acquire. Several commentators, however, felt that the use of this term, together with certain statements contained in the proposing release, might unnecessarily restrict money market funds to purchasing put options solely for liquidity purposes. In this regard, they pointed out that while funds relying on the rule may acquire puts for such purposes, they may also acquire the puts to shorten the maturity of the underlying securities or to permit reinvestment of fund assets at a more favorable rate of return. Since the Commission did not intend to prevent funds from acquiring puts for these other purposes, the term "put" is used in the final version of the rule.

The final version of the rule separately defines demand features and standby commitments instead of describing those options within the definition of put. The definition of standby commitment is adopted as proposed. The definition of demand feature, however, has been modified so that the final rule makes clear that the exercise price need not include accrued interest. This change has been made because the proposal could have been read to require that accrued interest must always be paid at the time of exercise, a result that was not intended.

As in the proposal, a fund relying on the rule may use demand features to shorten the maturity of only variable or floating rate instruments.[10] One commentator suggested that the final rule permit funds to use demand features to shorten the maturity of fixed rate instruments. However, the Commission still believes that an instrument should have an adjustable interest rate, as well as a demand feature, to be treated as a short-term debt security. For example, if a fund using amortized cost decides that exercise of a demand feature is not in the best interests of the fund or if the demand feature cannot be exercised, then the Commission believes that a mechanism must exist that can be reasonably expected to return the value of the instrument to par, *i.e.*, a variable interest rate, or that can reasonably be expected to keep the value of the instrument at par, *i.e.*, a floating interest rate. Otherwise, the market-based value of the instrument could deviate significantly from its amortized cost value after the exercise date.

A few commentators urged the Commission to permit funds to use standby commitments as well as demand features to shorten maturity. However, applicants for exemptive relief have routinely represented that they are unlikely to exercise their standy commitments; they only exercise this type of put as a last resort to facilitate portfolio liquidity.[11] In view of these representations, the Commission does not believe that it would be appropriate to allow funds to use the commitments to shorten maturity.

2. *Limitation on puts from a single institution.* The diversification requirements contained in the final amendments to rule 2a–7 track those in section 5(b)(1) of the Act and provide that immediately after the acquisition of any put, a money market fund which uses the amortized cost valuation method may not, with respect to 75 percent of the total amortized cost value of its assets, have more than five percent of its assets invested in securities subject to puts from the same institution. Similarly, in the case of a money market fund which uses the penny-rounding pricing method, the fund may not, with respect to 75 percent of the total market-based value of its assets, have more than five percent of its assets invested in securities subject to puts from the same institution. In each case, however, the amended rule also tracks rule 5b–2 under the Act and provides that a fund may invest up to ten percent of its assets in unconditional puts and other securities issued by the same institution. An unconditional put is considered to be a put that is exercisable even in the event of a default in the payment of principal or interest on the underlying securities. A put is considered to be from the institution to whom the fund will look for payment of the exercise price.[12]

Since, as noted above, these requirements track the diversification requirements of section 5(b)(1) of the Act [15 U.S.C. 80a–5(b)(1)] and rule 5b–2 thereunder [17 CFR 270.5b–2],[13] a diversified fund complying with rule 2a–7 will not have to take any further steps to ensure compliance with section 5 with respect to the puts in its portfolio. However, the fund will still have to comply with section 5 with respect to the securities underlying those puts.

The proposed amendments would have limited funds relying on the rule to investing no more than five percent of their total assets in securities subject to any type of put from the same institution. A number of commentators felt that these proposed limitations were unnecessarily restrictive. Several questioned the need for any separate limitation in rule 2a–7, given the existing diversification requirements imposed by section 5 [14] and by subchapter M of the Internal Revenue Code of 1954 ("IRC").[15] Another commentator maintained that the acquisition of puts should not be subject to any diversification requirements, given the relatively small number of financial institutions engaged in issuing puts.

On the other hand, several commentators did not oppose the

[9] Several commentators believed that although a fund relying on the rule may not "sever" a put from the underlying security or securities, the put itself may be "severable." The Commission continues to believe, however, that the cost of a separately traded put could differ significantly from its market value and therefore could cause the fixed price of a fund's shares to deviate significantly from the market-based value of its portfolio.

[10] The maturity of a variable rate instrument must be the longer of the period remaining until the principal amount can be recovered through demand or the period remaining until the interest rate is to be readjusted. Although a few commentators suggested that the maturity should be the shorter of the specified periods, the Commission continues to believe that the more prudent measurement is the longer of the periods.

[11] *See* the proposing release, *supra* note 1, at notes 18–24 and accompanying text.

[12] In the case of a standby commitment, the put would be from the broker, dealer or bank that has agreed to repurchase the underlying securities. In the case of a demand feature, the put would be from the party that has provided a letter of credit or other credit facility to ensure payment of the exercise price.

[13] The diversification requirements of rule 2a–7 and section 5 are not identical because the puts that a money market fund may acquire are typically not assigned a separate value. Accordingly, the amended rule's percentage limitations are applied to the securities subject to puts from the same institution, not to the puts themselves.

[14] *See* section 5(b)(1) and rule 5b–2 thereunder.

[15] *See* 26 U.S.C. 851 *et seq.*

inclusion of a separate limitation in rule 2a–7. One commentator expressly supported the proposed five percent limitation on the grounds that it would prevent money market funds from being subjected to "unnecessary and unintended market risks." Other commentators argued that the proposed five percent limitation should be modified so that it would track the Act's diversification requirements, *i.e.*, the limitation should apply only to 75 percent of the fund's portfolio and the fund should be able to invest up to ten percent of its portfolio in unconditional puts from the same institution. Still other commentators expressed the opinion that funds should be able to invest up to ten percent of their assets in any kind of puts issued by the same institution.

Two commentators noted that if the final version of the rule contained a diversification requirement, the provision should more clearly identify the party that would be considered the issuer of the put. One of these commentators stated that the limitation should not be applicable to the remarketing agent for a demand instrument, but should apply to the provider of credit support, such as a letter of credit, since the holder of the instrument relies primarily upon that party in assessing the quality of the put. On the other hand, another commentator felt that it could be inappropriate to apply a limitation to the issuer of a letter of credit supporting a demand feature in light of the tax implications of *Philadelphia Gear Corp. v. FDIC.*[16] Several commentators also noted that if the final version of the rule contained a diversification requirement, the Commission should clarify the interrelationship between that requirement and diversification requirements under section 5.

The Commission has decided to include a separate diversification requirement in the final version of the rule in order to ensure that a fund's liquidity will not be impaired by relying too heavily upon the same institution or upon only a handful of institutions to support whatever puts are in the fund's portfolio. However, as described above, the proposed five percent limitation has been clarified and modified to track the Act's diversification requirements.

3. *Quality of portfolio securities.* The final version of the amendments specifically provides that funds relying on the rule may only acquire securities that are of high quality, as determined by at least one NRSRO that is not an affiliated person, as defined in section 2(a)(3)(C) of the Act, of the issuer of or any insurer, guarantor or provider of credit support for, the rated securities or that are found to be of comparable quality by the board of directors. This allows a fund to rely on a NRSRO rating only if the NRSRO does not control, and is not controlled by or under common control with the issuer or any insurer, guarantor or provider of credit support.[17]

As proposed, a fund could not rely on a NRSRO rating if the NRSRO were an affiliated person of the issuer, insurer, guarantor or provider of credit support, *i.e.*, meeting all parts of the definition of affiliated person found in section 2(a)(3). One commentator urged the Commission to eliminate the unaffiliated requirement altogether, arguing that the requirement would place an undue burden of compliance on funds relying on the rule. However, as discussed in the proposing release, although the concept of independence is implicit in the term NRSRO, the Commission believes that for the purposes of rule 2a–7, independence should be defined within the context of the Act. The proposal has been modified, however, to focus only on the control aspect of the definition of affiliated person because the Commission believes that funds should have little or no difficulty in ascertaining whether a control relationship exists between a NRSRO and the issuer, insurer, guarantor or provider of credit support of the rated securities.

The final amendments provide that both the short-term and long-term aspects of a demand instrument must be rated high quality or found by the board to be of high quality[18] unless the demand feature is unconditional. In that event, the fund may focus only on the short-term quality of the instrument. A demand feature is considered to be unconditional if exercisable even in the event of a default in the payment of principal or interest on the underlying securities.

The proposed amendments would have provided that a fund may use a demand feature to shorten the maturity of a demand instrument only if the demand instrument has a short-term and a long-term high quality rating or is found to be of comparable quality. Several commentators urged the Commission to focus only on the quality of the demand feature, not on the quality of the securities underlying the demand feature. Two commentators believed, however, that this should be the case only if the demand feature is unconditional. In addition, several commentators noted that the qualtity of the securities underlying a demand feature should still be taken into account when a fund makes its investment decision.[19] Finally, some commentators maintained that a separate quality requirement for demand instruments is unnecessary, given the high quality requirements presently contained in rule 2a–7.

In view of the nature of demand instruments, the Commission continues to believe that rule 2a–7 should separately address the quality requirements that should be applicable to those instruments. Since a demand instrument must be of high quality for a fund relying on the rule to acquire it, as well as to shorten its maturity, this separate requirement has been added to the rule's existing quality requirements, not to the rule's maturity requirements as originally proposed. While the final version of the rule still generally requires a fund to focus on both the long-term and short-term aspects of a demand instrument, an exception is made in the case of demand instruments with unconditional demand features. Where credit support will be provided even in the event of default on the underlying securities, the Commission agrees that a fund should be able to focus only on the quality of the short-

[16] 751 F.2d 1131 (10th Cir. 1984), *cert. granted* 106 S.Ct 245 (1985) (No. 84–1972). That case held that a standby letter of credit is a "deposit" for purposes of Federal Deposit Insurance Corporation ("FDIC") insurance. Since federal tax law denies tax-exempt status to municipal debt securities that are guaranteed in whole or in part by the United States Government, the holding in *Philadelphia Gear* could mean the loss of the tax-exempt status of any municipal bond that is supported by a letter of credit issued by an FDIC-insured bank. Such a holding could significantly limit the number of institutions that could continue to provide credit support for tax-exempt issues.

[17] *See supra* note 8.

[18] *See* proposing release, *supra* note 1, at note 36 for a discussion of the credit factors that the board should examine in making a comparable quality determination. A demand instrument may be considered an unrated security in the event that a rating agency has not taken into account the existence of an external agreement to provide credit support, such as insurance or a letter of credit. Also, where only the long-term or short-term quality has been rated, the board may make a comparable quality determination with regard to the unrated credit aspect.

[19] One commentator maintained that a fund should focus only on the quality of the underlying security or securities. That commentator believed that a demand instrument is analogous to a short-term repurchase agreement ("repo") collateralized by long-term securities and that a fund's board of directors should be allowed to make a high quality determination if the securities underlying the demand feature are of high quality, just as the Commission has permitted when the securities underlying a repo are of high quality. *See* adopting release, *supra* note 3, at note 31.

term aspect of the demand instrument—the demand feature. If the quality of any demand instrument falls below the high quality level required by the rule, a fund must dispose of the instrument within a reasonable period of time by exercising the demand feature or by selling the demand instrument on the secondary market, whichever is in the best interests of the fund and its shareholders.

Finally, the quality requirements of the amended rule provide that a standby commitment will be considered to be of high quality if the directors have determined that the issuer of the commitment presents a minimal risk of default. This representation has been routinely made by applicants who have received exemptive relief to acquire standby commitments [20] and is added to the rule at the request of one commentator who pointed out that without clarification, it would be difficult for the directors to know how to ascertain whether a standby commitment is of high quality.

4. *Notice limitations on demand instruments.* As noted above, the final rule expands from seven to 30 days the notice requirement for the demand features that funds relying on the rule may use to shorten the maturity of variable and floating rate debt instruments. Because the notice period has been lengthened, a note has been added to the rule reminding directors of their responsibility to ensure that their fund has sufficient liquidity.

Open-end investment companies are required to limit their acquisition of illiquid securities to ensure that all redemption requests will be satisfied within the seven day period prescribed by section 22(e) of the Act [15 U.S.C. 80a–22(e)]. In 1969, the Commission took the position that in no event should the percentage of illiquid securities held by an open-end investment company exceed 10% of the market-based value of the company's net assets.[21] The term "illiquid security" generally includes any security which cannot be disposed of promptly and in the ordinary course of business without taking a reduced price. A security is considered illiquid if a fund cannot receive the amount at which it values the instrument within seven days.

In the release adopting rule 2a–7, the Commission elaborated upon the responsibilities of money market fund board of directors with regard to the acquisition and valuation of illiquid securities, noting that because of the nature of money market funds, the difficulties that could arise in conjunction with the purchase of illiquid securities might be even greater than for other types of open-end management investment companies. In particular, the Commission pointed out that money market funds often have a greater and perhaps less predictable volume of redemptions than other open-end investment companies. Further, the portfolio management of a money market fund might be impaired if a fund were forced to meet redemption requests by selling marketable securities that it would otherwise wish to retain in order to avoid attempting to dispose of illiquid portfolio instruments. Finally, the valuation of illiquid securities may potentially overstate or understate the fund's net asset value to the detriment of shareholders. In light of these potential problems, the board of directors of a money market fund relying on the rule must take steps to limit the acquisition of illiquid portfolio instruments to a lever lower than the ten percent limit set for other types of open-end investment companies.[22]

A number of the commentators felt that a seven day notice period was unreasonably short for periodic demand instruments that entitle the holder to receive the principal amount of the underlying securities at specified intervals not exceeding one year. Several commentators asked the Commission to lengthen the prescribed notice period to 30 days because present market conditions have resulted in a standard notice period of 15 to 30 days for such instruments. In addition, one commentator indicated that limiting the notice period to seven days could impair the ability of a remarketing agent to successfully remarket the instrument. Other commentators believed that the rule should not contain any notice requirement for periodic demand instruments. These commentators observed that, after notice has been given, a periodic demand instrument trades in the market as a security having a maturity equal to the period remaining until the date on which the exercise price is to be paid.

In addition to addressing the proposed notice requirement for periodic demand instruments, several commentators questioned whether the amended rule should continue to have a seven day notice requirement for demand features that are exercisable at any time.[23] Those commentators felt that this requirement should be removed or expanded in light of the market conditions discussed above. Moreover, one commentator noted that while the widespread use of seven day demand instruments demonstrates that a successful remarketing effort is possible within seven days, all involved parties would prefer a longer notice period so that a longer and possibly more effective remarketing effort could take place.

In the final version of the rule, the Commission has decided to expand to 30 days the notice requirements for all types of demand features, whether exercisable at specified intervals or at any time. The Commission still believes that some limit must be placed on the extent to which funds relying on the rule will have to anticipate their cash and investment needs more than seven days in advance. However, the Commission believes that funds should be able to invest in the demand instruments that are being marketed with notice periods of up to 30 days, as long as the directors are cognizant of their responsibility to maintain an adequate level of liquidity. To emphasize that responsibility, a note has been added to the rule summarizing and referring to the Commission's position outlined above. It the context of determining the liquidity of demand instruments, the Commission expects that the directors would establish procedures to evaluate the existence and depth of the secondary market for such instruments, as well as the period remaining until the principal amount can be recovered.

B. Amendment to Rule 12d3–1

As amended, rule 12d3–1 provides exemptive relief to allow registered investment companies to acquire puts, as defined in amended rule 2a–7, from persons engaged in securities related activities. This is in contrast to the proposal that provided exemptive relief only to money market funds that have complied with all of the provisions of rule 2a–7. At the request of two commentators, the proposal has been redrafted so that the final amendment applies to all types of investment companies and conditions exemptive relief upon a company's compliance with the same diversification requirements that are found in amended rule 2a–7. Since these diversification

[20] *See* Notices of applications and orders cited in the proposing release, *supra* note 1, at note 19.

[21] *See* Investment Company Act Release No. 5847 (October 21, 1969)[35 FR 19989].

[22] *See* adopting release, *supra* note 3, at notes 37–39 and accompanying text.In view of these liquidity concerns, the proposed amendments to rule 2a–7 would have permitted funds relying on the rule to shorten the maturity of long-term debt securities subject to demand features only if the demand features could be exercised upon no more than seven days' notice.

[23] The seven day notice period for demand features exercisable at any time was carried over from the text of the existing rule.

requirements track those of section 5(b)(1) of the Act and rule 5b–2 thereunder, a diversified fund would not have to take any additional steps to diversify the puts that it has acquired from persons engaged in securities related activities. However, the fund would still have to comply with section 5 with respect to the securities underlying those puts.

C. Rule 2a41–1

The Commission is also adopting new rule 2a41–1 essentially as proposed to allow a registered investment company to assign a fair value of zero to a standby commitment, provided that the standby commitment is not used to affect the fund's valuation of the underlying security or securities and any consideration paid for the commitment is accounted for as unrealized depreciation until the commitment is exercised or expires.

List of Subjects in 17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rule and Rule Amendments

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as shown.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

1. The authority citation for Part 270 is amended by adding the following citations:

Authority: Secs. 38, 40, 54 Stat. 841, 842, 15 U.S.C. 80a–37, 80c–89 * * * §§ 270.2a–7, 270.2a41–1 and 270.12d3–1 also issued under secs. 6(c) [15 U.S.C. 80a–6(c)], 22(c) [15 U.S.C. 80a–22(c)] and 38(a) [15 U.S.C. 80a–37(a)].

2. Section 270.2a–7 is amended by removing the parenthetical phrase "trustees in the case of a trust" in paragraph (a)(1); removing the parenthetical term "trustees" throughout paragraphs (a)(2)(i), (a)(2)(ii), (a)(2)(v) and (a)(3)(i); redesignating (a)(2)(v) as (a)(2)(vi), and (a)(2)(vi) as (vii); revising paragraphs (a)(2)(iv), (a)(3)(iii), and (b); and adding a note to the end of the section and new paragraphs (a)(2)(v), (a)(3)(iv), and (c) to read as follows. The authority citation at the end of the section is removed.

§ 270.2a–7 Use of the amortized cost valuation and penny-rounding pricing methods by certain money market funds.

(a) * * *

(2) * * *

(iv) The money market fund will limit its portfolio investments, including puts and repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks and which are (A) of "high quality" as determined by any nationally recognized statistical rating organization that is not an affiliated person, as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a–2(a)(3)(C)], of the issuer of, or any insurer, guarantor or provider of credit support for the instrument which the money market fund is considering acquiring, or (B) in the case of any instrument that is not rated, of comparable quality as determined by the board of directors. In this regard, a demand instrument must have received both a short-term and a long-term high quality rating or have been determined to be of comparable quality by the board of directors, *except* that a demand instrument that has an unconditional demand feature may be acquired solely in reliance upon a short-term high quality rating or upon a finding of comparable short-term quality by the board of directors. The directors may base a determination that a standby commitment is of comparable quality upon a finding that the issuer of the commitment presents a minimal risk of default.

(v) Immediately after the acquisition of any put, the money market fund will not, with respect to 75 percent of the total amortized cost value of its assets, have invested more than 5% of the total amortized cost value of its assets in securities underlying puts from the same institution. An unconditional put shall not be considered to be a put from that institution, *provided, that,* the amortized cost value of all securities held by the money market fund and issued or guaranteed by the same institution does not exceed 10 percent of the total amortized cost value of the fund's assets. For the purposes of this paragraph, a put will be considered to be from the party to whom the fund will look for payment of the exercise price and an unconditional put will be considered to be a guarantee of the underlying security or securities.

* * * * *

(3) * * *

(iii) The money market fund will limit its portfolio investments, including puts and repurchase agreements, to those United States dollar-denominated instruments which the board of directors determines present minimal credit risks and which are (A) of "high quality" as determined by any nationally recognized statistical rating organization that is not an affiliated person, as defined in section 2(a)(3)(C) of the Act [15 U.S.C. 80a–2(a)(3)(C)], of the issuer of or any insurer, guarantor or provider of credit support for the instrument which the money market fund is considering acquiring, or (B) or, in the case of an instrument that is not rated, of comparable quality as determined by the board of directors. In this regard, a demand instrument must have received both a short-term and a long-term high quality rating or have been determined to be of comparable quality by the board of directors, *except* that a demand instrument that has an unconditional demand feature may be acquired solely in reliance upon a short-term high quality rating or upon a finding of comparable short-term quality by the board of directors. The directors may base a determination that a standby commitment is of comparable quality upon a finding that the issuer of the commitment presents a minimal risk of default.

(iv) Immediately after the acquisition of any put, the money market fund will not, with respect to 75 percent of the total market-based value of its assets, have invested more than 5% of the total market-based value of its assets in securities underlying puts from the same institution. An unconditional put shall not be considered to be a put from that institution, *provided, that,* the market based value of all securities issued or guaranteed by the same institution and held by the money market fund does not exceed ten percent of the total market-based value of the fund's assets. For the purposes of this paragraph, a put will be considered to be from the party to whom the fund will look for payment of the exercise price and an unconditional put will be considered to be a guarantee of the undelrying security or securities.

(b) For the purposes of this rule, the maturity of a portfolio instrument shall be deemed to be the period remaining until the date noted on the face of the instrument as the date on which the principal amount must be paid, or in the case of an instrument called for redemption, the date on which the redemption payment must be made, except that:

(1) An instrument that is issued or guaranteed by the United States government or any agency thereof which has a variable rate of interest readjusted no less frequently than annually may be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate.

(2) A variable rate instrument, the principal amount of which is scheduled on the face of the instrument to be paid in one year or less, may be deemed to have a maturity equal to the period remaining until the next readjustment of the interest rate.

(3) A variable rate instrument that is subject to a demand feature may be deemed to have a maturity equal to the longer of the period remaining until the next readjustment of the interest rate or the period remaining until the principal amount can be recovered through demand.

(4) A floating rate instrument that is subject to a demand feature may be deemed to have a maturity equal to the period remaining until the principal amount can be recovered through demand.

(5) A repurchase agreement may be deemed to have a maturity equal to the period remaining until the date on which the repurchase of the underlying securities is scheduled to occur, or where no date is specified, but the agreement is subject to demand, the notice period applicable to a demand for the repurchase of the securities.

(6) A portfolio lending agreement may be treated as having a maturity equal to the period remaining until the date on which the loaned securities are scheduled to be returned, or where no date is specified, but the agreement is subject to demand, the notice period applicable to a demand for the return of the loaned securities.

(c) *Definitions.* (1) The "amortized cost method of valuation" is the method of calculating an investment company's net asset value whereby portfolio securities are valued by reference to the fund's acquisition cost as adjusted for amortization of premium or accumulation of discount rather than by reference to their value based on current market factors.

(2) The "penny-rounding method of pricing" is the method of computing an investment company's price per share for purposes of distribution, redemption and repurchase whereby the current net asset value per share is rounded to the nearest one percent.

(3) A "put" is a right to sell a specified underlying security or securities within a specified period of time and at a specified exercise price, that may be sold, transferred or assigned only with the underlying security or securities.

(4) A "standby commitment" is a put that entitles the holder to achieve same day settlement and to receive an exercise price equal to the amortized cost of the underlying security or securities plus accrued interest, if any, at the time of exercise.

(5) A "demand feature" is a put that entitles the holder to receive the principal amount of the underlying security or securities and which may be exercised either (A) at any time on no more than 30 days' notice; or (B) at specified intervals not exceeding one year and upon no more than 30 days' notice.

(6) An "unconditional put" or an "unconditional demand feature" is a put or a demand feature that by its terms, would be readily exercisable in the event of a default in payment of principal or interest on the underlying security or securities.

(7) A "variable rate instrument" is one whose terms provide for the adjustment of its interest rate on set dates and which, upon such adjustment, can reasonably be expected to have a market value that approximates its par value.

(8) A "floating rate instrument" is one whose terms provide for the adjustment of its interest rate whenever a specified interest rate changes and which, at any time, can reasonably be expected to have a market value that approximates its par value.

(9) The term "nationally recognized statistical rating organization" shall mean any nationally recognized statistical rating organization, as that term is used in rule 15c3–1(c)(2)(vi)(F) under the Securities Exchange Act of 1934 [17 CFR 240.15c3–1(c)(2)(vi)(F)].

(10) "One year" shall mean 365 days except, in the case of an instrument that was originally issued as a one year instrument, but had up to 375 days until maturity, one year shall mean 375 days.

Note:—The board of directors of a money market fund relying on this rule is reminded that the Commission has said that "because of the nature of money market funds, the difficulties that could arise in conjunction with the purchase of illiquid instruments by such funds might be even greater than for other types of openend management investment companies. . . . By purchasing or otherwise acquiring illiquid instruments, a money market fund exposes itself to a risk that it will be unable to satisfy redemption requests promptly. . . . In addition, . . . management of the investment company's portfolio could also be affected by the purchase of illiquid instruments. . . . Finally, the purchase of illiquid instruments can seriously complicate the valuation of a money market fund's shares and can result in the dilution of shareholders' interests." *See* Investment Company Act Release No. 13380 (July 11, 1983) [48 FR 32555 at 32561–32562 July 18, 1983]. *See also* Investment Company Act Release No. 5847 (October 21, 1969) [35 FR 19989].

3. By adding § 270.2a41–1 to read as follows:

§ 270.2a41–1 Valuation of standby commitments by registered investment companies.

(a) A standby commitment as defined in rule 2a–7(c)(4) under the Act [17 CFR 270.2a–7(c)(4)] may be assigned a fair value of zero, *Provided,* That:

(1) The standby commitment is not used to affect the company's valuation of the security or securities underlying the standby commitment; and

(2) Any consideration paid by the company for the standby commitment, whether paid in cash or by paying a premium for the underlying security or securities, is accounted for by the company as unrealized depreciation until the standby commitment is exercised or expires.

4. By revising paragraphs (d)(8)(iii) and (d)(8)(iv) and adding new paragraph (d)(8)(v) of § 270.12d3–1 to read as follows. The authority citation at the end of the section is removed.

§ 270.12d3–1 Exemption of acquisitions of securities issued by persons engaged in securities related businesses.

* * * * *

(d) * * *

(8) * * *

(iii) Exercise of options, warrants, or rights acquired in compliance with this rule;

(iv) Conversion of convertible securities acquired in compliance with this rule; and

(v) Acquisition of puts, as defined in rule 2a–7(c)(3) under the Act [17 CFR 270.2a–7(c)(3)], provided that, immediately after the acquisition of any put, the company will not, with respect to 75 percent of the total value of its assets, have invested more than five percent of the total value of its assets in securities underlying puts from the same institution. An unconditional put shall not be considered a put from that institution, *provided, that,* the value of all securities issued or guaranteed by the same institution and held by the investment company does not exceed ten percent of the total value of the company's assets. For the purposes of this section, a put will be considered to be from the party to whom the company will look for payment of the exercise price and an unconditional put, as defined in rule 2a–7(c)(6) under the Act [17 CFR 270.2a–7(c)(6)], will be considered to be a guarantee of the underlying security or securities.

* * * * *

Dated: March 12, 1986.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86–6018 Filed 3–20–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 86-68]

Change in the Customs Field Organization; Pascagoula, MS

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by extending the geographical limits of the port of entry of Pascagoula, Mississippi. The change extends the existing port limits to include all of Jackson County, Mississippi. These extended port limits coincide with the jurisdiction of the Jackson County Port Authority, and encompass areas undergoing industrial development and growth, thereby allowing them access to Customs services. Moreover, they will enable Customs to provide better service to carriers, importers and the public.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Bernie Harris, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs is amending § 101.3, Customs Regulations (19 CFR 101.3), by extending the geographical limits of the port of entry of Pascagoula, Mississippi.

Prior to this amendment, T.D. 56333, published in the **Federal Register** on January 12, 1965 (30 FR 344), extended the geographical limits of Pascagoula, Mississippi, to include the corporate limits of Pascagoula, and that area lying eastward of the city limits to 88° 28 minutes west longitude, and south of 30° 23 minutes north latitude to the existing shoreline.

The amendment extends the existing port limits to include all of Jackson County, Mississippi. These extended port limits coincide with the jurisdiction of the Jackson County Port Authority, and encompass areas undergoing industrial development and growth, thereby allowing them access to Customs services. The list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations, is being amended accordingly.

The change set forth in this document was set forth in a notice published in the **Federal Register** on October 8, 1985 (50 FR 40982), and although public comments were invited, none were received. Accordingly, after further review of the matter, Customs has determined to make the change as proposed.

Change in the Customs Service Field Organization

Under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449), the existing geographical limits of the port of Pascagoula, Mississippi, are extended to include all of Jackson County, Mississippi. Accordingly, the limits of the port of Pascagoula, Mississippi, include all of Jackson County, Mississippi.

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

Amendment to the Regulations

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR Part 1965 Supp.

§ 101.3 [Amended]

2. To reflect the change, the list of Customs regions, districts, and ports of entry in § 101.3, Customs Regulations (19 CFR 101.3), is amended by removing "T.D. 56333" under the column headed "Ports of entry" after the phrase "Pascagoula, Miss., including territory described in" and inserting, in its place, "T.D. 86-68," in the Mobile, Alabama, Customs district in the South Central Region.

Executive Order 12291

Because the amendment relates to the organization of the Customs Service, pursuant to section 1(a)(3) of E.O. 12291, it is not subject to the Executive Order.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this amendment. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Pascagoula, Mississippi, area, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service Headquarters. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: March 5, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-6061 Filed 3-20-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74 and 82

[Docket Nos. 83C-0012 and 84C-0426]

D&C Green No. 6; Listing as a Color Additive for Coloring Absorbable Sutures

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for an increase in the level at which D&C Green No. 6 can be used to color certain polyglycolic acid surgical sutures and to provide for its use for coloring poly(glycolic acid-*co*-trimethylene carbonate) absorbable sutures for general surgical use. These actions respond to two petitions filed by American Cyanamid Co. FDA is also incorporating the listing of this color additive for use in sutures into the subpart of its regulations that the

agency has established for color additives used in medical devices. Elsewhere in this issue of the **Federal Register**, FDA is proposing to remove the restriction that bars migration of D&C Green No. 6 from a suture to surrounding tissues and to establish a uniform set of specifications for D&C Green No. 6 for all of its regulated uses.

DATES: Effective April 22, 1986, except as to any provisions that may be stayed by the filing of proper objections; objections by April 21, 1986.

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

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, 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: In a notice published in the **Federal Register** of March 29, 1983 (48 FR 13098), FDA announced that a color additive petition (CAP 3C0170) had been filed by American Cyanamid Co., Pearl River, NY 10965, proposing that § 74.1206(c)(1)(ii) (21 CFR 74.1206(c)(1)(ii)) (incorrectly cited in the March 29, 1983, notice as § 74.1206(c)(1)(i)) of the agency's color additive regulations be amended to provide for an increase to 0.5 percent by weight of D&C Green No. 6 in polyglycolic acid absorbable sutures. The petition was filed under section 706 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 376).

In a second notice published in the **Federal Register** of February 14, 1985 (50 FR 6252), FDA announced that a color additive petition (CAP 4C0186) had been filed by Davis and Geck, American Cyanamid Co., Danbury, CT 06810, proposing that 21 CFR 74.3206 be amended to allow the use of D&C Green No. 6 for coloring an absorbable monofilament suture, 1,4-dioxan-2,5-dione polymer with 1,3-dioxan-2-one, for general surgery. The polymer is made from glycolic acid and trimethylene carbonate and is also described by the chemical name poly(glycolic acid-*co*-trimethylene carbonate). The agency has considered the alternate names for this polymer and has decided to use poly(glycolic acid-*co*-trimethylene carbonate) as the preferred name in this document and in the regulation because it is more commonly used. The notice of filing was issued under section 706 of the act.

I. Regulatory History

In the **Federal Register** of December 28, 1962 (27 FR 12828), in response to a color additive petition (CAP 2C0004), FDA issued a final rule listing D&C Green No. 6 for coloring polyethylene terephthalate surgical sutures, including sutures for ophthalmic use. In the **Federal Register** of April 25, 1975 (40 FR 18167), FDA amended § 74.1206 to provide for the use of D&C Green No. 6 in coloring polyglycolic acid surgical sutures, including sutures for ophthalmic use, as a result of a second petition (CAP 2C0104).

In the **Federal Register** of April 2, 1982 (47 FR 14138), FDA issued a final rule listing D&C Green No. 6 for use in externally applied drugs (21 CFR 74.1206) and cosmetics (21 CFR 74.2206) in response to color additive petitions 8C0085. The preamble to the April 2, 1982 final rule provides a detailed account of the regulatory history of D&C Green No. 6 and a detailed explanation of why the agency found its use in externally applied drugs and cosmetics to be safe.

In the **Federal Register** of March 29, 1983 (48 FR 13020), FDA issued a final rule listing D&C Green No. 6 for use in contact lenses (21 CFR 74.3206). FDA issued this regulation in response to color additive petitions 3C0164, 3C0171, and 3C0172.

II. The Color Additive

D&C Green No. 6 is principally 1,4-bis[(4-methylphenyl)amino]-9,10-anthracenedione (CAS Reg. No. 128–80–3). This material is formed by chemically reacting 1 molecule of quinizarin with 2 molecules of *p*-toluidine. Because no chemical reaction consumes all the starting materials and yields only the desired product, both the resulting reaction mixture and commercial product will contain some unreacted quinizarin and *p*-toluidine. This fact is significant because Weisburger et al. have demonstrated that *p*-toluidine is a carcinogen in mice (Ref. 1).

Residual amounts of reactants, such as *p*-toluidine and other manufacturing aids, are commonly found among the impurities of many color additives. The presence of such impurities is not unique to color additives, however. Numerous impurities are present in all chemical products, even in highly purified reagent grade chemicals.

III. The Use of D&C Green No. 6 in Sutures

Surgical sutures of different diameters are used in different types of surgery. The suture size (or diameter) is usually designated by a numerical coding system published in the U.S. Pharmacopeia (U.S.P.). For the range of sizes considered in this document, the diameter of the suture decreases as the first digit in the size description increases. Thus, size 2–0 is larger than size 8–0.

Color additives are added to the sutures to increase their visibility for the physician. Smaller size sutures, being more difficult to see, require a more intense color and, hence, a higher percentage of color additive. Although the percentage of color additive in a small suture may be higher than that in a large suture, the smaller suture may still contain less total color additive because of its smaller size.

In CAP 3C0170, the petitioner requested a change in the color additive regulations to allow for a fivefold increase in the percentage of D&C Green No. 6 in polyglycolic acid sutures of U.S.P. size 8–0 and smaller. The petitioner asserted that even with this higher concentration of color, the smaller size sutures contain no more color additive per unit length than those sutures used in the safety tests supporting the original regulation for polyglycolic acid sutures (CAP 2C0104).

In the second petition (CAP 4C0186), the petitioner requested that the regulations be amended to provide for the use of D&C Green No. 6 at a level not to exceed 0.21 percent by weight of suture material for coloring poly(glycolic acid-*co*-trimethylene carbonate) absorbable sutures other than those sutures used in ophthalmic surgery. This petition relies on studies in which sutures containing 0.21 percent color additive were implanted in animals.

IV. Safety of D&C Green No. 6

A. Legal Standard

Under section 706(b)(4) of the act, the so-called "general safety clause" for color additives, a color additive cannot be listed for a particular use unless the data presented to FDA establish that the color additive is safe for that use. Although what is meant by "safe" is not explained in the general safety clause, the legislative history of the Color Additive Amendments of 1960 (Pub. L. 86–618) makes clear that this word is to have the same meaning for color additives as for food additives.

"Safe" is defined in the legislative history of the Food Additives Amendment of 1958 as a "reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable

circumstance." S. Rept. 2422, 85th Cong., 2d Sess. (1958). This concept of "safe" is incorporated in FDA's color additive regulations (21 CFR 70.3(i)). In addition, the anticancer or Delaney Clause of the color additive provisions (section 706(b)(5)(B) of the act) provides that a noningested color additive shall be deemed to be unsafe and shall not be listed if, after tests that are appropriate for evaluating the safety of the additive for such use, it is found to cause cancer in man or animal.

B. Toxicology

The petitioner did not submit additional toxicological studies with CAP 3C0170. The petitioner relied instead on the agency's previous conclusion of safety for the use of D&C Green No. 6 at 0.1 percent in polyglycolic acid sutures and argued that use at 0.5 percent in microsurgical sutures would result in substantially lower exposure to the color additive than from its currently authorized use for general surgical suture applications. The petitioner states that the largest microsurgical suture (U.S.P. size 8–0) colored at the 0.5 percent level requires about one-tenth as much color additive per centimeter as a typical suture used for general surgery (U.S.P. size 2–0) colored at the 0.1 percent level.

In making its safety evaluation, the agency has considered the following toxicology studies submitted by the petitioner as part of its previous petition (CAP 2C0104) to list the use of D&C Green No. 6 at a level of 0.1 percent by weight in polyglycolic acid sutures: (1) a subcutaneous suture implantation study in rabbits for up to 90 days with sutures ranging in diameter from U.S.P. size 8–0 to U.S.P. size 2–0, (2) an ophthalmic surgery study in cats for up to 120 days with U.S.P. size 6–0 sutures, and (3) corneal implantation study in cats for up to 120 days with U.S.P. size 6–0 sutures.

Because polyglycolic acid sutures are absorbable, all the color additive was released into the neighboring tissue during these studies. Thus, the animals were exposed to at least as much color additive during these studies as they would have been if sutures of size 8–0 and smaller, containing 0.5 percent color additive, had been used. For example, U.S.P. size 6–0 sutures with 0.1 percent color additive and U.S.P. size 8–0 sutures with 0.5 percent color additive will both contain approximately 0.07 microgram of color additive per centimeter of suture. (The actual amount will vary because the size describes a range of allowed diameters.) On the other hand, a U.S.P. size 2–0 suture, commonly used in general surgery, with 0.1 percent color additive will contain approximately 10 times that amount.

In CAP 4C0186, the petitioner submitted the reports of several toxicity studies to establish that there is a reasonable certainty of no harm from use of D&C Green No. 6 in poly(glycolic acid-*co*-trimethylene carbonate) sutures. These studies include acute toxicity studies with suture extracts in mice, acute toxicity studies with suture implants in rats, 6 month suture implantation toxicity studies in rats and dogs, an antigenicity study with suture implants in guinea pigs, a fertility and general reproductive performance study with suture implants in rats, a teratology study with suture implants in rabbits, an evaluation of the suture for possible hemolytic activity on human blood, a pyrogenicity study with suture extract in rabbits, an in vitro cytotoxicity study on the suture, and genotoxicity studies on D&C Green No. 6, the suture, and extracts from the colored suture. The sutures used in the studies contained 0.21 percent D&C Green No. 6. Exaggerated amount of suture material were used in the implant studies. As part of its safety evaluation, the agency also considered the safety data previously submitted to support the listing of D&C Green No. 6 for use in polyglycolic acid sutures, externally applied drugs and cosmetics, and contact lenses.

The agency finds that the data referenced or submitted in 3C0170 and 4C0186 provide adequate bases on which to assess the safety of the respective petitioned uses of D&C Green No. 6. In its evaluation of the various studies, FDA found no adverse toxic effects that were attributable to D&C Green No. 6.

C. Carcinogenic Impurity and Risk Assessment

Although D&C Green No. 6 itself has not been shown to cause cancer, it does contain a carcinogenic impurity, *p*-toluidine. FDA has concluded that it is possible to list the use of such a color additive. (See 47 FR 14140–14145.) In deciding whether the use of such an additive is safe, FDA considers, among other things, its calculation of the upper limit of risk from lifetime exposure to the carcinogenic impurity. Evaluation of the risk from exposure to *p*-toluidine from the use of D&C Green No. 6 in sutures has two parts: (1) An assessment of probable exposure to *p*-toluidine and (2) an extrapolation of the risk from *p*-toluidine from the levels of exposure to it in the animal bioassay to the much lower levels of exposure for humans. For a complete discussion of risk from D&C Green No. 6 in sutures, see the agency's proposal to establish uniform specifications elsewhere in this issue of the **Federal Register.**

1. Exposure

In estimating a high user's lifetime-averaged probable exposure to *p*-toluidine from the petitioned uses of D&C Green No. 6 in polglycolic acid and poly(glycolic acid-*co*-trimethylene carbonate) sutures, the agency has considered the amount of *p*-toluidine in D&C Green No. 6 and the amount of suture that might be implanted in a person as a result of multiple surgeries over a lifetime.

Data on the amount of *p*-toluidine in D&C Green No. 6 indicate that the color additive will contain approximately 500 parts per million of *p*-toluidine. (See discussion of *p*-toluidine analyses at 47 FR 14140.)

The amount of suture used during surgery will vary with the type of surgery. The agency estimates that the maximum length of suture used in any one surgery is not likely to exceed 5 meters. Most types of surgery would use far less. The agency also believes that, over a lifetime, a person is not likely to receive more than 10 meters of any suture material (Ref. 2).

Finally, for purposes of estimating exposure, the agency is using U.S.P. size 2–0 suture as a model because it is a very common size suture for general surgery.

In assessing the safety of the petitioned uses of D&C Green No. 6, FDA is evaluating the suture use that would result in the greatest exposure to *p*-toluidine and is assuming that all exposure arises from this use. The uses of D&C Green No. 6 that are the subject of 3C0170 and 4C0186 would only replace the highest exposure with a lower one.

The highest level at which D&C Green No. 6 added to sutures is 0.75 percent, the level at which this color additive is used in polyethylene terephthalate suture material. The agency recognizes that the polyethylene terephthalate suture is a nonabsorbable suture, and that the suture will be removed long before all of the color additive migrates. Nonetheless, the agency will assume that all the *p*-toluidine in a polyethylene terephthalate suture containing 0.75 percent D&C Green No. 6 migrates because this assumption provides the basis for a worst-case estimate for all suture use.

Using this assumption, the agency estimates that lifetime-averaged exposure to *p*-toluidine from D&C Green No. 6 in sutures is not likely to exceed 0.15 nanogram per day (150 picograms

per day) (Ref. 3). This estimate of exposure far exceeds the estimated level of exposure from 0.5 percent D&C Green No. 6 in U.S.P. size 8–0 and smaller polyglycolic acid sutures (no more than .003 nanogram per day) or from poly(glycolic acid-*co*-trimethylene carbonate) absorbable sutures containing 0.21 percent D&C Green No. 6 (0.065 nanogram per day).

2. Risk Extrapolation

In the agency's 1982 document permanently listing D&C Green No. 6 for use in externally applied drugs and cosmetics (47 FR 14138), FDA described its use of quantitative risk assessment procedures to extrapolate from the *p*-toluidine dietary dose in the animal experiment to the very low levels of human exposure. The risk analysis employed in the present document relies on the same risk assessment procedures.

The simplest method for estimating risk to compare the human lifetime-averaged systemic exposure to *p*-toluidine from sutures colored with D&C Green No. 6 to the lifetime-averaged systemic exposure of mice fed *p*-toluidine in the Weisburger et al. bioassay (Ref. 1), in which *p*-toluidine was shown to be a carcinogen. On this basis, using a linear extrapolation, the agency estimates the upper limit individual lifetime carcinogenic risk from exposure to sutures containing 0.75 percent D&C Green No. 6 is 1 in 10 billion or 1 in 100 billion, depending on the specific assumptions in the linear extrapolation procedure (Ref. 3).

The agency recognizes that exposure to *p*-toluidine from sutures is different from that encountered in the Weisburger bioassay, which the agency is using for its risk extrapolation. Exposure to *p*-toluidine from sutures is parenteral and localized, while exposure in the Weisburger bioassay was through lifetime dietary administration. The agency does not wish to imply that linear time-averaging of dose from a dietary study is necessarily the best way to estimate risk from sutures. However, in the absence of explicit scientific information indicating how these exposure differences affect risk, the agency believes that the extremely small risk estimated by simple linear time-averaging of the dose provides a sufficiently large margin of safety for the agency to conclude that the petitioned use of this color additive in sutures is safe.

D. Specifications

In the 1982 document, the agency established new specifications for D&C Green No. 6 limiting the maximum concentration at which *p*-toluidine may be present. FDA has incorporated these new specifications in all of the final rules listing uses of D&C Green No. 6 that it has issued since 1982. The agency is also requiring that the D&C Green No. 6 used in polyglycolic acid and ploy(glycolic acid-*co*-trimethylene carbonate) sutures in accordance with this final rule comply with the new specifications. Elsewhere in this issue of the **Federal Register**, the agency is proposing to amend the regulations to apply this set of specifications to all permitted uses of D&C Green No. 6.

V. Conclusion on Safety

Based on the available toxicity data, the small amount of the color additive in sutures, the agency's exposure calculation, and the vanishingly small risk from the exposure to *p*-toluidine that results from this use of the color additive, FDA finds that the color additive D&C Green No. 6 is safe for use at 0.5 percent by weight in polyglycolic acid general surgical and ophthalmic surgical sutures not exceeding U.S.P. size 8–0. The agency also finds that this level of color additive is suitable for this use because it will impart an intense green color to the sutures which will enhance their visibility. Based on the information in CAP 4C0186, FDA also finds that the color additive D&C Green No. 6 is safe and suitable for use at 0.21 percent by weight in poly(glycolic acid-*co*-trimethylene carbonate) absorbable general surgical sutures.

VI. Changes in Codified Language

Sutures were regulated as drugs before the passage of the Medical Device Amendments of 1976 but are now regulated as medical devices. In a final rule published in the **Federal Register** of March 19, 1983 (48 FR 13020), FDA amended the color additive regulations by establishing new Subpart D under 21 CFR Part 74 to provide for listing certified color additives for use in or on medical devices and by listing in § 74.3206 (21 CFR 74.3206) D&C Green No. 6 for use in contact lenses. In the preamble to the March 29, 1983, final rule, FDA announced that, in the near future, it would move to Subpart D those color additives used in or on medical devices that are currently listed in Part 74 under Subpart B (drugs).

FDA is now moving to Subpart D the provisions of § 74.1206(b)(1), which set forth the specifications for D&C Green No. 6 for use in sutures, and of § 74.1206(c)(1), which list D&C Green No. 6 for that use. The agency is redesignating § 74.3206(b) as § 74.3206(b)(1) and § 74.1206(b)(1) as § 74.3206(b)(2). The agency is also redesignating § 74.1206(b)(2) as § 74.1206(b). Finally, FDA is revising §§ 74.2206 and 82.1206, which reference the specifications in § 74.1206(b)(2), to reflect the redesignation of § 74.1206(b)(2) as § 74.1206(b). These actions will avoid redundancy and simplify the regulations pertaining to D&C Green No. 6.

The agency is making two other editorial changes. First, because sutures are now regulated as medical devices instead of as drugs, the agency is deleting § 74.1206(c)(4), which states that if a suture is a new drug, it must have an approved new drug application in effect. Second, the agency is revising § 74.3206(c)(2), which currently provides that a contact lens in which D&C Green No. 6 is used is subject to the requirements of sections 510(k) and 515 of the act (21 U.S.C. 360(k) and 360e). To that section, the agency is adding a reference to section 520(g) of the act (21 U.S.C. 360j(g)), which was inadvertently omitted from the March 29, 1983, final rule, and is removing the specific reference to "contact lenses" and replacing it with a reference to "medical devices," to make clear that these requirements also apply to sutures. Because these changes are merely editorial, and do not impose nor delete any requirements but simply refer to existing statutory requirements, FDA finds that notice and comment rulemaking is unnecessary.

Finally, elsewhere in this issue of the **Federal Register**, FDA is proposing to revise § 74.3206(b) by substituting the term "medical devices" for the term "contact lenses" in § 74.3206(b)(1), so that all listings of D&C Green No. 6 in medical devices reference the same specifications, and by deleting the obsolete specifications for D&C Green No. 6 in § 74.3206(b)(2). In that document FDA is also proposing to remove § 74.3206(c)(3) (21 CFR 74.3206(c)(3), formerly 21 CFR 74.1206(c)(3)), which prohibits migration of the color additive to the surrounding tissue. A final rule based on this proposal will establish a uniform set of specifications for the use of D&C Green No. 6 in drugs, cosmetics, and medical devices.

In accordance with § 71.15 (21 CFR 71.15), the petitions and the documents that FDA considered and relied upon in reaching its decisions to approve these petitions are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public

disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of these actions 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 findings of no significant impact and the evidence supporting these findings may be seen in the Docket Management Branch (address above) 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, actions of this type would require an environmental assessment under 21 CFR 25.31a(a).

VII. Reference

The following information has been placed on file at the Dockets Management Branch (address above) and is available for review in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Weisburger, F.K., et al., "Testing of Twenty-one Environmental Aromatic Amines or Derivatives for Long-Term Toxicity or Carcinogenicity," *Journal of Environmental Pathology and Toxicology*, 2:325–356, 1978.

2. Memorandum to the record dated October 10, 1985, from the Food Additive Chemistry Evaluation Branch, Re: "Exposure Estimates for Color Additives in Sutures."

3. Memorandum dated November 1, 1985, from the Quantitative Risk Assessment Committee to Director, Office of Toxicological Sciences, Re: "Risk from *p*-Toluidine in Sutures."

Any person who will be adversely affected by these regulations may at any time on or before April 21, 1986, file with the Dockets Management Branch (address above), written objections thereto. Objections shall show how the person filing will be adversely affected by the regulation, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of 21 CFR 71.30. If a hearing is requested, the objections shall state the issue for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Notice of the filing of objections or the lack thereof will be announced by publication in the **Federal Register.**

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74 and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. In § 74.1206 by revising paragraphs (b) and (c), to read as follows:

§ 74.1206 D&C Green No. 6.

* * * * *

(b) *Specifications.* The color additive D&C Green No. 6 for use in coloring externally applied drugs shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by current good manufacturing practice:

Volatile matter (at 135 °C), not more than 2.0 percent.
Water-soluble matter, not more than 0.3 percent.
Matter insoluble in carbon tetrachloride, not more than 1.5 percent.
p-Toluidine, not more than 0.1 percent.
1,4-Dihydroxyanthraquinone, not more than 0.2 percent.
1-Hydroxy-4-[(4-methylphenyl)amino]-9,10-anthracenedione, not more than 5.0 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Mercury (as Hg), not more than 1 part per million.
Total color, not less than 96.0 percent.

(c) *Uses and restrictions.* The color additive D&C Green No. 6 may be safely used for coloring externally applied drugs in amounts consistent with current good manufacturing practice.

* * * * *

3. In § 74.2206 by revising paragraph (a), to read as follows:

§ 74.2206 D&C Green No. 6.

(a) *Identity and specifications.* The color additive D&C Green No. 6 shall conform in identity and specifications to the requirements of § 74.1206 (a) and (b).

* * * * *

4. In § 74.3206 by revising paragraphs (a), (b), and (c), to read as follows:

§ 74.3206 D&C Green No. 6.

(a) *Identity.* The color additive D&C Green No. 6 shall conform in identity to the requirements of § 74.1206(a).

(b) *Specifications.* (1) The color additive D&C Green No. 6 for use in coloring contact lenses shall conform to the specifications of § 74.1206(b).

(2) The color additive D&C Green No. 6 for use in coloring surgical sutures shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by current good manufacturing practice, except that D&C Green No. 6 for use in coloring surgical sutures listed in paragraph (c)(1) (iv) and (v) of this section shall conform to the specifications in § 74.1206(b):

Volatile matter (at 135 °C), not more than 2.0 percent.
Water-soluble matter, not more than 0.3 percent.
Matter insoluble in carbon tetrachloride, not more than 1.5 percent.
Intermediates, not more than 0.5 percent.
Lead (as Pb), not more than 10 parts per million.
Arsenic (as As), not more than 1 part per million.
Pure color, not less than 96.0 percent.

(c) *Uses and restrictions.* (1) The color additive D&C Green No. 6 may be safely

used at a level (i) not to exceed 0.03 percent by weight of the lens material for coloring contact lenses; (ii) not to exceed 0.75 percent by weight of the suture material for coloring polyethylene terephthalate surgical sutures, including sutures for ophthalmic use; (iii) not to exceed 0.1 percent by weight of the suture material for coloring polyglycolic acid surgical sutures with diameter greater than U.S.P. size 8–0, including sutures for ophthalmic use; (iv) not to exceed 0.5 percent by weight of the suture material for coloring polyglycolic acid surgical sutures with diameter not greater than U.S.P. size 8–0, including sutures for ophthalmic use; and (v) not to exceed 0.21 percent by weight of the suture material for coloring poly(glycolic acid-*co*-trimethylene carbonate) sutures (also referred to as 1,4-dioxan-2,5-dione polymer with 1,3-dioxan-2-one) for general surgical use.

(2) Authorization for these uses shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act with respect to the medical device in which D&C Green No. 6 is used.

(3) When the sutures listed in paragraph (c)(1) (ii) through (iv) of this section are used for the purposes specified in their labeling, the color additive does not migrate to the surrounding tissue.

* * * * *

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

5. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 317, 376); 21 CFR 5.10.

6. In § 82.1206 by revising the first sentence, to read as follows:

§ 82.1206 D&C Green No. 6.

The color additive D&C Green No. 6 shall conform in identity and specifications to the requirements of § 74.1206 (a) and (b) of this chapter.

* * *

Dated: March 18, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–6315 Filed 3–19–86; 11:23 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 201

[Docket No. N–86–1600; FR–2200]

Mortgage and Loan Insurance Programs; Title I Property Improvement and Manufactured Home Loans; Eligible Use of Loan Proceeds and Income Requirements for Borrowers

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice on the eligible use of loan proceeds and income requirements for borrowers.

SUMMARY: This notice announces certain HUD findings required under the rule for property improvement and manufactured home loans under Title I, section 2 of the National Housing Act (12 U.S.C. 1703). This rule (24 CFR Part 201) was published in the **Federal Register** of October 25, 1985 (50 FR 43516) and requires that these findings be published by Notice in the **Federal Register**. Under §§ 201.20(b)(2) and 201.21(b)(5), the Secretary finds that certain products, improvements, items, and activities may not be financed with the proceeds of Title I loans. Under § 201.22(b), in order for a borrower's income to be considered adequate for a manufactured home loan, the Secretary has determined that certain maximum percentages of net effective income will be required.

EFFECTIVE DATE: January 15, 1986.

FOR FURTHER INFORMATION CONTACT: William C. Sorrentino, Director, Office of Manufactured Housing and Regulatory Functions, Room 9158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 755–5210. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department published in the **Federal Register** of October 25, 1985 (50 FR 43516) a final rule on property improvement and manufactured home loans under Title I, section 2 of the National Housing Act (12 U.S.C. 1703). Included among the requirements in that rule (24 CFR Part 201) is HUD's obligation to publish certain determinations by Notice in the **Federal Register** concerning the eligible use of loan proceeds and income requirements for borrowers. This Notice implements the **Federal Register** publication requirements in §§ 201.20(b)(2), 201.21(b)(5), and 201.22(b) of that rule.

Concerning § 201.20(b)(2), the rule states that proceeds from property improvement loans must be used only to finance renovations that substantially protect or improve the basic livability or utility of the property. In addition, the Secretary is required to publish by Notice in the **Federal Register** a list of items and activities that may not be financed with the proceeds of any property improvement loan. This list may also be amended by Notice. If a lender questions the eligibility of any item or activity, it shall request a specific ruling by the Secretary before making a loan.

Under § 201.20(b)(2), the Secretary finds that the following categories of products and improvements may not be financed with a Title I property improvement loan: (1) Products or improvements that do not become a permanent part of the real property and (2) products or improvements that are considered luxury items, as follows:

Barbecue pits.
Bathhouses.
Dumbwaiters.
Exterior hot tubs, saunas, spas or whirlpool baths.
Flower boxes.
Hangars for airplanes.
Kennels.
Kitchen appliances which are not designed or manufactured to be built into or permanently affixed to the structure.
Outdoor fireplaces or hearths.
Photo murals.
Sprinkler systems and fire extinguishers (except that these items shall be eligible in the case of fire safety equipment loans).
Swimming pools.
Television antennae and satellite discs.
Tennis courts.
Tree surgery.
Waterproofing of a structure by pumping or injecting any substance in the earth adjacent to or beneath the foundation or basement floor.

Section 201.21(b)(5) of the rule states requirements for HUD's publication by Notice of a list of items and activities that similarly may not be financed with proceeds of any manufactured home loan. Under § 201.21(b)(5), the Secretary finds that the following items may not be financed with a Title I manufactured home loan: (1) Small appliances (e.g., radios, stereos, toasters, and televisions) that are not a permanent part of the property; (2) HUD inspection fees, permits, and seals (although they may be included in the wholesale (base) price of the home); (3) decorator kits, bed linen and spreads; and (4) decorations or appurtenances that are

not a permanent part of or attached to the property securing repayment of the loan. In addition, the following items may not be included in a manufactured home purchase loan, except at their actual cost to the borrower as stated in the retail purchase contract under § 201.10(b)(4) and as approved by the Secretary: garage, patio, carport, or other comparable appurtenance.

Section 201.22(b) of the rule states that the Secretary will publish by Notice in the **Federal Register** the maximum percentages of net effective income for borrowers for Title I manufactured home loan applications. An applicant's income may not exceed certain maximum percentages of net effective income published by the Secretary, which will be based upon generally prevailing interest rates and upon HUD's experience of claims/loan ratios, for prospective use by lenders in approving such loan applications.

Under the criteria in § 201.22(b), the Secretary has determined that a borrower's income will be considered adequate: (1) Where the total prospective housing expenses do not exceed 38 percent of the borrower's net effective income and (2) where the total of such prospective housing expenses and other recurring expenses do not exceed 53 percent of the borrower's net effective income. The terms "total prospective housing expenses" and "net effective income" are defined in § 201.22(b).

Dated: January 16, 1986.

Susan K. Zagame,

Acting General Deputy Assistant Secretary for Housing, Deputy Federal Housing Commissioner.

[FR Doc. 86-6225 Filed 3-20-86; 8:45 am]

BILLING CODE 4210-27-M

Office of the Secretary

24 CFR Parts 800, 813, 900, and 913

[Docket No. R-86-1279; FR-2181]

Transfer of Section 23 Programs to the Assistant Secretary for Public and Indian Housing

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This document makes changes in Parts 800, 813 and 913 to reflect a change made in the delegation of authority for administration of the housing programs authorized by sections 10(c) and 23 of the United States Housing Act of 1937, 42 U.S.C. 1410 and 1421(b). The amendment to the delegation of authority, published on May 21, 1985 (50 FR 20943), transferred authority for the section 23 programs from the Assistant Secretary for Housing—Federal Housing Commissioner to the Assistant Secretary for Public and Indian Housing.

EFFECTIVE DATE: May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Thomas Sherman, Director, Office of Public Housing, 451 Seventh Street SW., Washington, DC 20410-5000, telephone (202) 755-5380. (This is not a toll free-telephone number.)

SUPPLEMENTARY INFORMATION: Part 800 governs the section 23 Housing Assistance Payments (Section 23 HAP) program for newly constructed or substantially rehabilitated housing. The regulations for this program were first published on April 22, 1974 (39 FR 14303) to implement section 23 of the United States Housing Act of 1937 (1937 Act), before amendment of that Act by the Housing and Community Development Act of 1974 (1974 Act). Although section 8 of the 1974 Act authorized a housing assistance payments (Section 8 HAP) program that has essentially replaced the section 23 HAP program and many section 23 projects have been converted to section 8 assistance, there are still some section 23 projects that are covered by Part 800.

Part 800 is located in Chapter VIII, a chapter for the housing assistance payments program regulations of the Assistant Secretary of Housing. Since authority for this program has been transferred to the Assistant Secretary for Public and Indian Housing, whose rules appear in Chapter IX, it is necessary to redesignate Part 800 as a new Part 900, placing it in Chapter IX.

Two other parts are affected by this document. Part 813 prescribes the definition of income and rent calculations for the section 8 HAP programs. It also has covered the section 23 programs and programs administered under section 10(c) of the 1937 Act before its amendment by the 1974 Act. The counterpart of Part 813 for programs administered by the Assistant Secretary for Public and Indian Housing is Part 913. Therefore, this document amends § 813.101 to remove these programs from the list of those covered by Part 813, and it amends § 913.101 to add these programs to the list of covered programs This change has no substantive effect.

Findings and Certifications

The Department has determined that this reorganization of regulations need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), since this rulemaking merely reflects agency organization and practice. It is thus exempt under section 553(b)(A) of the APA from the requirement of prior notice and comment.

A Finding of No Significant Impact with respect to the environment under the National Environmental Policy Act (42 U.S.C. 4321-4347) is unnecessary, since this reorganization of regulations is categorically exempt from the requirement of an environmental assessment under § 50.20 (k) of HUD regulations implementing that Act.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this rule does not have a significant economic impact on small entities, because it merely changes the organization of the Department's regulations.

This rule was not listed in the Department's Semiannual Regulatory Agenda published on October 29, 1985 (50 FR 44166), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program Number is 14.146, Low Income Housing Assistance Program.

List of Subjects

24 CFR Part 800

Grant programs: Housing and community development, Rent subsidies.

24 CFR Part 813

Lower income housing, Loan programs—Housing and community development, Utilities.

24 CFR Part 900

Grant programs: Housing and community development, Rent subsidies.

24 CFR Part 913

Grant programs: Housing and community development, Low and moderate income housing, Public housing.

PART 800—[REDESIGNATED AS 900]

Accordingly, the Department hereby amends Chapters VIII and IX as follows:

1. Part 800—Section 23 Housing Assistance Payments Program—New Construction and Substantial Rehabilitation is redesignated as a new Part 900—Section 23 Housing Assistance Payments Program—New Construction and Substantial Rehabilitation, and §§ 800.101–800.203 are redesignated as Section 900.101–900.203, respectively.

2. In the list below, for each section listed in the left column, remove the reference indicated in the middle column from wherever it appears and add in its place the reference indicated in the right column:

Section	Remove	Add
900.102	Part 813	Part 913.
900.103	§ 800.102(b)	§ 900.102(b).
900.103	Parts 812 and 813	Parts 912 and 913.
900.202	§ 800.202(e)	§ 900.202(e).

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS AND RELATED PROGRAMS

3. The title of Part 813 is revised to read as set forth above.

4. The authority citation for Part 813 continues to read as follows:

Authority: Sections 3, 8 and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437f and 1437n); section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 813.101 [Amended]

5. Section 813.101 is amended by removing the phrase "; and applicants and tenants assisted under Sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.))." and by adding a period.

PART 913—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE PUBLIC HOUSING AND INDIAN HOUSING PROGRAMS

6. The authority citation for Part 913 continues to read as follows:

Authority: Secs. 3, 6, and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437d, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 913.101 [Amended]

7. Section 913.101 is amended by adding after "Opportunities Programs" the phrase "; and applicants and tenants assisted under sections 10(c) and 23 of the 1937 Act as in effect before amendment by the Housing and Community Development Act of 1974 (42 U.S.C. 1410 and 1421b (1970 ed.))."

Dated: March 12, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 86-6227 Filed 3-20-86; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8071]

Income Tax; Reserve for Certain Guaranteed Debt Obligations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the Federal Register publication on Friday, January 17, 1986, beginning at 51 FR 2478 of the final regulations which were the subject of Treasury Decision 8071. T.D. 8071 relates to the treatment of reserves for certain guaranteed debt obligations.

EFFECTIVE DATE: The final regulations that are the subject of this correction are effective for taxable years ending after October 21, 1965.

FOR FURTHER INFORMATION CONTACT: Carroll Yue of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224. (Attention: CC:LR:T). Telephone 202–566–3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1986, final regulations relating to the treatment of reserves for certain guaranteed debt obligations were published in the Federal Register (51 FR 2478). These regulations are effective for taxable years ending after October 21, 1965. These amendments were made to conform the regulations to changes made by the Act of November 2, 1966 (Pub. L. 89–722, 80 Stat. 1151), which added section 166(g) to the Internal Revenue Code of 1954. Section 166(g) was redesignated as section 166(f) by section 605 of the Tax Reform Act of 1976 (90 Stat. 1575).

Need for Correction

As published, Treasury Decision 8071 includes the following language in incorrect sequence:

"*Example.* For 1977, A, a dealer in automobiles who uses the calendar year as the taxable year, adopts in accordance with this section the reserve method of treating section 166(f)(1)(A) guaranteed debt obligations. A's first year in business as an automobile dealer is 1973. For 1972, 1973, 1974, 1975, and 1976, A's records disclose the following information with respect to these obligations:

Year	Obligations outstanding at close of year	Gross losses from these obligations	Recoveries from these obligations	Net losses from these obligations
1972	$0	$0	$0	$0
1973	780,000	9,700	1,000	8,700
1974	795,000	8,900	1,050	7,850
1975	850,000	8,850	850	8,000
1976	820,000	8,300	1,400	7,900
Total	3,245,000	36,750	4,300	32,450

The opening balance for 1977 of A's reserve for these obligations is $8,200, determined as follows:

$$\$8,200 = \$820,000 \times \frac{\$32,450}{\$3,245,000}$$

(3) *More appropriate balance.* A taxpayer may select a balance other than the one produced under paragraph (e)(1) of this section if it is more appropriate, based upon the taxpayer's actual experience, and in the event the taxpayer's return is examined, if the balance is approved by the district director.

This language appears on page 2480, third column, immediately following paragraph (d)(8), and preceding paragraph (e)(1).

Correction of Publication

Accordingly, the publication of Treasury Decision 8071, which was the subject of FR Doc. 86–1132, is corrected by removing the above-mentioned language which appears on page 2480, third column, immediately following paragraph (d)(8) and preceding paragraph (e)(1), and inserting the same

language on page 2481, first column, immediately following paragraph (e)(2) and preceding paragraph (e)(4).

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-6264 Filed 3-20-86; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

31 CFR Part 128

Reporting of International Capital and Foreign Currency Transactions and Holdings, Transfers of Credit, and Export of Coin and Currency

AGENCY: Department of the Treasury, Office of the Secretary.

ACTION: Final rule.

SUMMARY: Subpart B of Part 128, Title 31, Code of Federal Regulations, describes those forms prescribed under Part 128 for reporting of data on international capital transactions. This final rule adds to Subpart B a new § 128.11c, which describes and thereby authorizes the issuance of Treasury International Capital (TIC) Form BL-3. TIC Form BL-3 (a copy of which is attached) is designed for use by a bank or other financial intermediary in the United States to notify a nonbanking customer that a new foreign borrowing denominated in U.S. dollars is effective and that the customer may have an obligation to report the outstanding loan balance on TIC Form CQ-1. The obligation to report on TIC Form CQ-1 applies when such outstanding borrowings from foreigners will not be reported by the bank or other financial intermediary on TIC Form BL-2.

DATE: March 21, 1986.

FOR FURTHER INFORMATION CONTACT: Gary A. Lee, Manager, Treasury International Capital Reporting System, Room 5453, Department of the Treasury, 15th and Pennsylvania Avenue NW., Washington, DC 20220 (202-566-3114).

SUPPLEMENTARY INFORMATION:

Background

Part 128 of Title 31, Code of Federal Regulations, sets forth the requirements and describes the forms used for reporting international capital and foreign currency transactions and holdings. Large amounts of offshore loans to U.S. nonbank residents are not being properly reported on the TIC C-series forms prescribed in Subpart B of Part 128. Much of this under reporting results from confusion among nonbank borrowers over whether the source of their loans is domestic or foreign. This confusion is exacerbated by the failure of U.S. intermediaries to comply with existing obligations, specified in the Form BL-2 instructions, either to report certain foreign transactions on behalf of their U.S. customers or to inform those customers of foreign ownership of claims held against them so the customers can themselves report the transactions on their own TIC forms.

New TIC Forms BL-3 formalizes the present arrangement whereby the intermediary is given the option to either include "reportable foreign borrowings" or Form BL-2, "Custody Liabilities of Reporting Banks, Brokers and Dealers to Foreigners,' Payable in Dollars," (OMB No. 1505-0018), on an unidentified basis or to notify the customer of certain foreign borrowings on Form BL-3. On the latter form, a bank or other financial intermediary advises the U.S. nonbanking entity that (1) the intermediary is acting as the U.S. address of the foreign lender in servicing drawn and outstanding loan balances; and (2) that the loan balances will not be reported as custody liabilities to foreign lenders on the intermediary's TIC Form BL-2. On receipt of the notification, the nonbanking firm will be formally advised of his subsequent reporting responsibility to include the liability on TIC Form CO-1, "Financial Liabilities to, and Claims on, Unaffiliated Foreigners," (OMB No 1505-0024). Banks and other financial intermediaries will also be required to file copies of every Form BL-3 with the Federal Reserve Bank of New York for data monitoring purposes.

Section 128.2(a)(2) of Title 31 mandates that persons subject to the jurisdiction of the United States and engaged in any transfer of credit between any person within the United States and any person outside of the United States shall furnish information concerning such transfers as required by report forms and instructions prescribed in Subpart B of Part 128. The addition to Subpart B of § 128.11c, describing new TIC Form BL-3, will provide the necessary authorization for use of this form.

Notice and Comment

In response to a notice of proposed rule making dated May 10, 1985 which invited comments through July 15, 1985 and during an earlier April 1 to June 1, 1985 informal comment period, the Department of the Treasury received twenty-one comments on proposed TIC Form BL-3. These comments came from fourteen individual banks, four domestic banking associations and three associations of foreign banks. In addition, two letters of comment were received several weeks after the comment period had ended, including a foreign bank association and a representative office. The Treasury has considered all of the comments received in formulating the final rule. The following summarizes the comments and sets forth Treasury's responses.

Burden and Cost of Reporting

Comment: Commenters cited three reasons why Form BL-3 would greatly increase the current reporting burden and associated costs. First, that the proposed scope of the BL-3 would encompass foreign loan transactions in addition to those in which the U.S. intermediary actually acts as the U.S. address of the foreign lender. Second, the Form BL-3 instructions were interpreted by some commenters to require U.S. banking offices to gather information and file a notification form on all loans granted to U.S. nonbank residents by related foreign offices whether or not a U.S. banking office is directly involved in the transaction. Based on this interpretation, some commenters argued that Form BL-3 requirements constituted an extraterritorial attempt by Treasury to collect information and, with respect to U.S. offices of foreign banks, a penalty for conducting business in the U.S. Third, that a separate Form BL-3 notification would be required each time a reportable borrowing arrangement was renegotiated or rolled-over.

Response: Treasury has taken steps to provide that any notification pursuant to Form BL-3 requirements will not be unreasonably burdensome either to U.S.-chartered banks or to U.S. offices of foreign banks. First, Treasury has amended the Form BL-3 instructions to require a U.S. intermediary to make notification only of loans and transactions *drawn down* and *outstanding* and for which the intermediary knowingly acts as the U.S. address of a foreign lender. Second, Treasury has amended Form BL-3 notification requirements so that they clearly require information from U.S. banking offices only with regard to loan arrangements in which they are directly involved and not with regard to all loans granted to U.S. nonbank residents by related foreign offices. In all cases, the intermediary will have the option to report such transactions on Form BL-2 or to file the Form BL-3 Notification. Third, a rollover of a foreign loan need not be subject to Form BL-3 notification provided either that a notification is issued at the time of the first take-down of the loan or that the intermediary

includes the outstanding balances on such loans on its own Form BL–2.

Inclusion of Representative Offices

Comment: There was strong objection to the specific inclusion of representative offices among potential Form BL–3 respondents on the grounds that representative offices do not report on Form BL–2, may not legally undertake banking business, maintain no records and often are one-person operations. Further, it was argued that in most cases the loans that were generated by representative offices for the foreign parent were in fact serviced by a U.S. branch or agency of the parent. In such cases, the branch or agency would be able to shoulder any TIC reporting responsibility.

Response: Treasury has exempted representative offices from any Form BL–3 notification responsibility.

Foreign Confidentiality Laws

Comment: Many commenters stated that the requirement for filing a copy of Form BL–3 with the Federal Reserve Bank of New York could in many cases put the U.S. intermediary in violation of foreign bank secrecy laws because it would reveal proprietary information; e.g., customer names and amounts in accounts of foreign banking offices. Many in the industry asserted that this could result in jurisdictional conflicts and litigation, thereby involving substantial additional costs.

Response: Treasury has amended the Form BL–3 instructions to clarify that the intermediary has the option of including "reportable foreign borrowings" on Form BL–2 on an unidentified basis if it chooses not to notify both the customer and the Federal Reserve Bank of New York of such foreign borrowings on Form BL–3.

Definitional Problems—Need for Clarification

Comment: A number of commenters stated that the instructions to proposed Form BL–3 did not clearly define the types of transactions that were to be encompassed by the term "reportable foreign borrowing," and that the instructions should contain examples of loans and credit arrangements either covered or excluded from the scope of the reporting requirement. In particular, commenters asked that Treasury clearly state whether the following arrangements are within the scope of the Form BL–3 reporting requirement: loans to foreign affiliates of U.S. nonbank entities, loan participations and "contingent" liabilities such as standby letters of credit, performance bonds and guarantees.

Response: Treasury has refined the reporting instructions for Form BL–3 to define clearly the types of loans and credit arrangements that are to be considered "reportable foreign borrowings."

Reporting Threshold and Exemptions

Comment: Several commenters argued that the notification threshold on proposed Form BL–3 ($1 million per borrowing arrangement) should be tied to the Form BL–2 reporting threshold (currently $15 million of aggregate reportable liabilities). Further, several commenters objected to the proposed Form BL–3 notification requirement for new foreign loans (overnights and others) scheduled to mature before the end of the current calendar quarter since loans outstanding at the quarter end only are reportable by nonbank borrowers on TIC Form CQ–1.

Response: Treasury has amended the requirements to provide that banks and other intermediaries who opt for Form BL–3 notification of "reportable foreign borrowings" will not be required to submit Form BL–3 until "reportable foreign borrowings" and other "custody" items covered by Form BL–2 aggregate to $15 million or more as of the month end in which the borrowing is initially drawn and outstanding. Further, in the interest of reduced reporting burden, Treasury has exempted from optional Form BL–3 notification any "reportable foreign borrowings" which are scheduled to mature before the end of the current calendar quarter. Form BL–3 notification will be applicable to borrowings maturing during the next or subsequent quarters only. However, outstanding balances of overnights and other loans booked abroad which constitute "reportable foreign borrowings" and which mature before the end of the next calendar quarter may be reportable on Form BL–2 if outstanding as of the last business day of a month.

In addition, Treasury has changed the filing date of Form BL–3 from 10 days to 15 days following the month-end so as to correspond with the filing deadline for Form BL–2.

Foreign Currency Denominated Borrowings

Comment: Several commenters complained that proposed Form BL–3 exceeded the scope of Form BL–2 in that it would require notification of borrowings payable in foreign currencies as well as borrowings payable in dollars.

Response: Treasury has limited the notification requirements of Form BL–3 to encompass borrowings payable in U.S. dollars only.

Alternative Sources of Information

Comment: There were some suggestions that Treasury should explore other avenues of information as a means of measuring the completeness of U.S. data on foreign lending to U.S. nonbanks. It was pointed out such data are currently collected by a number of foreign governments and central banks that perhaps could be used by the Treasury. A specific source of alternative aggregate information was cited: Table 7YR–D, "Cross-Border Bank Credits to Nonbanks by Residence of Borrower," published in the IMF's *International Financial Statistics*. It was suggested that Treasury seek any necessary additional detail on these borrowings from the foreign collection authorities themselves.

Response: The Treasury fully recognizes the data collection activities of other countries and in fact directly shares non-confidential TIC aggregates on an ongoing basis with several countries and international agencies, including the IMF. The data readily available from these other sources are not detailed enough for Treasury's needs. Even if other countries were to share finer detail, which is most unlikely given their confidential character, the data would not be sufficiently precise to complement respondent data reported in the TIC System and to facilitate TIC data editing procedures. Further, data collection systems differ among counties. Form BL'–3's purpose is to improve compliance with existing TIC reporting requirements. We believe that implementation of the form, as revised, will help close current reporting gaps in the TIC statistical series.

Special Analyses

This rule provides technical clarification of existing reporting requirements. For this reason, the Department of the Treasury has determined that this document does not constitute a "major" rule as defined in Executive Order 12291 and that a regulatory impact analysis is not required; has certified, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule will not have a significant economic impact on a substantial number of small entities; and has determined that a delayed effective date is unnecessary pursuant to 5 U.S.C. 553(d)(3).

List of Subjects in 31 CFR Part 128

Banks, Banking, Currency, Federal Reserve System, Foreign banking,

Reporting or recordkeeping requirements.

Amendment

Part 128, Subpart B, Chapter I of Title 31, Code of Federal Regulations is amended as set forth below:

PART 128—[AMENDED]

1. The authority citation for Part 128 continues to read as follows:

Authority: Sec. 8, Pub. L. 79–171, 59 Stat. 515, 22 U.S.C. 286f; Sec. 4, Pub. L. 94–472, 90 Stat. 2059, 22 U.S.C. 3103; E.O. 10033, 14 FR 561, 3 CFR, 1949–1953, Comp: E.O. 11961, January 9, 1977, 42 FR 4321, as amended.

2. In Part 128, § 128.11c is added to read as follows:

§ 128.11c International Capital Form BL–3: Intermediary's notification of foreign borrowing denominated in U.S. dollars.

On this form any intermediary in the United States which knows that it is being used as the U.S. address of "foreigners" in connection with the servicing of their U.S. dollar loans to nonbank borrowers in the United States is required to notify its nonbanking customer in the United States and the Federal Reserve Bank of New York of that nonbanking customer's obligation to report borrowings from foreigners on Treasury International Capital (TIC) Form CQ–1 if the intermediary does not exercise its option to report the outstanding borrowings on TIC Form BL–2.

Dated: March 6, 1986.

David C. Mulford,

Assistant Secretary, International Affairs.

Note.—The attached form is printed for the convenience of the reader. It will not appear in the CFR.

The data furnished on this report will be held in confidence.

International Capital Form BL–3

DEPARTMENT OF THE TREASURY

Office of the Assistant Secretary for International Affairs

Form Approved OMB No. 1505–0088

REPORT TO THE FEDERAL RESERVE BANK OF NEW YORK

Intermediary's Notification of Foreign Borrowing Denominated In U.S. Dollars

Note.—This notification should be sent not later than the fifteenth day following the month-end in which a "reportable foreign borrowing" is initially drawn and outstanding.

This report is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128). Failure to report can result in a civil penalty not exceeding $10,000. Willful failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if an individual, imprisonment for not more than one year, or both. Any officer, director, employee or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (22 U.S.C. 3105; 31 CFR 128.4(a)).

To: _____

Name of Borrower

_____

Address of Borrower

_____

Contact Officer at Borrower

_____

Name of Parent (if any)

_____

Address of Parent

This is to notify you that on

_____

Take-down date

a new borrowing, payable in U.S. dollars, was effective for your account amounting to (Total amount of borrowing in thousands of dollars).

This borrowing was extended by a foreign lender located in (Country of Residence of Lender) and is to be repaid on (Date).

Since we will not be reporting this borrowing from a "foreigner" on the Treasury International Capital (TIC) Form BL–2, your firm may be required to report the balance *drawn* and *outstanding* as of each quarter-end on Treasury International Capital (TIC) Form CQ–1, Part 1, "Financial Liabilities to Unaffiliated 'Foreigners,' " which must be filed with the International Reports Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045. A copy of this notification has been filed by us with the Federal Reserve Bank of New York as required by law.

Name and address of notifying intermediary:

_____

_____

_____

_____

Person to be contacted concerning this notification

_____

Telephone (Area code, telephone number and extension)

_____

Name and title of responsible officer *(please print or type)*

_____

Signature of responsible officer

BEFORE PREPARING THIS REPORT PLEASE READ CAREFULLY THE GENERAL INSTRUCTIONS AND DEFINITIONS FOR THE TIC BANKING FORMS AND THE INSTRUCTIONS FOR THIS FORM.

INSTRUCTIONS FOR THE PREPARATION OF FORM BL–3

Intermediary's Notification of Foreign Borrowing Denominated in U.S. Dollars

Noted.—This notification should be sent no later than the fifteenth day following the month-end in which a "reportable foreign borrowing" is initially drawn and outstanding.

A. INTRODUCTION

The purpose of this report is to gather timely and reliable information on the international financial position of the United States and on movements of capital between the United States and foreign countries.

This form is specifically designed for use by an intermediary (as defined in these instructions) to notify a nonbanking customer in the United States of its obligation to report on Treasury International Capital (TIC) Form CQ–1 borrowings from foreigners which will not be reported by the intermediary on TIC Form BL–2. These borrowings, as defined in these instructions, are those payable in U.S. dollars to "foreigners" which represent claims, acquired either here or abroad, on persons in the United States.

The General Instructions and Definitions for the Preparation of Reports on the Treasury International Capital Banking Forms apply to the preparation of reports on this form, as well as the instructions below.

This notification is required by law (22 U.S.C. 2861; 22 U.S.C. 3103; E.O. 10033; 31 C.F.R. 128). Failure to report can result in a civil penalty not exceeding $10,000. Willfull failure to report can result in criminal prosecution and upon conviction a fine of not more than $10,000, or, if an individual, imprisonment for not more than one year, or both. Any officer, director, employee or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both (22 U.S.C. 3105; 31 C.F.R. 128.4(a)).

Data reported on this form will be held in confidence by the Department of the Treasury and the Federal Reserve Bank of New York acting as fiscal agent of the Treasury. The data reported by individual respondents will not be published or otherwise publicly disclosed. Data reported by individual respondents may be made available to the Board of Governors of the Federal Reserve System and to other Federal agencies insofar as authorized by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and the international investment Survey Act of 1976 (22 U.S.C. 3101 *et seq.*).

B. WHO MUST REPORT

Any intermediary, i.e., any bank, banking institution (including the U.S. agencies, branches and subsidiaries of foreign banks), thrift institution, broker or dealer in the United States, which knows that it is being used as the U.S. address of "foreigners" in connection with the servicing of their loans to nonbank borrowers in the United States (i.e., "reportable foreign borrowings" as defined in these instructions), may be required to report on this form. For instance, a bank in the United States may be an "intermediary" for "reportable foreign borrowings" that are carried on the books of a "shell" branch or other related foreign office.

Note.—Your attention is drawn to General Instruction B., "Who Must Report," of TIC Form BL–2, which states: Reporting institutions are required to report all financial claims on persons in the United States, other than "long-term" securities, which they hold for "foreigners" either in direct custody or in their own name with a custodian bank of

other institution. If the reporting institution is used by "foreigners" as their U.S. address in connection with their financial transactions with persons in the United States, the reporting institution must report claims on persons in the United States which result from such transactions as if such claims were in the report's custody, or must inform the U.S. persons against whom the claims are held that they are owned by "foreigners," identifying the countries and the amounts relevant to each.

In the case of a "reportable foreign borrowing" that you do not elect to include on your Form BL–2 as a "custody" liability to "foreigners," you must notify the U.S. borrower and the Federal Reserve Bank of New York using Form BL–3.

C. EXEMPTIONS

A bank, banking or thrift institution, broker or dealer need not file Form BL–3 for any "reportable foreign borrowing" if *either* of the following conditions is met:

1. Total "custody" liabilities to "foreigners" (including "reportable foreign borrowings") for purposes of reporting on Form BL–2 aggregate less than $15 million as of the month-end in which the foreign dollar borrowing is *drawn* and *outstanding;* or

2. You elect to include on your own monthly Form BL–2 the amount of the "reportable foreign borrowing" *drawn* and *outstanding* at month-end.

Note.—Form BL–3 need not be filed for any borrowing *drawn* and *outstanding* that is less than $1,000,000 or that is scheduled to mature before the end of the current calendar quarter.

D. FILING OF REPORTS

A notification on this form should be sent to the borrower, with a copy to the Federal Reserve Bank of New York, not later than 15 days following the month-end in which the "reportable foreign borrowing" is initially *drawn* and *outstanding*, at the following address: Corporate Unit, International Reports Division, Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045.

Form BL–3 need only be filed once per borrowing, showing the date of the first draw-down.

E. NONBANK BORROWER

A "nonbank borrower" means any person located in the United States other than a bank, bank holding company, thrift institution, security broker or dealer, including their domestic, majority-owned nonbanking subsidiaries, and the U.S. Government and its agencies, corporations and other instrumentalities.

F. REPORTABLE FOREIGN BORROWING

A "reportable foreign borrowing" is a foreign credit, denominated in U.S. dollars, extended to a nonbank borrower in the United States for which you are *knowingly* being used as the U.S. address of the "foreign" lender in connection with its loan servicing transactions with the U.S. borrower. The term "reportable foreign borrowing" includes:

1. Loans and syndicated borrowings when the notes evidencing such borrowings *are not held* by you for account of the foreign lenders. (Note: When such notes *are directly held* by you for the account of foreign lenders, they *are reportable* as custody liabilities on Form BL–2. See General Instruction B., "Who Must Report," Form BL–2.)

2. Overnight and call borrowings.

3. Borrowings that were switched without the knowledge of the U.S. borrower from the books of the U.S. intermediary to the books of the foreign lender.

4. Participations to foreign lenders of loans granted by you to U.S. nonbank borrowers if the terms (e.g., interest rate and maturity) of the participation are identical to those of the underlying loan and such participation certificates *are not held* by you for account of the foreign lenders. (See Note in F. 1. above.)

G. EXCLUSIONS

The following should be excluded from amounts reported on Form BL–3:

1. Borrowings denominated in foreign currencies.

2. Extensions of credit in connection with letters of credit, acceptances and due bills.

3. Performance bonds, standby letters of credit, guarantees or other similar contingent liabilities.

4. Overdrafts of U.S. firms with banks abroad.

5. Commercial paper and other short-term (*original* maturity of one year or less) negotiable and readily marketable obligations issued by U.S. firms that are being *held* by you for account of "foreigners." (Note: When such instruments are directly *held* by you for the account of "foreigners," they *are reportable* as custody liabilities on TIC Form BL–2. See General Instruction B., "Who Must Report," Form BL–2.)

6. Loans granted by "foreign" lenders to foreign affiliates of U.S.-based firms.

7. "Long-term" marketable securities of public and private issuers in the United States. Such securities include bonds, notes, and debentures with an *original* maturity of more than one year.

8. Nonnegotiable and nonmarketable notes and loan participation certificates of U.S. firms *held* by you for the account of foreigners. (Note: These items *are reportable* as custody liabilities on Form BL–2. See item G. 5 above.)

9. Loans granted by foreign lenders to banks, bank holding companies, thrift institutions and brokers or dealers located in the United States, including their domestic nonbanking subsidiaries.

10. Borrowings which are scheduled to mature before the end of the current calendar quarter.

11. Borrowings for which the intermediary does not know it is serving as the U.S. address of a "foreign" lender (including commitments or lines of credit arranged by the intermediary but for which the intermediary does not know when or whether the U.S. nonbank borrower draws upon the commitment or line or credit).

[FR Doc. 86–6197 Filed 3–20–86; 8:45 am]

BILLING CODE 4810-25-M

POSTAL SERVICE

39 CFR Part 3

Increase of Delegated Authority for Capital Investment Projects

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the bylaws of the Board of Governors to increase the Postmaster General's delegated authority for capital investment projects from $5 to $10 million. The previous authority was established in 1977. Since that time construction costs have increased almost 80%, so that the purchasing power of $5 million has been reduced to the equivalent of less than $2.8 million in 1986 dollars. This inflation has resulted in the Board being required to review and approve many small, uncomplicated investment projects that, under the original delegation, it did not intend to review. By increasing the authority to $10 million the Board will restore the delegation to its original force.

EFFECTIVE DATE: March 4, 1986.

FOR FURTHER INFORMATION CONTACT: John Ward (202) 268–3392.

Accordingly, Part 3 of 39 CFR is amended as follows:

List of Subjects in 3 CFR Part 3

Organization and functions (Government agencies), Postal Service.

PART 3—BOARD OF GOVERNORS [ARTICLE III]

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

Authority: 39 U.S.C. 202, 203, 205, 401 (2), (10), 1003, 3013; 5 U.S.C. 552b (g), (j).

§ 3.4 [Amended]

2. In § 3.4, paragraph (g) is amended by striking out "$5 million" and inserting "$10 million" in lieu thereof.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 86–6253 Filed 3–20–86; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 400

[OMB-9-F]

Medicare and Medicaid Programs; OMB Control Numbers for Collection of Information Requirements Contained in HCFA Regulations

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

ACTION: Final rule.

SUMMARY: This final rule amends a general HCFA regulation to display control numbers assigned by the Office of Management and Budget (OMB) for approved "collection of information" requirements that are contained in regulations governing the Medicare and Medicaid programs.

This rule is issued in accordance with OMB regulations for controlling paperwork burdens on the public (5 CFR Part 1320) and serves as notice that the collection of information is approved.

EFFECTIVE DATE: March 24, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Odachowski, (301) 594-3075.

SUPPLEMENTARY INFORMATION:

General Information

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), Federal agencies are required to obtain OMB approval of "collection of information" requirements that are contained in any regulations published by the agencies. To implement provisions of this Act, the OMB has established regulations under Part 1320 of title 5 of the Code of Federal Regulations. The OMB regulations require Federal agencies to notify the public that a collection of information requirement has been approved by OMB by issuing a notice in the **Federal Register**, and to display the control number assigned by OMB after approval of the requirement as part of the agency's regulatory text.

To comply with the OMB requirement that HCFA include in its regulations the OMB control numbers assigned, we have established a general regulation under 42 CFR 400.310 to display valid OMB control numbers and applicable regulation sections as a means of notifying the public. We update this regulation routinely to add the most recent OMB control numbers or to delete entries that are no longer in effect. This document contains our latest update of control numbers.

Waiver of Proposed Rulemaking and Waiver of Delayed Effective Date

This regulation merely updates our display of OMB control numbers for approved collection of information requirements contained in HCFA regulations. It is technical in nature. To publish the regulation in proposed form is unnecessary and would serve no useful purpose. Therefore, we find good cause to waive notice of proposed rulemaking.

In addition, we find justification to waive the 30 day delay in effective date required by the Administrative Procedure Act for the following reasons. Under EOMB regulations at 5 CFR 1320.13(j), a collection of information requirement is not effective until EOMB has assigned a control number and the number is displayed. We display the OMB control number by publishing it in the **Federal Register**. We believe that it is unreasonable to use a 30 day delayed effective date for the OMB control number displayed in this rule because we are displaying the control number before the effective date of the regulations containing the controlled collection of information requirements. To use a 30 day delayed effective date would merely delay implementation of those sections of the regulations subject to OMB approval, and is unnecessary. Therefore, we find good cause to waive the 30 day delay in effective date.

Impact Analysis

As noted above, this regulation is technical in nature and merely updates the display of OMB control numbers of approved collection of information requirements contained in HCFA regulations. Therefore, the Secretary has determined that this document does not meet the criteria for a major rule as defined in section 1(b) of Executive Order 12291. In addition, the Secretary certifies, consistent with the Regulatory Flexibility Act, that this document would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 42 CFR Part 400

Grant programs-health, Health facilities, Health maintenance organizations (HMO), Medicaid, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 400 is amended as follows:

PART 400—INTRODUCTION; DEFINITIONS

1. The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

2. Section 400.310 is amended by adding, in numerical order by CFR section, the following entries of sections that contain collections of information and assigned OMB control numbers.

§ 400.310 Display of currently valid OMB control numbers:

Sections in 42 CFR that contain collections of information	Current OMB control No.
405.334 (b) and (c), 405.336 (b), (c), and (d)	0938-0465

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Programs; 13.773, Medicare—Hospital Insurance; 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 11, 1986.

Henry R. Desmarais,

Acting Administrator, Health Care Financing Administration.

Approved: March 18, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-6343 Filed 3-20-86; 8:45 am]

BILLING CODE 4120-01-M

42 CFR Part 405

[BERC-273-CN]

Medicare Program; Procedures for Determining Whether Providers, Practitioners, or Other Suppliers of Services Are Liable for Certain Noncovered Services

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

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule, published February 21, 1986, that revised procedures for determining whether providers, practitioners, or other suppliers of services are liable for services that are found not to be medically reasonable and necessary or to constitute custodial care.

FOR FURTHER INFORMATION CONTACT: Denis M. Garrison, (301) 594-9435.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-3847, beginning on page 6222 in the issue of February 21, 1986, make the following corrections:

§ 405.330 [Corrected]

Page 6235, in the third column, in the amendatory language designated as "3": (1) In the third line, "§ 405.334(a)" is corrected to read "§ 405.334"; and (2) In the sixth line, "§ 405.336(b)" is corrected

to read "§ 405.336", correcting the amendatory language to read as follows:

3. In § 405.330, paragraph (b)(1) is amended by revising the citation "§ 405.332(a)" to read "§ 405.334" and paragraph (b)(2) is amended by revising the citation "§ 405.332(b)" to read "§ 405.336".

(Secs. 1102, 1815, 1833, 1842, 1861, 1862, 1866, 1870, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395l, 1395u, 1395x, 1395y, 1395cc, 1395gg, 1395hh, and 1395pp) and 31 U.S.C. 3711)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: March 17, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-6217 Filed 3-20-86; 8:45 am]

BILLING CODE 4120-01-M

Office of the Secretary

42 CFR Part 455

[LRR-2-CN]

Medicare and Medicaid Programs; Fraud and Abuse Technical Amendments

AGENCY: Office of the Secretary, HHS, Office of Inspector General (OIG).

ACTION: Correction of final rule.

SUMMARY: This document corrects technical errors that appeared in the final rule, published September 13, 1985 (50 FR 37370), that implemented sections 2348 and 2370 of the Deficit Reduction Act of 1984, and set forth a series of technical changes transferring the responsibility of making fraud and abuse determinations from the Health Care Financing Administration to the Department's OIG.

FOR FURTHER INFORMATION CONTACT: Ronald Ritchie (301) 594-1832.

SUPPLEMENTARY INFORMATION: Following the publication of the OIG Fraud and Abuse Technical Amendments final rule (50 FR 37370, September 13, 1985), one commenter pointed out that revisions to 42 CFR 455.208 and 455.213 failed to include specific reference to "intermediate care facility services" in the regulations. As a result of this comment and upon reexamination of past and existing policies and regulatory actions in this area, we believe now that a further revision is necessary to clarify these regulations and to insure that intermediate care facility services are specifically delineated in these provisions.

To correct these omissions in 42 CFR 455.208 and 455.213, we are making the following corrections:

§ 455.208 [Corrected]

A. Page 37375: In column 2, § 455.208(c)(1), in the third line, the phrase "posthospital extended care services" is corrected to read as "skilled nursing facility and intermediate care facility services."

§ 455.213 [Corrected]

A. Page 37375: In column 3, § 455.213(b)(1), in the third line, the phrase "posthospital extended care services" is corrected to read as "skilled nursing facility and intermediate care facility services."

(Catalog of Federal Domestic Assistance Programs, No. 13.714, Medical Assistance Program; No. 13.773, Medicare-Hospital Insurance Program; and No. 13.744, Medicare-Supplementary Medical Insurance Program)

Dated: March 17, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-6216 Filed 3-20-86; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6614

[I-8856]

Idaho; Public Land Order No. 6605, Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will correct an error in the land description of Public Land Order No. 6605 of May 24, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

The land description in Public Land Order No. 6605 of May 17, 1985, in FR Doc. 85-12618, published at page 21443 in May 24, 1985, is corrected as follows:

On Page 21443, under T. 5 S., R. 3 W., the line reading "Sec. 6, Lots 11, 12, 29-59, 63-86, 91-96, 100, 106-110" should read "Sec. 6, Lots 11, 12, 29-59, 63-86, 89, 91-96, 99, 100, 106-110."

J. Steven Griles,

Assistant Secretary of the Interior.

March 11, 1986.

[FR Doc. 86-6203 Filed 3-20-86; 8:45 am]

BILLING CODE 4310-84-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program Appendix A: New York

AGENCY: Office of Personnel Management.

ACTION: Final rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is establishing a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

DATES: This rule is effective immediately upon publication. In view of the need for its publication without an opportunity for prior comment, comments will still be considered. To be timely, comments must be received on or before April 21, 1986.

ADDRESS: Send or deliver comments to Ronald E. Brooks, Coordinator, Voting Rights Program, Office of Personnel Management, Room 5532, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ronald E. Brooks, (202) 632-5544.

SUPPLEMENTARY INFORMATION: The Attorney General has designated Bronx, Kings, and New York Counties, as additional examination points under the provisions of the Voting Rights Act of 1965, as amended. He determined on November 1, 1985, that these designations are necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, OPM will appoint Federal examiners to review the qualifications of applicants to be registered to vote and Federal observers to observe local elections.

Under section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed

rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations within these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Under section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to allow Federal examiners to register voters immediately in view of the pending elections to be held in the subject counties where Federal observers will observe elections under the authority of the Voting Rights Act of 1965, as amended.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have significant economic impact on a substantial number of small entities because it adds a new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 45 CFR Part 801 as follows:

PART 801—VOTING RIGHTS PROGRAM

1. The authority citation for Part 801 continues to read as follows:

Authority: 5 U.S.C. 1103; secs 7, 9, 79 Stat. 440, 411 (42 U.S.C. 1973c, 1973).

2. Section 801.202 is amended by alphabetically adding New York (which include Bronx, Kings, and New York Counties) to Appendix A to read as follows:

§ 801.202 Times and places for filing and forms of application.

* * * * *

Appendix A

* * * * *

New York

County; Place for filing; Beginning date.

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Bronx, Kings, and New York Counties, New York—26 Federal Plaza, Room 29108, New York, New York.

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[FR Doc. 86-6194 Filed 3-20-86; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. 1

[MM Docket No. 85-218; FCC 86-67]

Tender Offers and Proxy Contests

AGENCY: Federal Communications Commission.

ACTION: Policy Statement.

SUMMARY: The Commission determined that the mandatory use of the traditional long form procedures in connection with tender offers and proxy contests involving Commission licensees disserves the public interest. In the extraordinary circumstances surrounding a tender offer, the Commission found that the grant of special temporary authority pursuant to section 309(f) of the Communications Act to an independent trustee with restricted authority would provide an appropriate mechanism to permit shareholder consideration of tender offers. In situations in which the use of proxies may result in a transfer of corporate control, the Commission decided to employ an expedited procedure which entails the submission of a short form 316 supplemented by specific data on citizenship, other media interests and law violations. In situations in which the use of proxies does not effectuate a transfer of control, the Commission determined to retain the current practice of obtaining notification of changes in the Board at the time that the annual ownership report is filed.

ADDRESS: Federal Communications Commission, Washington DC 20554.

EFFECTIVE DATE: March 21, 1986.

FOR FURTHER INFORMATION CONTACT: Laurel Bergold, Policy and Rules Division, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: Effective immediately, the complete text of the decision adopted by the Commission will be summarized for **Federal Register** publication rather than published in full.

In the Matter of Tender Offers and Proxy Contests [MM Docket No. 85-218].

This is a summary of the Commission's policy statement, MM Docket No. 85-218, adopted January 30, 1986 and released March 17, 1986.

The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy Contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington DC 20037.

Summary of Policy Statement

1. On January 30, 1986, the Federal Communications Commission ("Commission") adopted a *Policy Statement* on the appropriate procedures governing tender offers and proxy contests involving Commission licensees and corporations that control Commission licensees. In that *Policy Statement*, the Commission concluded that the mandatory and exclusive use of the long form procedures, in the context of tender offers and proxy contests, is not required and, in fact, would contravene the public interest. Consequently, it found that the formulation of specific alternative approaches to this traditional procedure was necessary. The Commission emphasized that these determinations were based upon the record that it compiled in that proceeding, its experience in regulating the broadcasting industry and careful consideration of four fundamental objectives: The need to comply fully with the strictures and policies of the Communications Act, the promotion of strict neutrality of its regulatory procedures, the elimination of unnecessary regulatory delay and the accommodation of the policies underlying federal and state statutes concerning the governance of corporations.

2. In light of the varying factual settings in which proxy contests can arise, the Commission stated that it would be inappropriate for it to fashion generic procedures applicable in all situations involving proxy contests. It noted that section 310(d) of the Communications Act of 1934, *as amended*, requires the Commission to grant prior approval only with respect to those changes in the composition of a Board of Directors of a licensee corporation which constitute a transfer

of control. The Commission determined, however, that many proxy contests involving the election of a Board do not result in a transfer of control cognizable under section 310(d). In such situations, the Commission found the application of prior approval procedures to be both unnecessary and unwarranted. The Commission also stated that it would be inappropriate to adopt potentially burdensome and costly filing requirements in such cases, either on a pre-election or on an accelerated post-election basis. Rather, when no change of control over a licensee is involved, the Commission found that its regulatory objectives would be best served by continuation of its current practice of obtaining notification of changes in the Board in the ordinary course pursuant to the annual ownership report.

3. The Commission recognized, however, that there are certain types of proxy contests, such as the contested Board election in *Full Value of Storer Communications Inc.*, 101 FCC 2d 434, *aff'd sub nom. Storer Communications, Inc. v. FCC*, 763 F.2d 436 (D.C. Cir. 1985), that involve a transfer of control requiring its prior approval. It noted, however, that such transfers do not involve any change in ownership or on-going voting interests. Consequently, the Commission determined that this type of transfer annually will not be considered substantial under the Communications Act requiring that use of long form procedures. Moreover, in this context, the Commission found that the use of long form procedures would conflict with the purposes of the securities laws, would thwart the objective of assuring governmental neutrality and would result in unnecessary and potentially costly regulatory delay. For such transfers, therefore, the Commission stated that it would utilize a modified short form procedure, supplemented by data on citizenship, other attributable media interests, and adverse findings regarding law violations.

4. With respect to tender offers, in its *Policy Statement*, the Commission indicated that a tender offer involving its licensee may be simultaneously subject to the potentially conflicting procedures prescribed by the Communications Act and its implementing rules, the Williams Act, other federal laws and regulations and state law. The Commission decided that the accommodation of these diverse regulatory structures would warrant the use of special procedures. It also found that the exclusive use of the long form procedures would result in protracted delays, effectively insulate incumbent management from takeover challenges, and conflict with the objective of governmental neutrality set forth in the Williams Act. Indeed, it determined that the regulatory delays arising from this procedure in effect would deprive shareholders of communications corporations of the ability to consider tender offers. For these reasons, the Commission concluded that extraordinary circumstances exist which fully justify the application of the exceptional procedures prescribed by section 309(f) of the Communications Act.

5. Accordingly, in the context of a tender offer, the Commission determined to supplement the long form procedure with use of a temporary voting trust. Pursuant to section 309(f) of the Communications Act, the Commission concluded that it would grant an STA to a qualified, independent trustee with power to consummate the tender offer and, subject to certain prescribed limitations, to exercise control over the corporation during the pendency of the long form review of the offeror. The Commission stated that this supplementary, expedited regulatory approach would eliminate the deleterious effect of regulatory delay which would otherwise effectively deny shareholders the ability to consider tender offers without depriving interested parties of the right to fully participate in the long form review of the offeror.

6. The Commission also decided to impose specific restrictions on the offeror designed to prevent him or her from exercising control over the corporation or from influencing the trustee pending the completion of the long form review. Specifically, from the time that the tender offer is consummated the Commission stated that it would strictly prohibit the offeror from either becoming involved in, or seeking to influence, directly or indirectly, the operation or management of the corporation. For example, under this restriction the offeror could not nominate a director as his or her representative or attempt to influence the trustee's selection of Board members. In addition, the Commission determined that the offeror would be required to place all his or her existing stock holdings in trust at or before the consummation of the tender offer.

7. The Commission noted that the imposition of regulatory restrictions which do not further statutory objectives would both unnecessarily burden the offeror and would constitute unwarranted governmental interference in the marketplace. Accordingly, before consummation of the tender offer, the Commission determined that the offeror would not be restricted from exercising voting rights in existing stock interests or from taking any other actions he or she deems appropriate to promote a successful takeover bid, providing such actions do not amount to an exercise of *de facto* control of the licensee. Additionally, the Commission concluded that the offeror would not be obligated to place his or her existing stock holdings in trust prior to the time the tender offer is consummated.

8. In addition to direct limitations on the offeror, the Commission stated that additional prescriptions concerning the relationship between the offeror and the trustee are essential to ensure that the trustee will be able to act independently in exercising the powers granted pursuant to the STA. As a consequence, the Commission required strict separation between the trustee and the offeror. In establishing such separation, the Commission stated that it would not grant an STA to a trustee if that trustee either has any direct or indirect familial ties or business relationships, apart from the trust agreement, with the offeror, related entities or its principals, officers, or directors. In addition, it applied the same type of insulation criteria to any director who may be elected by the trustee. Because an offeror could influence the licensee by communicating with the trustee on matters relating to the management and operations of the corporation, the Commission decided to ban such communications.

9. The Commission emphasized, however, that it would not completely prohibit all communications between the offeror and the trustee. In this regard, the Commission stated that it would permit the trustee to send written information to the offeror regarding the management or operations of the company. It noted that the mere receipt of written reports would not provide the offeror with the means by which to influence corporate affairs. The Commission also determined that there was no reason to prohibit communications between the trustee and the offeror relating to the purchase of tendered stock. It did require, however, that all permissible communications between the trustee and the offeror, during the time in which the STA is in effect, be in writing.

10. The Commission recognized that the trustee must have sufficient authority to direct the operations of the business, should the need arise. It concluded, therefore, that the trustee requires a certain degree of flexibility in the manner in which he or she exercises control over the corporation. For

example, the Commission stated that the trustee would be permitted to participate in the election of the Board of Directors.

11. The Commission asserted, however, that the need for flexibility should be balanced against the limited purpose and temporary duration of the trust. It enunciated three broad principles to guide the trustee's participation in the management and operations of the company as well as the manner in which he or she exercises the power granted by the STA. First, the Commission stated that the trustee has a general obligation to safeguard the assets of the corporation. Second, the Commission determined that the trustee should exercise his or her power in a manner which assures the continuity of broadcast operations. Third, the Commission stated that the trustee must act in a manner which facilitates the underlying long form transaction. In addition, the Commission stated that it would expect the trustee to act, whenever possible, and except where necessary to promote the three objectives set forth above, in a manner which preserves the *status quo* and maintains the general character of the corporation. It concluded, therefore, that the trustee would be presumptively disallowed from undertaking, initiating or supporting any significant departures from existing corporate operations or practices.

Ordering Clauses

12. Accordingly, it is ordered, that this proceeding is terminated.

13. It is further ordered, that the "Motion for Acceptance of Late Filed Comments" filed by Gurman, Kurtis & Blask, Chartered is granted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-5989 Filed 3-20-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 74

[MM Docket No. 83-523; FCC 86-66]

In Regard to the Instructional Television Fixed Service

AGENCY: Federal Communications Commission.

ACTION: Summary of reconsideration of final rule.

SUMMARY: This action considers petitions for reconsideration and clarification of the *Second Report and Order* in MM Docket No. 83-523, regarding the Instructional Television Fixed Service. Some petitioners question the legality and necessity of the "local priority period" adopted and also request clarification or modification of the Commission's definition of "local." Others challenge aspects of the "point system" comparative selection process and its random-chance tie-breaker. Others have sought modification or clarification of some of the characteristics for which points are awarded to competing applicants under that system. For the most part, petitioners arguments were already considered in the originating Order. New arguments advanced are not persuasive, and the petitions are denied, except to the extent some minor modifications are made for purposes of clarity or to better effect the Commission's original intentions.

EFFECTIVE DATE: April 21, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bruce A. Romano, Mass Media Bureau, (202) 632-9356.

List of Subjects in 47 CFR Part 74

Television broadcasting.

In the matter of Amendment of Part 74 of the Commission's Rules and Regulations In Regard to the Instructional Television Fixed Services. [MM Docket No. 83-523].

This is a summary of the Commission's memorandum opinion and order in MM Docket No. 83-523, adopted January 30, 1986, and released March 14, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy Contractor, International Transcription Service (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of the Memorandum Opinion and Order

1. The subject decision disposes of the various petitions for reconsideration filed in response to the Commission's *Second Report and Order* in MM Docket No. 83-523, 101 FCC 2d 49, 50 FR 26736 (June 29, 1985). In the *Second Report and Order, supra,* the Commission modified eligibility and operating rules for the Instructional Television Fixed Service ("ITFS"), instituted comparative proceeding procedures for selecting among mutually exclusive ITFS applications, instituted cut-off procedures, finalized requirements for non-ITFS use of ITFS facilities, and modified certain of the technical standards for ITFS.

Eligibility

2. In the *Second Report and Order, supra,* the Commission instituted a "local priority period" of one year, during which time only local entities are eligible to apply for and receive ITFS authorizations, and pending applications by nonlocal entities are disregarded. (The last day of that period will be July 27, 1986.) The local priority period was challenged on a variety of grounds, all of which are rejected. Contrary to petitioners' assertions, the notice provisions of the Administrative Procedure Act (5 U.S.C. 553) were satisfied. While the particular provision ultimately adopted was not specifically proposed earlier in the proceeding, all parties were on explicit notice that the eligibility requirements were under review generally, and specifically that the Commission was troubled by the nonlocal nature of many of the applicants. Furthermore, other specific severe restrictions on nonlocal applicants' fundamental eligibility were proposed earlier by the Commission and by commenting parties. Thus, interested parties were fairly apprised of the subjects and issues involved and the fact that their interests were at stake.

3. The Commission also rejects petitioners' assertions that the perceived need for the local priority period was based on mistakes of fact or perception regarding the availability of facilities, local parties' desire for facilities, and the number of applications. The Commission finds that petitioners misunderstand its interpretation of these facts and the reasons for its actions. It also finds that while ultimate achievement of the desired goal, increased availability of MDS support for local ITFS entities and a consequent increase in local ITFS applications, cannot be proven in advance, it is a reasonable deduction, based on the facts available.

4. Petitioner's argument that the local priority period violates their rights to a comparative hearing on all pending "cut-off" applications is also rejected. The Commission notes that the cases cited by petitioners presume an applicant's basic eligibility in establishing that applicant's right to a comparative hearing. An ineligible applicant is not entitled to a hearing, and the nonlocal applicants are currently ineligible. The Commission refers to a series of cases asserting its authority to establish eligibility standards by general rule, even where qualification changes disqualify pending applicants, and even

where the standard is only temporary. One petitioner's similar argument that the local priority period constitutes retroactive application of a new rule, in violation of section 553 of the Administrative Procedure Act, is similarly dismissed. In this regard the Commission also observes that petitioners cannot be said to have relied to their detriment on the original rules in the sense of choosing one available course of action over another. The Commission found this result consistent also with the other considerations specified in *Retail Wholesale and Department Store Union, AFL–CIO* v. *N.L.R.B.*, 466 F.2d 380 (D.C. Cir. 1972).

5. The Commission rejects petitioners' contention that the requirement for a local program committee for all nonlocal entities (47 CFR 74.932(a)(5)) puts nonlocal entities on a par with local entities in ability to serve local needs. Rather, it is intended only to guarantee some measure of local involvement, less than control, in educational decisions.

6. In response to one nonlocal entity's proposal, the Commission will permit nonlocal entities to participate in local corporations (or other organizations) which may qualify as local entities, both for eligibility and for comparative purposes. They may also be entitled to an accreditation preference for comparative purposes. It sets out specific guidelines regarding the structure of the entity necessary to ensure unequivocal local control. It also provides that nonlocal entities with cut-off applications may amend their applications to substitute local parties, under specific procedures and within specific timeframes set out in the decision. A cut-off nonlocal application mutually exclusive with a cut-off local application must be amended to comply with the provisions in the *Second Report and Order, supra* at paras. 12–15, within 90 days of the publication of this Summary in the **Federal Register**. Local applicants which are mutually exclusive with any such nonlocal applicants will also be permitted to amend their applications are provided in the decision. A cut-off nonlocal application that is not mutually exclusive with any cut-off local application must be amended during the local priority period. Competing new applications for those facilities may also be filed by other local entities during the local priority period. The Commission will also permit local stations which are members of the Public Broadcasting Service to be substituted in PBS's pending applications; it does not find PBS local.

7. The Commission declines several proposed modifications to its definition of "local," finding some inappropriate and others simply unnecessary. It specifically affirms the eligibility of state educational television commissions under the present rules. It also provides that any such entity need not submit the letters from proposed receive sites, required of other nonlocal applicants, if it can demonstrate that the public schools it proposes to serve are required to use its proposed formal educational programming.

Mutually Exclusive Selection Procedure

8. In the *Second Report and Order, supra*, the Commission adopted a point accumulation procedure, based on specific predetermined attributes, for choosing among mutually exclusive applicants for ITFS facilities. In those cases where the highest point accumulation is shared by two or more parties, a random chance tie-breaker is employed to select the licensee. Petitioners contest the inclusion of various criteria adopted, as well as the exclusion of others not adopted. The Commission observes that most of the arguments regarding criteria were offered and discussed in its prior decision. It acknowledges particularly the weight of the preference for local entities, pointing to the many concerns regarding nonlocal entities which developed during the prior stages of the proceeding, but shows that the local preference, taken alone, can be overcome by combinations of other factors.

9. The Commission declines to erode the significance of the accreditation preference, refusing to award it to applicants which are not accredited but have an arrangement or relationship to an accredited institution. The point of this preference, it states, is to prefer situations where there is no middleman, so that control over operations flows directly and uninterrupted from the accredited institution. An umbrella organization which is composed of entities which would be individually entitled to this preference will be itself entitled to the preference points. Also, when a governmental agency qualifies for this preference, any directly controlled arm of that agency may receive the preference if its specific duties include that educational function. The Commission does not extend the accreditation preference to hospitals and medical consortia. Where they are affiliated with an accrediated institution, the medical school or other educational institution would be the appropriate body to receive the accreditation preference points. While this formal distinction may impose some procedural burden on such parties, it protects the integrity of the preference without necessarily disadvantaging the hospital or health-related organization.

10. The Commission defends the weight accorded its "diversity" preference, pointing out that the two-point award for applicants which do not exceed the four-channel limitation is surpassed by only two other preferences. It also addresses, for the first time, comparative decisions between mutually exclusive applications involving the modification of existing facilities. It states that it will insist on coordination efforts by the parties, and that a comparative procedure will be implemented only after the parties submit documentation of their attempts to resolve the conflicts and those specific points which preclude a resolution. Then, any comparative procedure implemented will include a two-point preference to favor the institution of a new service over modification of an existing service.

11. The Commission affirms its decision to give somewhat greater preference to proposed formal educational service than to proposed "other" ITFS service, as such service is the primary objective of the ITFS spectrum dedication. The mechanics for determining this point award is modified to effect more accurately the Commission's stated intention.

12. None of the other proposed preferences, including service to specified grade levels, "fair and efficient use of the spectrum," and prior telecommunications experience, are adopted. The absence of a minority preference is defended by reference to the diversity goal underlying the traditional minority preference in broadcasting, which does not apply equally when choosing among applicants for an educational service.

13. The Commission concludes that the random chance tie-breaker need not follow the provisions of the lottery statute (47 U.S.C. 309(i)), as the statute and its legislative history indicate that it was not intended to apply to a tie-breaker situation, but rather where the lottery is used as a primary selection method. The Commission rejects one petitioner's contention that there was sufficient notice of the Commission's intention to adopt a lottery without the lottery statute preferences, citing a specific solicitation during the rulemaking proceeding. *(Further Notice of Proposed Rulemaking*, 98 FCC 2d 1249, 1263 (1984)).

14. An alternative to the tie-breaker, mandated equal division of the

contested facilities, was rejected. The Commission does state its intention to advise and permit tied parties time to reach a cooperative settlement before instituting a tie-breaker lottery.

Petitions To Deny

15. Denying one petitioner's request, the Commission will not provide a specific period of time for petitions to deny to be filed against amendments filed in response to the *Second Report and Order, supra*. A period for petitions to deny those applications has already passed, and amendments are not expected to be substantive. In any case where an applicant proposes material changes or otherwise exceeds the scope of clarifying amendments, interested parties can file objections or comments without reopening a petition period generally for all cut-off applications. However, where a new local entity files an amendment to supplant a current nonlocal applicant, and where a local applicant files an amendment or new application, pursuant to the new provisions in the instant decision, referred to above, petitions to deny can be filed within thirty days of public notice of the filing of such amendment or application. Such petitions to deny addressing an amendment may only treat new matters raised by the amendment.

Licensee Control

16. A proposal to require any ITFS excess capacity lessee to submit a copy of any sublease to its lessor/licensee is rejected by the Commission. It finds its current rules sufficient to ensure that licensees maintain control over their facilities. Whether licensees exercise that control to their greatest economic benefit (the purpose of the proposal) is not germane to the issue. The provision that lease terms cannot exceed license terms is retained to meet the Commission's responsibility to ensure the proper use of the scarce spectrum resource it has allocated to a particular, valuable service.

Service Classification of ITFS

17. One petitioner contends that ITFS service should be classified as "broadcasting," with its attendant responsibilities observed, because its excess capacity use is an omnidirectional transmission to the general public. However, the excess capacity use to which the petitioner refers is typically provided on a subscription basis. In a separate proceeding, the Commission has proposed to classify all subscription services as "nonbroadcast," based on their specialized point-to-point or point-to-multipoint nature, and will not change its initial classification of ITFS as a nonbroadcast service. Petitioner's comments will be associated with the proceeding considering regulatory classification of subscription services. *Notice of Proposed Rulemaking* in General Docket No. 85-305, 51 FR 1817 (January 15, 1986).

Four-Channel Limitation

18. In maintaining its four-channel limitation as currently written, the Commission rejects a petitioner's suggestion that it be expanded to preclude any entity from having direct or indirect interests in more than eight channels within a 50-mile geographic area, via funding, jurisdictional controls, or consortia-membership restrictions. The Commission notes that such a provision could restrict state funding of education and that consortia can actually contribute to the efficient use of the facilities by combining resources and uses of facilities. The Commission maintains the capacity to review the merit of individual cases if monopolization appears to threaten.

Permissible Use

19. *Essential Use.* The essential use requirement provides that "every channel authorized must be used to transmit formal educational programming offered for credit to enrolled students of accredited schools." 47 CFR 74.931(a). The Commission again rejects arguments to expand the definition to include less formal kinds of instructional programming, including various forms of continuing education and in-service training, stressing the primary purpose of ITFS service. In response to concerns raised by a hospital association, the definition is rewarded to include nationally accredited as well as a state accredited instruction, and instruction directed at students as well as "staff."

20. *Substantial Use.* Commission rules required that at least forty hours must be preserved for ITFS use on a channel before it can be used for non-ITFS purposes, with at least twenty of those hours in active use. 47 CFR § 74.931(e). The Commission denies one petitioner's request that the requirement be delayed for one year from the date of this decision. It also affirms its determination that while any reserved hours used to fulfill the requirement may be utilized for non-ITFS purposes on an interim basis, they must be recapturable by the lessor/licensee without charge and without procedural impediment.

Technical Standards

21. *15-Mile Protected Service Area.* The Commission again rejects the proposal for a 15-mile radius or mathematically defined service area for ITFS stations, and will continue to protect individual receive sites. It repeats its reasoning that due to the nature of ITFS service, many carefully engineered receive sites fall outside of the protected area and would not receive protection, in effect penalizing good engineering practices. Additionally, in certain situations, the mathematically specified boundary would protect areas not receiving ITFS service, unnecessarily reducing the availability of facilities. It repeats its requirement that applications be filed in order to afford protection to new receive sites and reasserts its conclusion that this burden is not significant, given the simplicity of the procedure. (Applications to add receive sites are minor changes and are not subject to cut-off procedures.)

22. *Major/Minor Changes.* The Commission will maintain its current definition of "major" change. One petitioner contends that is should be expanded, as some types of changes that do not fall into the category involve potential significant interference or preclusion considerations. However, the Commission's staff has the discretion to classify any individual change as a major change, if appropriate, and the public interest is best served by expeditiously processing those modification applications which are not likely to have an adverse impact, and by affording a greater opportunity for review and challenge only in those isolated cases where warranted. The Commission maintains that there is ample time for staff review of each application before such a determination must be made.

23. *Receive Antenna Appropriateness.* One petitioner maintains that the rule revisions dealing with appropriate receive site antenna selections would have the effect of discouraging efficient spectrum utilization, and further contends that individual licensees should be required to install the "best practical" receive antenna. The Commission agrees with other parties that such antenna upgrades would represent a costly burden to existing licensees, and affirms its decision. An additional provision, developed by the parties, is adopted to permit grant of applications which would otherwise involve interference with existing licensees provided that the applicant bears all costs of upgrading the existing

licensees reception equipment to prevent such interference. Applicants wishing to take advantage of this policy are required to submit appropriate documentation.

24. *Interference Ratios.* One petitioner contends that unless received video signal-to-noise ratios are considered in interference calculations, some individual receive sites will be overprotected, reducing the availability of additional ITFS service to the public. The Commission's experience is that the majority of ITFS stations are designed to avoid such situations, and that there is not sufficient evidence to justify this additional processing burden on applicants and the Commission's staff.

25. The protection standard for adjacent channel interference depends on the date of the installation of equipment being protected, with the standard relaxed with respect to newer equipment. The rule will be modified, however, to depend on the date of the installation of reception equipment, rather than of the transmitting equipment, as the quality of the receive equipment determines the capability to discriminate between adjacent channel signals. Determining such dates will be the resonsibility of the applicant wishing to utilize the relaxed standard; absent information presented to the contrary, it will be assumed that reception equipment installation occurred simultaneously with original station construction.

26. The Commission denies one petitioner's request that cochannel and adjacent channel interference ratios be increased from 45 dB to 55 dB and 10 dB, to 15 dB, respectively. The established ratios are based on extensive Television Allocation Study Organization (TASO) test results. While alternative viewing tests, for which the Commission has also provided, would be expensive, factual data is necessary for making such decisions. No such information has been advanced to persuade the Commission to change the adopted interference ratios.

27. *Identification of Receive Site Equipment.* The Commission rejects petitioner's request that the Commission require submission of pertinent data on receive sites retroactively from ITFS licensees. Such a requirement would impose an unnecessary burden on existing licensees and the characteristics of the two-foot reference antenna provide a reasonable alternative. Alternate showings may be made by an applicant when accompained by appropriate data.

28. *Out-of-Band Emission Limits.* One petitioner contends that our present limitation on out-of-band emissions are inadequate, especially in situations where adjacent channel facilities are colocated. New limitations are suggested. The Commission concludes that inadequate documentation has been presented on both the technical need and the economic impact of stricter out-of-band emission limitations and maintains that the present limitations are adequate. The Commission also considers a request for relaxation of aural power and modulation rules and concludes that such matters could be resolved as case-by-case waiver requests.

29. *Interoperability Standards.* Several petitioners assert that the Commission's current regulations are inadequate to provide mutual protection of spectrally adjacent facilities in different services. As a guideline, the Commission maintains that an applicant in ITFS, OFS or MDS should provide previously granted adjacent channel stations in any of the other services the level of protection specified in the rules applicable to the previously granted service. This will provide adequate protection to all services while avoiding unnecessary delays in authorizing new facilities.

30. *International Considerations.* The Commission determines that, based upon recent bilateral discussions, 50 miles is a more appropriate figure for cross-border coordination than the present 35 mile standard.

Ordering Clauses

31. Accordingly, it is ordered, That the petitions for reconsideration filed by the parties listed in Appendix A are denied, except to the extent indicated above.

32. It is further ordered, That any nonlocal entity that wishes to amend its ITFS application pursuant to the provisions of paragraphs 12–14 [in the original text], shall file such amendment within the time periods set out in paragraph 15 and 16 [in the original text].

33. It is further ordered, That any local entity, whose ITFS application is mutually exclusive with that of a nonlocal entity, that wishes to amend its application pursuant to the provisions of paragraph 15 [in the original text], shall file such amendment within ninety days of the publication of the Summary of this order in the **Federal Register.**

34. It is further ordered, That Part 74 of the Commission's Rules and Regulations is amended, effective thirty days after publication in the **Federal Register,** as set forth in Appendix B, under authority contained in 47 U.S.C. 2, 4(i) and 303.

35. It is further ordered, That the revisions of FCC Form 330–P (now designated as FCC Form 330) are adopted and the revised formats effective upon final approval by the Office of Management and Budget and the release of a Public Notice announcing the availability of the revised form.

36. It is further ordered, That the Secretary shall cause a Summary of this *Memorandum Opinion and Order* to be printed in the **Federal Register.**

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix B

Part 74 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 74—EXPERIMENTAL, AUXILIARY AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. The authority citation for Part 74 continues to read:

Authority: Secs. 4 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended; 47 U.S.C. 301, 303, 307, unless otherwise noted.

2. Section 74.903 is amended by revising paragraph (a)(2) and the introductory text of (b), and paragraph (b)(3), and by adding paragraph (a)(4) to read as follows:

§ 74.903 Interference.

(a) * * *

(2) Adjacent channel interference is defined as the ratio of the desired signal to undesired signal present in an adjacent channel, at the antenna input terminals of the affected receiver, when the ratio is less than 0 dB, except in cases where the stations were constructed before May 26, 1983. In such cases, the desired to undesired signal ratio shall not be less than 10 dB unless the individual receive site under consideration has been subsequently upgraded with up-to-date reception equipment. Absent information presented to the contrary, the Commission will assume that reception equipment installation occurred simultaneously with original station construction.

(3) * * *

(4) If an application can demonstrate that the installation of a receiving antenna at an existing licensee's site with characteristics superior to those of the standard antenna (or, alternatively, the appropriate existing antenna in use at the site) will permit the applicant to

provide service without interference to the existing licensee, the application will be considered grantable with the condition that the applicant bears all costs of upgrading the existing licensee's reception equipment at that site(s). Such a showing should include interference calculations for both the existing or reference antenna and the proposed antenna. The manufacturer, model number(s), co-polar and cross-polar gain patterns of the replacement antenna should be supplied as well as an accurate assessment of the expected reimbursement costs.

(b) All applicants for instructional television fixed stations are expected to take full advantage of such directive antenna techniques to prevent interference to the reception of any existing operational fixed, multichannel multipoint distribution, international control or instructional television fixed station at authorized receiving locations. Therefore, all applications for new or major changes must include an analysis of potential interference to all existing and previously proposed stations in accordance with § 74.903(a). An applicant for a new instructional television fixed station or for changes in an existing ITFS facility for a construction permit must include the following technical information with the application:

* * * * *

(3) An analysis concerning possible adverse impact upon Mexican and Canadian communications if the station's transmitting antenna is to be located within 50 miles of the border.

* * * * *

3. Section 74.913 is amended by revising paragraphs (b) (2), (3), (4) and (c); and adding new Note 1 and redesignating present Note 1 as Note 2, as follows:

§ 74.913 Selection procedure for mutually exclusive ITFS applications.

* * * * *

(b) Each applicant will be awarded a predetermined number of points under the criteria listed:

* * * * *

(2) Three points for accredited schools, or their governing bodies applying within their jurisdiction;

(3)(i) Two points for applicants whose request, if granted, would result in the acquisition of four or fewer ITFS channels by that applicant within the particular area;

(ii) Two points for new applicants, *i.e.*, applicants that are not already authorized to operate an ITFS station within the particular area;

(4) One point for a proposed weekly schedule of twenty-one or more average hours per channel per week of formal educational programming (§ 74.931(a)), or of forty-one or more average hours per channel per week of other ITFS programming; two points for forty-one or more average hours per channel per week of formal education programming, or for sixty-one or more hours per channel per week of ITFS programming where at least twenty-one of those hours are formal educational programming;

(5) * * *

(c) If the best qualified (highest scoring) two or more applicants have the same point accumulation, they will be given thirty days from the date of release of such decision to notify the Commission of any agreement to divide the use of the channels. If no agreement is reached and advanced to the Commission within that time, the tentative selectee will then be determined through a tie-breaker mechanism.

* * * * *

Note 1: Entities entitled to the accreditation points will include umbrella organizations whose membership is composed of entities which are individually eligible for the points. Also, a state's department of education (or equivalent agency) would qualify, as well as any directly controlled arm of that department if its specific duties include that department's educational function.

Note 2: * * *

4. Section 74.932 is amended by revising paragraph (a)(4), as follows:

§ 74.932 Eligibility and licensing requirements.

(a) * * *

(4) Those applicant organizations whose eligibility is established by service to accredited institutional or governmental organizations must submit documentation from proposed receive sites demonstrating they will receive and use the applicant's formal educational programming. In place of this documentation, a state educational television (ETV) commission may demonstrate that the public schools it proposes to serve are required to use its proposed formal educational programming.

5. Section 74.931 is amended by revising note 1, which follows paragraph (e), as follows:

§ 74.931 Purpose and permissible service.

* * * * *

(e) * * *

Note 1: Any medical service courses offered by hospitals to their staffs or to medical students as training for state or national licenses or certifications will qualify as formal educational programming to satisfy the requirement of paragraph (a) of this section.

[FR Doc. 86-5990 Filed 3-20-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. 74-14; Notice 43]

Federal Motor Vehicle Safety Standards

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

ACTION: Final rule.

SUMMARY: On April 12, 1985, NHTSA issued a notice proposing a number of amendments to Standard No. 208, *Occupant Crash Protection*. Based on its analysis of the comments received in response to that notice, the agency has decided to take the following actions: Retain the oblique crash test for automatic restraint equipped cars, adopt some New Car Assessment Program test procedures for use in the standard's crash tests, provide in the standard for a due care defense with respect to the automatic restraint requirement, and require the dynamic testing of manual lap/shoulder belts in passenger cars. This notice also creates a new Part 585 that sets reporting requirements regarding compliance with the automatic restraint phase-in requirements of the standard.

DATES: The amendments made by this notice will take effect on May 5, 1986, except the requirement for dynamic testing of manual safety belts in passenger cars § 571.208, S4.6.1) will go into effect on September 1, 1989, if the automatic restraint requirement is rescinded. Petitions for reconsideration must be filed by April 21, 1986.

ADDRESS: Petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone (202) 426-2264.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1984 (49 FR 28962), the Secretary of Transportation issued a final rule requiring automatic occupant protection in all passenger cars. The rule is based on a phase-in schedule beginning on September 1, 1986, with full implementation being required by September 1, 1989. However, if before April 1, 1989, two-thirds of the population of the United States are covered by effective state mandatory safety belt use laws (MULs) meeting specified criteria, the automatic restraint requirement will be rescinded.

More specifically, the rule requires:

- Front outboard seating positions in passenger cars manufactured on or after September 1, 1986, for sale in the United States, will have to be equipped with automatic restraints based on the following schedule:
- Ten percent of all cars manufactured on or after September 1, 1986.
- Twenty-five percent of all cars manufactured on or after September 1, 1987.
- Forty percent of all cars manufactured on or after September 1, 1988.
- One hundred percent of all cars manufactured on or after September 1, 1989.
- During the phase-in period, each car that is manufactured with a system that provides automatic protection to the driver without the use of safety belts and automatic protection of any sort to the passenger will be given an extra credit equal to one-half car toward meeting the percentage requirement. In addition, each car which provides non-belt automatic protection solely to the driver will be given a one vehicle credit.
- The requirement for automatic restraints will be rescinded if MULs meeting specified conditions are passed by a sufficient number of states before April 1, 1989, to cover two-thirds of the population of the United States. The MULs must go into effect no later than September 1, 1989.

In the July 1984 notice, the Secretary identified various issues requiring additional rulemaking. On April 12, 1985, the agency issued two notices setting forth proposals on all of those issues. One notice (50 FR 14589), which is the basis for the final rule being issued today, proposed: reporting requirements for the phase-in, deletion of the oblique test, alternative calculations of the head injury criterion (HIC), allowing the installation of manual belts in convertibles, use of the New Car Assessment Program (NCAP) test procedures, and adoption of a due care defense. The notice also proposed the dynamic testing of manual lap/shoulder belts for passenger cars, light trucks and light vans. The second notice (50 FR 14602) set forth the agency's proposals on the use of the Hybrid III test dummy and additional injury criteria. NHTSA has not yet completed its analysis of the comments and issues raised by the Hybrid III proposal or the proposal regarding convertibles and dynamic testing of safety belts in light trucks and light vans. The agency will publish a separate **Federal Register** notice announcing its decision with regard to these issues when it has completed its analysis.

S-074999 0039(02)(20-MAR-86-13:38:37)

Oblique Crash Tests

Standard No. 208 currently requires cars with automatic restraints to pass the injury protection criteria in 30 mph head-on and oblique impacts into a barrier. The April 1985 notice contained an extensive discussion of the value of the oblique test and requested commenters to provide additional data regarding the safety and other effects of deleting the requirement.

The responses to the April notice reflected the same difference of opinion found in the prior responses on this issue. Those favoring elimination of the test argue that the test is unnecessary since oblique crash tests generally show lower injury levels. They also said the additional test adds to the cost of complying with the standard—although manufacturers differed as to the extent of costs. Four manufacturers suggested that any cost reduction resulting from elimination of the test would be minimal, in part because they will continue to use the oblique tests in their restraint system development programs, regardless of what action the agency takes. Another manufacturer, however, said that while it would continue to use oblique testing during its vehicle development programs, the elimination of the oblique test in Standard No. 208 would result in cost and manpower savings. These savings would result because the parts used in vehicles for certification testing must be more representative of actual production parts than the parts used in vehicles crashing during development tests.

Those favoring retention of the test again emphasized that the test is more representative of real-world crashes. In addition, they said that occupants in systems without upper torso belts, such as some air bag or passive interior systems, could experience contact with the A-pillar and other vehicle structures in the oblique test that they would not experience in a head-on test. Although, again, there were conflicting opinions on this issue—one manufacturer said that oblique tests would not affect air bag design, while other manufacturers argued that the oblique test is necessary to ensure the proper design of air bag systems. The same manufacturer that said air bag design would not be effected by the oblique test, emphasized that vehicles with 2-point automatic belts or passive interiors, "may show performance characteristcs in oblique tests that do not show up on perpendicular tests." Similarly, one manufacturer said that oblique tests will not result in test dummy contact with the A-pillar or front door—while another manufacturer argued that in the oblique test contact could occur with the A-pillar in vehicles using non-belt technologies.

After examining the issues raised by the commenters, the agency has decided to retain the oblique tests. There are a number of factors underlying the agency's decision. First, although oblique tests generally produce lower injury levels, they do not consistently produce those results. For example, the agency has conducted both oblique and frontal crash tests on 14 different cars as part of its research activities and NCAP testing. The driver and passenger HIC's and chest acceleration results for those tests show that the results in the oblique tests are lower in 31 of the 38 cases for which data were available. However, looking at the results in terms of vehicles, 6 of the 14 cars had higher results, exclusive of femur results, in either passenger or driver HIC's or chest accelerations in the oblique tests. The femur results in approximately one-third of the measurements were also higher in the oblique tests. Accident data also indicate that oblique impacts pose a problem. The 1982 FARS and NASS accident records show that 14 percent of the fatalities and 22 percent of the AIS 2-5 injuries occur in 30 degree impacts.

The agency is also concerned that elimination of the oblique test could lead to potential design problems in some automatic restraint systems. For example, air bags that meet only a perpendicular impact test could be made much smaller. In such a case, in an oblique car crash, the occupant would roll off the smaller bag and strike the A-pillar or instrument panel. Similarly, the upper torso belt of an automatic belt system could slip off an occupant's shoulder in an oblique crash. In belt systems with a tension-relieving device, the system will be tested with the maximum amount of slack recommended by the vehicle manufacturer, potentially increasing the possibility of the upper

torso belt slipping off the occupant's shoulder. In the case of passive interiors, an occupant may be able to contact hard vehicle structures, such as the A-pillar, in oblique crashes that would not be contacted in a perpendicular test. If the A-pillar and other hard structures are not designed to provide protection in oblique crashes then there would be no assurance, as there presently is, that occupants would be adequately protected. Thus, the oblique test is needed to protect unrestrained occupants in passive interiors, and to ensure that air bags and automatic or manual safety belts are designed to accommodate some degree of oblique impact.

The agency recognizes that retention of the oblique test will result in additional testing costs for manufacturers. The agency believes, however, that there are a number of factors which should minimize those costs. First, even manufacturers opposing retention of the oblique test indicated that they will continue to perform oblique crash tests to meet their own internal requirements as well as to meet the oblique test requirements of the Standard No. 301, *Fuel System Integrity*. Since the oblique tests of Standard No. 208 and Standard No. 301 can be run simultaneously, the costs resulting from retention of the oblique crash test requirements of Standard No. 208 should not be significant.

Dynamic Testing of Manual Belts

The April notice proposed that manual lap/shoulder belts installed at the outboard seating positions of the front seat of four different vehicle types comply with the dynamic testing requirements of Standard No. 208. Those requirements provide for using test dummies in vehicle crashes for measuring the level of protection offered by the restraint system. The four vehicle types subject to this proposal are passenger cars, light trucks, small van-like buses, and light multipurpose passenger vehicles (MPV's). (The agency considers light trucks, small van-like buses, and light MPV's to be vehicles with a Gross Vehicle Weight Rating (GVWR) of 10,000 pounds or less and an unloaded vehicle weight of 5,500 pounds or less. The 5,500 pound unloaded vehicle weight limit is also used in Standard No. 212, *Windshield Retention*, and Standard No. 219, *Windshield Zone Intrusion*. The limit was adopted in those standards on April 3, 1980 (45 FR 22044) to reduce compliance problems for final-stage manufacturers. Readers are referred to the April 1980 notice for a complete discussion of the 5,500 pound limit.)

Currently, manual belts are not subject to dynamic test requirements. Instead they must be tested in accordance with Standard No. 209, *Seat Belt Assemblies*, for strength and other qualities in laboratory bench tests. Once a safety belt is certified as complying with the requirements of Standard No. 209, it currently may be installed in a vehicle without any further testing or certification as to its performance in that vehicle. The safety belt anchorages in the vehicle are tested for strength in accordance with Standard No. 210, *Seat Belt Assembly Anchorages*.

The April 1985 notice also addressed the issue of tension-relieving devices on manual belts. Tension-relieving devices are used to introduce slack in the shoulder portion of a lap-shoulder belt to reduce the pressure of the belt on an occupant or to effect a more comfortable "fit" of the belt to an occupant. The notice proposed that manufacturers be required to specify in their vehicle owner's manuals the maximum amount of slack they recommend introducing into the belt under normal use condition. Further, the owner's manual would be required to warn that introducing slack beyond the maximum amount specified by the manufacturer could significantly reduce the effectiveness of the belt in a crash. During the agency's dynamic tesing of manual belts, the tension-relieving devices would be adjusted so as to introduce the maximum amount of slack specified in the owner's manual.

The agency proposed that the dynamic test requirement for passenger cars take effect on September 1, 1989, and only if the Secretary determines that two-thirds of the population is covered by effective safety belt use laws, thereby rescinding the automatic restraint requirement. Should such a determination be made, it is important that users of manual belts be assured that their vehicles offer the same level of occupant protection as if automatic restraints were in their vehicles. Absent a rescission of the automatic restraint requirement, application of the dynamic testing requirements to manual safety belts in passenger cars would be unnecessary since those belts would not be required in the outboard seating positions of the front seat. In the case of light trucks, light MPV's and small van-like buses, the agency proposed that the dynamic test requirement take effect on September 1, 1989. The proposed effective date for light trucks, light MPV's and van-like buses was not conditional, because those vehicles are not covered by the automatic restraint requirement and will likely continue to have manual safety belts.

Adoption of the Requirement

As discussed in detail below, the agency has decided to adopt a dynamic test requirement for safety belts used in passenger cars. The agency is still analyzing the issues raised in the comments about dynamic testing for safety belt systems in other vehicles and will announce its decision about safety belt systems in light trucks, MPV's and buses at a later date.

Most of the commenters favored adopting a dynamic test requirement for manual belts at least with respect to passenger cars, although many of those commenters raised questions about the leadtime needed to comply with the requirement. Those opposing the requirement argued that the field experience has shown that current manual belts provide substantial protection and thus a dynamic test requirement is not necessary. In addition, they argued that dynamic testing would substantially increase a manufacturer's testing costs, and its testing workload. One commenter said that because of the unique nature of the testing, it could not necessarily be combined with other compliance testing done by a manufacturer. The same commenter argued that vehicle downsizing, cited by the agency as one reason for dynamically testing belts, does not create safety problems since the interior space of passenger cars has remained essentially the same as it was prior to downsizing. The commenter also argued there is no field evidence that the use of tension-relieving devices in safety belts, the other reason cited by the agency in support of the need to test dynamically manual safety belts, is compromising the performance of safety belts.

The agency strongly believes that current manual belts provide very substantial protection in a crash. The Secretary's 1984 automatic protection decision concluded that current manual safety belts are at least as effective, and in some cases, more effective than current automatic belt designs. That conclusion was based on current manual safety belts, which are not certified to dynamic tests. However, as discussed in the April 1985 notice, the agency is concerned that as an increasing number of vehicles are reduced in size for fuel economy purposes and as more tension-relieving devices are used on manual belts, the potential for occupant injury increases. The agency agrees that downsizing efforts by manufacturers have attempted to preserve the interior space of passenger cars, while reducing their

exterior dimensions. Preserving the interior dimensions of the passenger compartment means that occupants will not be placed closer to instrument panels and other vehicle structures which they could strike in a crash. However, the reduction in exterior dimensions can result in a lessening of the protective crush distance available in a car. Thus the agency believes it is important to ensure that safety belts in downsized vehicles will perform adequately. In the case of tension-relieving devices, agency tests of lap/shoulder belt restrained test dummies have shown that as more slack is introduced into a shoulder belt, the injuries measured on the test dummies increased. Thus, as discussed in detail later in this notice, the agency believes it is important to ensure that safety belts with tension-relievers provide adequate protection when they are used in the manner recommended by vehicle manufacturers. This is of particular concern to the agency since the vast majority of new cars (nearly all domestically-produced cars) now are equipped with such devices. For those reasons, the agency is adopting the dynamic test requirement.

The adoption of this requirement will ensure that each and every passenger car, as compared to the vehicle population in general, offers a consistent, minimum level of protection to front seat occupants. By requiring dynamic testing, the standard will assure that the vehicle's structure, safety belts, steering column, etc., perform as a unit to protect occupants, as it is only in such a test that the synergistic and combination effects of these vehicle components can be measured. As discussed in detail in the Final Regulatory Evaluation (FRE), vehicle safety improvements will result from dynamic testing; and, as discussed later in this notice, such improvements can often be made quickly and at low cost.

The agency recognizes that manufacturers may have to conduct more testing than they currently do. However, the dynamic testing of manual belts in passenger cars, as with testing of automatic restraints, can be combined with other compliance tests to reduce the overall number of tests. The agency notes that in its NCAP tests, it has been able to combine the dynamic testing of belts with measuring the vehicle's compliance with other standards. The agency has followed the same practice in its compliance tests. For example, the agency has done compliance testing for Standard Nos. 208, 212, 219, and 301 in one test. The agency would, of course, recognize a manufacturer's use of combined tests as a valid testing procedure to certify compliance with these standards.

Effective Date

Two commenters argued that the requirement should become effective as soon as practical. As discussed in the April 1985 notice, the agency proposed an effective date of September 1, 1989, because it did not want to divert industry resources away from designing automatic restraints for passenger cars. The agency continues to believe it would be inappropriate to divert those resources for the purposes of requiring improvements on manual belt systems that might not be permitted in passenger cars.

Other commenters asked for a delay in the effective date—one asked for a delay until September 1, 1991, while another asked that the effective date be set 2–3 years after the determination of whether a sufficient number of States have passed effective mandatory safety belt use laws. NHTSA does not agree there is a need to delay the effective date beyond September 1, 1989 for passenger cars. Commenters argued that the time span between any decision on rescission of the automatic restraint requirements (as late as April 1, 1989) and the effective date of the dynamic testing of manual belts (September 1, 1985) is too short to certify manual belts.

The agency believes there is sufficient leadtime for passenger cars. Most of the vehicle components in passenger cars necessary for injury reduction management are the same for automatic restraint vehicles and dynamically tested manual belt vehicles. Additionally, as indicated and discussed in the April notice, approximately 40 percent of the passenger cars tested in the agency's 35 mph (NCAP) program meet the injury criteria specified in Standard No. 208, even though a 35 mph crash involves 36 percent more energy than the 30 mph crash test required by Standard No. 208. In addition, the FRE shows that with relatively minor vehicle and/or restraint system changes some safety belt systems can be dramatically improved. This is further evidence that development of dynamically tested manual belts for passenger cars in 30 mph tests should not be a major engineering program. Thus, a delay in the effective date for passenger cars is not needed.

Webbing Tension-Relieving Devices

With one exception, those manufacturers who commented on the proposal concerning tension-relieving devices supported testing safety belts adjusted so that they have the amount of slack recommended by the manufacturer in the vehicle owner's manual. However, one manufacturer and two other commenters objected to the provision related to dynamic testing with the tension-relieving device adjusted to the manufacturer's maximum recommended slack position. The manufacturer objected to a dynamic test that would require any slack at all to be introduced into the belt system, on the grounds that uncontrolled variability would be introduced into the dynamic test procedure, which would then lack objectivity. The manufacturer asserted that it might have to eliminate all tension-relieving devices for its safety belts.

The agency's proposed test procedure was intended to accommodate tension-relieving devices since they can increase the comfort of belts. At the same time, the proposal would limit the potential reduction in effectiveness for safety belt systems with excessive slack. The agency does not agree that this test procedure need result in the elimination of tension-relieving devices from the marketplace. As mentioned earlier, other manufacturers supported the proposal and did not indicate they would have to remove tension-relieving devices from their belt systems. The commenter opposing the requirement did not show that injury levels cannot be controlled within the specified injury criteria by testing with the recommended amount of slack, as determined by the manufacturer. The recommended slack could be very small or at any level selected by the manufacturer as appropriate to relieve belt pressure and still ensure that the injury reduction criteria of Standard No. 208 would be met. As a practical matter, most tension-relievers automatically introduce some slack into the belt for all occupants. Testing without such slack would be unrealistic.

The two other commenters objected to the proposal that manual belt systems using tension-relieving devices meet the injury criteria with only the specified amount of slack recommended in the owner's manual. They stated that most owners would not read the instructions in the owner's manual regarding the proper use of the tension-relieving device. They said an occupant could have a false sense of adequate restraint when wearing a belt system adjusted beyond the recommended limit.

The agency's views on allowing the use of tension relievers in safety belts were detailed in the April 1985 notice. The agency specifically noted the effectiveness of a safety belt system

could be compromised if excessive slack were introduced into the belt. However, the agency recognizes that a belt system must be used to be effective at all. Allowing manufacturers to install tension-relieving devices makes it possible for an occupant to introduce a small amount of slack to relieve shoulder belt pressure or to divert the belt away from the neck. As a result, safety belt use is promoted. This factor should outweigh any loss in effectiveness due to the introduction of a recommended amount of slack in normal use. This is particularly likely in light of the requirement that the belt system, so adjusted, must meet the injury criteria of Standard No. 208 under 30 mph test conditions. Further, the inadvertent introduction of slack into a belt system, which is beyond that for normal use, is unlikely in most current systems. In addition, even if too much slack is introduced, the occupant should notice that excessive slack is present and a correction is needed, regardless of whether he or she has read the vehicle's owner's manual.

Exemption From Standard Nos. 203 and 204

One commenter suggested that vehicles equipped with dynamically tested manual belts be exempt from Standard Nos. 203, *Impact Protection for the Driver from the Steering Control Systems*, and 204, *Steering Column Rearward Displacement*. The agency does not believe such an exemption would be appropriate because both those standards have been shown to provide substantial protection to belted drivers.

Latching Procedure in Standard No. 208

One commenter asked that Standard No. 208 be modified to include a test procedure for latching and adjusting a manual safety belt prior to the belt being dynamically tested. NHTSA agrees that Standard 208 should include such a procedure. The final rule incorporates the instructions contained in the NCAP test procedures for adjusting manual belts, as modified to reflect the introduction of the amount of slack recommended by the vehicle manufacturer.

Revisions to Standard No. 209

The notice proposed to exempt dynamically tested belts from the static laboratory strength tests for safety belt assemblies set forth in S4.4 of Standard No. 209. One commenter asked that such belts be exempted from the remaining requirements of Standard No. 209 as well.

NHTSA agrees that an additional exemption from some performance requirements of Standard No. 209 is appropriate. Currently, the webbing of automatic belts is exempt from the elongation and other belt webbing and attachment hardware requirements of Standard No. 209, since those belts have to meet the injury protection criteria of Standard No. 208 during a crash. For dynamically-tested manual belts, NHTSA believes that an exemption from the webbing width, strength and elongation requirements (sections 4.2(a)–(c)) is also appropriate, since these belts will also have to meet the injury protection requirements of Standard No. 208. The agency has made the necessary changes in the rule to adopt that exemption.

The agency does not believe that manual belts should be exempt from the other requirements in Standard No. 209. For example, the requirements on buckle release force should continue to apply, since manual safety belts, unlike automatic belts, must be buckled every time they are used. As with retractors in automatic belts, retractors in dynamically tested manual belts will still have to meet Standard No. 209's performance requirements.

Revisions to Standard No. 210

The notice proposed that dynamically tested manual belts would not have to meet the location requirements set forth in Standard No. 210, *Seat Belt Assembly Anchorages*. One commenter suggested that dynamically tested belts be completely exempt from Standard No. 210; it also recommended that Standard No. 210 be harmonized with Economic Commission for Europe (ECE) Regulation No. 14. Two other commenters suggested using the "out-of-vehicle" dynamic test procedure for manual belts contained in ECE Regulation No. 16, instead of the proposed barrier crash test in Standard No. 208.

The agency does not believe that the "out of vehicle" laboratory bench test of ECE Regulation No. 16 should be allowed as a substitute for a dynamic vehicle crash test. The protection provided by safety belts depends on the performance of the safety belts themselves, in conjunction with the structural characteristics and interior design of the vehicle. The best way to measure the performance of the safety belt/vehicle combination is through a vehicle crash test.

The agency has already announced its intention to propose revisions to Standard No. 210 to harmonize it with ECE Regulation No. 14; therefore the commenters' suggestions concerning harmonization and exclusion of dynamically tested safety belts from the other requirements of Standard No. 210 will be considered during that rulemaking. At the present time, the agency is adopting only the proposed exclusion of anchorages for dynamically tested safety belts from the location requirements, which was not opposed by any commenter.

Belt Labelling

One commenter objected to the proposal that dynamically tested belts have a label indicating that they may be installed only at the front outboard seating positions of certain vehicles. The commenter said that it is unlikely that anyone would attempt to install a Type 2 lap shoulder belt in any vehicle other than the model for which it was designed. The agency does not agree. NHTSA believes that care must be taken to distinguish dynamically tested belt systems from other systems, since misapplication of a belt in a vehicle designed for use with a specific dynamically tested belt could pose a risk of injury. If there is a label on the belt itself, a person making the installation will be aware that the belt should be installed only in certain vehicles.

Use of the Head Injury Criterion

The April 1985 notice set forth two proposed alternative methods of using the head injury criterion (HIC) in situations when there is no contact between the test dummy's head and the vehicle's interior during a crash. The first proposed alternative was to retain the current HIC calculation for contact situations. However, in non-contact situations, the agency proposed that a HIC would not be calculated, but instead new neck injury criteria would be calculated. The agency explained that a crucial element necessary for deciding whether to use the HIC calculation or the neck criteria was an objective technique for determining the occurrence and duration of head contact in the crash test. As discussed in detail in the April 1985 notice, there are several methods available for establishing the duration of head contact, but there are questions about their levels of consistency and accuracy.

The second alternative proposed by the agency would have calculated a HIC in both contact and non-contact situations, but it would limit the calculation to a time interval of 36 milliseconds. Along with the requirement that a HIC not exceed 1000, this would limit average head acceleration of 60 g's or less.

Almost all of the commenters opposed the use of the first proposed alternative. The commenters uniformly noted that there is no current technique that can accurately identify whether head contact has or has not occurred during a crash test in all situations. However, one commenter urged the agency to adopt the proposed neck criteria, regardless of whether the HIC calculation is modified. There was a sharp division among the commenters on the second proposed alternative. Manufacturers commenting on the issue uniformly supported the use of the second alternative; although many manufacturers argued that the HIC calculation should be limited to a time interval of approximately 15 to 17 milliseconds (ms), which would limit average head accelerations to 80–85 g's. Another manufacturer, who supported the second alternative, urged the agency to measure HIC only during the time interval that the acceleration level in the head exceeds 60 g's. It said that this method would more effectively differentiate results received in contacts with hard surfaces and results obtained from systems, such as airbags, which provide good distribution of the loads experienced during a crash. Other commenters argued that the current HIC calculation should be retained; they said that the proposed alternatives would lower HIC calculations without ensuring that motorists were still receiving adequate head protection.

NHTSA is in the process of reexamining the potential effects of the two alternatives proposed by the agency and of the two additional alternatives suggested by the commenters. Once that review has been completed, the agency will issue a separate notice announcing its decision.

NCAP Test Procedures

The April 1985 notice proposed adopting the test procedures on test dummy positioning and vehicle loading used in the agency's NCAP testing. The commenters generally supported the adoption of the test procedures, although several commenters suggested changes in some of the proposals. In addition, several commenters argued that the new procedures may improve test consistency, but the changes do not affect what they claim is variability in crash test results. As discussed in the April 1985 notice, the agency believes that the test used in Standard No. 208 does produce repeatable results. The proposed changes in the test procedures were meant to correct isolated problems that occurred in some NCAP tests. The following discussion addresses the issues raised by the commenters about the specific test procedure changes.

Vehicle Test Attitude

The NPRM proposed that when a vehicle is tested, its attitude should be between its "as delivered" condition and its "loaded" condition. (The "as delivered" condition is based on the vehicle attitude measured when it is received at the test site, with 100 percent of all its fluid capacities and with all its tires inflated to the manufacturer's specifications. For passenger cars, the "loaded" condition is based on the vehicle's attitude with a test dummy in each front outboard designated seating position, plus carrying the cargo load specified by the manufacturer.)

One commenter said that the weight distribution, and therefore the attitude, of the vehicle is governed more by the Gross Axle Weight Rating (defined in 49 CFR Part 571.3) than the loading conditions identified by the agency. The commenter recommended that the proposal not be adopted. Another commenter said that the agency should adopt more specific procedures for the positioning of the dummy and the cargo weight. For example, that commenter recommended that the "cargo weight shall be placed in such manner that its center of gravity will be coincident with the longitudinal center of the trunk, measured on the vehicle's longitudinal centerline." The commenter said that unless a more specific procedure is adopted, a vehicle's attitude in the fully loaded condition would not be constant.

The agency believes that a vehicle attitude specification should be adopted. The purpose of the requirement is to ensure that a vehicle's attitude during a crash test is not significantly different than the fully loaded attitude of the vehicle as designed by the manufacturer. Random placement of any necesssary ballast could have an effect on the test attitude of the vehicle. If these variables are not controlled, then the vehicle's test attitude could be affected and potential test variability increased.

NHTSA does not agree that the use of the Gross Axle Weight Rating (GAWR) is sufficient to determine the attitude of a vehicle. The use of GAWR only defines the maximum load-carrying capacity of each axle rather than in effect specifying a minimum and maximum loading as proposed by the agency. In addition, use of the GAWR may, under certain conditions, make it necessary to place additional cargo in the passenger compartment in order to achieve the GAWR loading. This condition is not desirable for crash testing, since the passenger compartment should be used for dummy placement and instrumentation and not ballast cargo. Thus the commenter's recommendation is not accepted.

The other commenter's recommendations regarding more specific test dummy placement procedures for the outboard seating positions were already accommodated in the NPRM by the proposed new S10.1.1, Driver position placement, and S10.1.2, Passenger position placement. Since those proposals adequately describe dummy placement in these positions, they are adopted.

NHTSA has evaluated the commenter's other suggestion for placing cargo weight with its center of gravity coincident with the longitudinal center of the trunk. The agency does not believe that it is necessary to determine the center of gravity of the cargo mass, which would add unnecessary complexity to the test procedure, but does agree that the cargo load should be placed so that it is over the longitudinal center of the trunk. The test procedures have been amended accordingly.

Open Window

One commenter raised a question about the requirement in S8.1.5 of Standard No. 208 that the vehicle's windows are to be closed during the crash test. It said adjustment of the dummy arm and the automatic safety belt can be performed only after an automatic belt is fully in place, which occurs only after the door is closed. Therefore, the window needs to be open to allow proper arm and belt placement after the door is closed.

NHTSA agrees that the need to adjust the slack in automatic and dynamically-tested manual belts prior to the crash test may require that the window remain open. The agency has modified the test procedure to allow manufacturers the option of having the window open during the crash test.

Seat Back Position

One commenter recommended that proposed S8.1.3, *Adjustable seat back placement*, be modified. The notice proposed that adjustable seat backs should be set in their design riding position as measured by such things as specific latch or seat track detent positions. The commenter suggested two options. The first option would be to allow vehicle manufacturers to specify any means they want to determine the seat back angle and the resulting dummy torso angle. As its second option, the commenter recommended that if the agency decides to adopt the proposal, it should determine the "torso

angle with an H-point machine according to SAE J826." The commenter said that depending on how the torso angle is established, different dummy torso angle could result in substantial adjustment deviations that can affect seat back placement.

The purpose of the requirement is to position the seat at the design riding position used by the manufacturer. The agency agrees with the commenter that manufacturers should have the flexibility to use any method they want to specify the seat back angle. Thus, the agency has made the necessary changes to the test procedure.

Dummy Placement

One commenter made several general comments about dummy placement. It agreed that positioning is very important and can have an influence on the outcome of crash tests. It argued that both the old and the proposed procedures are complicated and impractical to use. The commenter claims this situation will become more complicated if the Hybrid III is permitted, since the positioning must be carried out within a narrow temperature range (3 °F) for the test dummy to remain in calibration.

The commenter also believes that the positioning of the dummy should relate to vehicle type. It said that the posture and seating position of a vehicle occupant will not be the same in a van as in a sports car. For example, it said it has tried the proposed positioning procedures and found that they can result in an "unnatural" position for the dummy in a sports vehicle. The commenter argued that this "unnatural" position would then lead to a knee bolster design which would perform well in a crash test, but would likely not provide the same protection to a real occupant because of difference in positioning. The commenter recommended that the old positioning procedure be retained and the new procedure be provided as an option for those manufacturers whose vehicles cannot be adequately tested otherwise.

Because consistency in positioning the dummy is required prior to test, NHTSA believes that a single set of procedures should apply. As discussed in the April 1985 notice, the agency proposed the new procedures because of positioning problems identified in the NCAP testing. Allowing the use of the old positioning procedures could lead to sources of variability, thus negating a major objective of the procedures. The commenter's suggestion is therefore not adopted. The agency also notes that during its NCAP testing, which has involved tests of a wide variety of cars (including sports cars), trucks and MPV's, NHTSA has not experienced the "unnatural" seating position problem cited by the commenter.

Knee Pivot Bolt Head Clearance

Two commenters said that the proposal did not specify the correct distance between the dummy's knees, as measured by the clearance between the knee pivot bolt heads. The commenters are correct that the distance should be 11¾ inches rather than the proposed value of 14½ inches. The agency has corrected the number in the final rule.

Foot Rest

One commenter believes that a driver of cars equipped with foot rests typically will place his or her left foot on the foot rest during most driving and therefore this position should be used to simulate normal usage. The commenter said that using the foot rest will minimize variations in the positioning of the left leg, thus improving the repeatability of the test. In a discussion with the commenter, the agency has learned that the type of foot rest the commenter is referring to is a pedal-like structure where the driver can place his or her foot.

For vehicles without foot rests, the commenter recommended the agency use the same provisions for positioning the left leg of the driver as are used for the right leg of the passenger. It noted that positioning the driver's left leg, as with the passenger's right leg, can be hampered by wheelwell housing that projects into the passenger compartment and thus similar procedures for each of those legs should be used.

NHTSA agrees that in vehicles with foot rests, the test dummy's left foot should be positioned on the foot rest as long as placing the foot there will not elevate the test dummy's left leg. As discussed below, the agency is concerned that foot rests, such as pads on the wheelwell, that elevate the test dummy's leg can contribute to test variability. The agency also agrees that the positioning procedures for the driver's left leg and the passenger's right leg should be similar in situations where the wheelwell housing projects into the passenger compartment and has made the necessary changes to the test procedure.

Wheelwell

One commenter believes that the wheelwell should be used to rest the dummy's foot. It said that positioning the test dummy's foot there is particularly appropriate if the wheelwell has a design feature, such as a rubber pad, installed by the manufacturer for this purpose.

NHTSA disagrees that the dummy's foot should be rested on the wheelwell housing. The agency is concerned that elevating the test dummy's leg could lead to test variability by, among other things, making the test dummy unstable during a crash test. Although the wheelwell problem is similar to the foot rest problem, placement of the test dummy's foot on a separate, pedal-like foot rest can be accomplished while retaining the heel of the test dummy in a stable position on the floor. That is not the case with pads located on the wheelwell.

Another commenter also said that the proposed procedure for positioning the test dummy's legs in vehicles where the wheelwell projected into the passenger compartment was unclear as to how the centerlines of the upper and lower legs should be adjusted so that both remain in a vertical longitudinal plane. In particular, it was concerned that in a vehicle with a large wheelhousing, it may not be possible to keep the left foot of the driver test dummy in the vertical longitudinal plane after the right foot has been positioned. It believes that the procedure should specify which foot position should be given priority; it recommended that the position of the right leg be required to remain in the plane, while bringing the left leg as close to the vertical longitudinal plane as possible. The agency agrees that maintaining the inboard leg of the test dummy in the vertical plane is more easily accomplished since it will not be blocked by the wheelwell. The agency has modified the test procedure to specify that when it is not possible to maintain both legs in the vertical longitudinal plane, that the inboard leg must be kept as close as possible to in the vertical longitudinal plane and the outboard leg should be placed as close as possible to the vertical plane.

Lower Leg Angle

One commenter argued that proposed sections on lower leg positioning (S10.1.2.1(b) and S10.1.2.2(b)) will not result in a constant positioning of the test dummy's heels on the floor pan, thus causing differences in the lower leg angles. It stated that the lower leg angles will affect the femur load generated at the moment the foot hits the toe board during a collision. The commenter therefore proposed that the test procedure be revised to include placing a 20 pound load on the test dummy's knee during the foot positioning procedure. The commenter

did not, however, explain the basis for choosing a force of 20 pounds.

NHTSA believes that use of the additional weight loading and settling procedure proposed by the commenter will add an unnecessary level of complexity to the test procedure without adding any corresponding benefit. The positioning of the test dummy's heel has not been a problem in the agency's NCAP tests. Accordingly, the agency is not adopting the commenter's recommendation.

Shoulder Adjustment

One commenter asked the agency to specify that the shoulders of the test dummy be placed at their lowest adjustment position. While the shoulders are slightly adjustable, the agency believes that specifying an adjustment position is unnecessary. The agency's test experience has shown that the up and down movement of the shoulders is physically limited by the test dummy's rubber "skin" around the openings where the arms are connected to the test dummy's upper torso.

Dummy Lifting Procedure

One commenter was concerned about the dummy lifting proposed in (Section S10.4.1, Dummy Vertical Upward Displacement). It said that if the dummy lifting method is not standardized, test results could be affected by allowing variability in the position of the dummy's H point (the H point essentially represents the hip joint) through use of different lifting methods. It recommended use of a different chest lifting method to avoid variability in the subsequent positioning of the test dummy H-point.

The agency is not aware of any test data indicating that the use of different lifting methods is a significant source of variability. As long as a manufacturer follows the procedures set forth in S10.4.1 in positioning the test dummy, it can use any lifting procedure it wants.

Dummy Settling Load

One commenter was concerned about the proposed requirements for dummy settling (S10.4.2, Lower torso force application, and S10.4.5, Upper torso force application). The commenter believes that the proposals are inadequate because they do not prescribe the area over which to apply the load used to settle the test dummy in the seat. The commenter said that if the proposed 50 pound settling force is applied to an extremely small contact area, then the dummy may be deformed. It recommended that the load be applied to a specified area of 9 square inches on the dummy. In addition, it recommended that the agency specify the duration of the 50 lb. force application during the adjustment of the upper torso; it suggested a period of load application ranging from 5 to 10 seconds.

NHTSA and others have successfully used the proposed settling test procedures in their own tests without having any variability problems. Unless abnormally small contact areas are employed, or extremely short durations are used, standard laboratory practices should not result in any such problems. The agency believes that further specifying the area and timing of the force application is not necessary.

Dummy Head Adjustment

One commenter pointed out that it is impossible to adjust the head according to S10.6, Head Adjustment, because the Part 572 test dummy does not have a head adjustment mechanism. The agency agrees and has deleted the provision.

Additional Dummy Settling and Shoulder Belt Positioning Procedures

One commenter suggested a substantial revised dummy settling procedure and new procedures for positioning of the shoulder belt. NHTSA believes that its proposed procedures sufficiently address the settling and belt position issues. In addition, the commenter did not provide any data to show that variability would be further reduced by its suggested procedures. A substantial amount of testing would be needed to verify if the commenter's suggested test procedures do, in fact, provide any further decrease in variability than that obtained by the agency's test procedures. For those reasons, the agency is not adopting the commenter's suggestions for new procedures.

Due Care

In the April 1985 notice, the agency proposed amending the standard to state that the due care provision of section 108(b)(2) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1397(b)(2)) applies to compliance with the standard. Thus, a vehicle would not be deemed in noncompliance if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the standard.

Commenters raised a number of questions about the proposal, with some saying that the agency needed to clarify what constitutes "due care," others recommending that the agency reconsider the use of "design to conform" language instead of due care and another opposing the use of any due care provision.

A number of commenters, while supporting the use of a due care provision, said that the proposal provides no assurance that a manufacturer's good faith effort will be considered due care. They said that the agency should identify the level of testing and analysis necessary to constitute due care. Another commenter emphasized that in defining due care, the agency must ensure that a manufacturer uses recognized statistical procedures in determining that its products comply with the requirements of the standard.

Another group of commenters requested the agency to reconsider its decision not to use "design to conform" language in the standard; they said that the agency's concerns about the subjectivity of a "design to conform" language are not greater and could well be less than that resulting from use of due care language.

One commenter opposed the use of any due care language in the standard. It argued that the National Traffic and Motor Vehicle Safety Act requires the agency to set objective performance requirements in its standards. When a manufacturer determines that it has not met those performance requirements, then the manufacturer is under an obligation to notify owners and remedy the noncomplying vehicles. It argued that the proposed due care provision, in effect, provides manufacturers with an exemption from the Vehicle Safety Act recall provisions.

As discussed in the July 1984 final rule and the April 1985 notice, the agency believes that the test procedure of Standard No. 208 produces repeatable results in vehicle crash tests. The agency does, however, recognize that the Standard No. 208 test is more complicated than NHTSA's other crash test standards since a number of different injury measurements must be made on the the two test dummies used in the testing. Because of this complexity, the agency believes that manufacturers need assurance from the agency that, if they have made a good faith effort in designing their vehicles and have instituted adequate quality control measures, they will not face the recall of their vehicles because of an isolated apparent failure to meet one of the injury criteria. The adoption of a due care provision provides that assurance. For the reasons discussed in the July 1984 final rule, the agency still believes use of a due care provision is a better approach to this issue than use of a design to conform provision.

As the agency has emphasized in its prior interpretation letters, a

determination of what constitutes due care only be made on a case-by-case basis. Whether a manufacturer's action will constitute due care will depend, in part, upon the availability of test equipment, the limitations of available technology, and above all, the diligence evidenced by the manufacturer.

Adoption of a due care defense is in line with the agency's longstanding and well-known enforcement policy on test differences. Under this long standing practice if the agency's testing shows noncompliance and a manufacturer's tests, valid on their face, show complying results, the agency will conduct an inquiry into the reason for the differing results. If the agency concludes that the difference in results can be explained to the agency's satisfaction, that the agency's results do not indicate an unreasonable risk to safety, and that the manufacturer's tests were reasonably conducted and were in conformity with standard, then the agency does not use its own tests as a basis for a finding of noncompliance. Although this interpretation has long been a matter of public record, Congress, in subsequent amendments of the Vehicle Safety Act, has not acted to alter that interpretation. The Supreme Court has said that under those circumstances, it can be presumed that the agency's interpretation has correctly followed the intent of the statute. (*See United States* v. *Rutherford*, 442 U.S. 544, 554n. 10 (1979))

Phase-In

Attribution Rules

With respect to cars manufactured by two or more companies, and cars manufactured by one company and imported by another, the April 1985 notice proposed to clarify who would be considered the manufacturer for purposes of calculating the average annual production of passenger cars for each manufacturer and the amount of passenger cars manufactured by each manufacturer that must comply with the automatic restraint phase-in requirements. In order to provide maximum flexiblity to manufacturers, while assuring that the percentage phase-in goals are met, the notice proposed to permit manufacturers to determine, by contract, which of them will count, as its own, passenger cars manufactured by two or more companies or cars manufactured by one company and imported by another.

The notice also proposed two rules of attribution in the absence of such a contract. First, a passenger car which is imported for purposes of resale would be attributed to the importer. The agency intended that this proposed attribution rule would apply to both direct importers as well as importers authorized by the vehicle's original manufacturer. (In this context, direct importation refers to the importation of cars which are originally manufactured for sale outside the U.S. and which are then imported without the manufacturer's authorization into the U.S. by an importer for purposes of resale. The Vehicle Safety Act requires that such vehicles be brought into conformity with Federal motor vehicle safety standards.) Under the second proposed attribution rule, a passenger car manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, would be attributed to the manufacturer which markets the vehicle.

These two proposed rules would generally attribute a vehicle to the manufacturer which is most responsible for the existence of the vehicle in the United States, i.e., by importing the vehicle or by manufacturing the vehicle for its own account as part of a joint venture, and marketing the vehicle. (Importers generally market the vehicles they import.) All commenters on these proposals supported giving manufacturers the flexibility to determine contractually which manufacturer would count the passenger car as its own. The commenters also supported the proposed attribution rules. Therefore, the agency is adopting the provisions as proposed.

Credit for Early Phase-In

The April 1985 notice proposed that manufacturers that exceeded the minimum percentage phase-in requirements in the first or second years could count those extra vehicles toward meeting the requirements in the second or third years. In addition, manufacturers could also count any automatic restraint vehicles produced during the one year preceding the first year of the phase-in. Since all the commenters addressing these proposals supported them, the agency is adopting them as proposed. The agency believes that providing credit for early introduction will encourage introduction of larger numbers of automatic restaints and provide increased flexibility for manufacturers. In addition, it will assure an orderly build-up of production capability for automatic restraint equippped cars as contemplated by the July 1984 final rule.

One commenter asked the agency to establish a new credit for vehicles equipped with non-belt automatic restraints at the driver's position and a dynamically-tested manual belt at the passenger position. The commenter requested that such a vehicle receive a 1.0 credit. The commenter also asked the agency to allow vehicles equipped with driver-only automatic restraint systems to be manufactured after September 1, 1989, the effective date for automatic restraints for the driver and front right passenger seating positions in all passenger cars. In its August 30, 1985 notice (50 FR 35233) responding to petitions for reconsideration of the July 1984 final rule on Standard No. 208, the agency has already adopted a part of the commenter's suggestion by establishing a 1.0 vehicle credit for vehicles equipped with a non-belt automatic restraint at the driver's position and a manual lap/shoulder belt at the passenger's position. For reasons detailed in the July 1984 final rule, the agency believes that the automatic restraint requirement should apply to both front outboard seating positions beginning on September 1, 1989, and is therefore not adopting the commenter's second suggestion.

Phase-In Reporting Requirements

The April 1985 notice proposed to establish a new Part 585, *Automatic Restraint Phase-in Reporting Requirements*. The agency proposed requiring manufacturers to submit three reports to NHTSA, one for each of the three automatic restraint phase-in periods. Each report, covering production during a 12-month period beginning September 1 and ending August 31, would be required to be submitted within 60 days after the end of such period. Information required by each report would include a statement regarding the extent to which the manufacturer had complied with the applicable percentage phase-in requirement of Standard No. 208 for the period covered by the report; the number of passenger cars manufactured for sale in the United States for each of the three previous 12-month production periods; the actual number of passenger cars manufactured during the reporting production (or during a previous production period and counted toward compliance in the reporting production period) period with automatic safety belts, air bags and other specified forms of automatic restraint technology, respectively; and brief information about any express written contracts which concern passenger cars produced by more than one manufacturer and affect the report.

One commenter questioned the need for a reporting requirement, saying that the requirement was unnecessary since manufacturers must self-certify that

their vehicles meet Standard No. 208. The agency believes that a reporting requirement is needed for the limited period of the phase-in of automatic restraints so that the agency can carry out its statutory duty to monitor compliance with the Federal motor vehicle safety standards. During the phase-in, only a certain percentage of vehicles are required to have automatic restraints. It would be virtually impossible for the agency to determine if the applicable percentage of passenger cars has been equipped with automatic restraints unless manufacturers provide certain production information to the agency. NHTSA is therefore adopting the reporting requirement.

The same commenter said that requiring the report to be due 60 days after the end of the production year can be a problem for importers. The commenter said that production records may accompany the vehicle, which may not actually reach the United States until 30 or 45 days after the production year ends. The commenter asked the agency to provide an appeal process to seek an extension of the period to file the report. The agency believes that the example presented by the commenter represents a worst case situation and complying with the 60 day requirement should not be a problem for manufacturers, including importers. However, to eliminate any problems in worst case situations, the agency is amending the regulation to provide that manufacturers seeking an extension of the deadline to file a report must file a request for an extension at least 15 days before the report is due.

Calculation of Average Annual Production

The agency also proposed an alternative to the requirement that the number of cars that must be equipped with automatic restraints must be based on a percentage of each manufacturer's average annual production for the past three model years. The proposed alternative would permit manufacturers to equip the required percentage of its actual production of passenger cars with automatic restraints during each affected year. Since all commenters addressing this proposal supported it, the agency is adopting it as an alternative means of compliance, at the manufacturer's option. In the case of a new manufacturer, the manufacturer would have to calculate the amount of passenger cars required to have automatic restraints based on its production of passenger cars during each of the affected years. Since the agency has decided to adopt the alternative basis for determining the production quota, it has made the necessary conforming changes in the reporting requirements adopted in this notice.

One commenter also requested the agency to clarify whether a manufacturer does have to include its production volume of convertibles when it is calculating the percentage of vehicles that must meet the phase-in requirement. The automatic restraint requirement applies to all passenger cars. Thus, a manufacturer's production figures for passenger car convertibles must be counted when the manufacturer is calculating its phase-in requirements.

Retention of VINs

In order to keep administrative burdens to a minimum, the agency proposed that the required report need not use the VIN to identify the particular type of automatic restraint installed in each passenger car produced during the phase-in period. Since that information could be necessary for purposes of enforcement, however, the agency proposed to require that manufacturers maintain records until December 31, 1991, of the VIN and type of automatic restraint for each passenger car which is produced during the phase-in period and is reported as having automatic restraints. Although direct import cars are not required to have a US-format VIN number, those cars would still have a European-format VIN number and thus direct importers would be required to retain that VIN information. (The agency is considering a petition from Volkswagen requesting that direct import cars be required to have US-format VINs.)

The reason for retaining the information until 1991 is to ensure that such information would then be available until the completion of any agency enforcement action begun after the final phase-in report is filed in 1990. The agency believes this requirement meets the needs of the agency, with minimal impacts on manufacturers, and therefore is adopting it as proposed. One commenter asked whether a manufacturer is required to keep the VIN information as a separate file or whether keeping the information as a part of its general business records is sufficient. As long as the VIN information is retrievable, it may be stored in any manner that is convenient for a manufacturer.

Impact Analyses

The agency has considered the economic and other effects of the requirement adopted in this final rule and determined that they are not major within the meaning of Executive Order 12291 nor significant within the meaning of DOT's regulatory policies and procedures. A Final Regulatory Evaluation (FRE) has been prepared and placed in the public docket.

Two of the actions adopted in this notice potentially have measurable economic consequences or effects on consumers, which are fully detailed in the FRE and briefly discussed below. The two actions are requiring the use of dynamic testing for manual belt systems in passenger cars and retaining the oblique test. The remaining changes adopted in this notice concern technical changes that should not have more than minimal economic effects on either consumers or manufacturers and thus require no regulatory evaluation.

The proposed dynamic testing of lap-shoulder belt systems could result in increased testing costs to vehicle manufacturers. At present, manufacturers already conduct crash testing for Standard Nos. 204, *Steering Column Rearward Displacement*, 212, *Windshield Mounting*, 219, *Windshield Zone Intrusion*, and 301, *Fuel System Integrity*. In many cases, manufacturers can combine the dynamic testing of safety belts with the testing done to meet these other standards and thus avoid the cost of testing an additional vehicle for the proposed safety belt requirements. The agency estimates that the incremental costs associated with the instrumentation of the test dummy and measurements needed for the dynamic testing of safety belts in passenger cars would be approximately $8,500 per test, excluding the cost of the vehicle. In the case of the oblique test, the agency notes that, as discussed earlier in this notice, even most manufacturers opposing retention of the oblique test said that they would continue to use it in their own testing.

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Few, if any, passenger car manufacturers would qualify as small entities. The suppliers of webbing and other manual or automatic restraint components would not likely be significantly affected. Small organizations or governmental units should not be significantly affected since the price increases associated with this final rule should not affect the purchasing of new cars by these entities.

The reporting and recordkeeping requirements in this rule have been submitted and approved by the Office of Management and Budget, pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved under several OMB approval numbers (approval number 2127–0535 (expires June 30, 1988), 2127–0541 (expires December 31, 1986), 2127–0512 (expires Feb. 29, 1988).

Finally, the agency has analyzed this final rule for purposes of the National Environmental Policy Act. The agency has determined that this action would not have any significant impact on the quality of the human environment.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

49 CFR Part 585

Reporting and recordkeeping requirements.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 Standard No. 208; Occupant crash protection.

1. Section S4.1.3.1.2 is revised to read as follows:

S4.1.3.1.2 Subject to S4.1.3.4 and S4.1.5, the amount of passenger cars, specified in S4.1.3.1.1 complying with the requirements of S4.1.2.1 shall be not less than 10 percent of:

(a) The average annual production of passenger cars manufactured on or after September 1, 1983, and before September 1, 1986, by each manufacturer, or

(b) The manufacturer's annual production of passenger cars during the period specified in S4.1.3.1.1.

2. Section 4.1.3.2.2 is revised to read as follows:

S4.1.3.2.2 Subject to S4.1.3.4 and S4.1.3.4 and S4.1.5, the amount of passenger cars specified in S4.1.3.2.1 complying with the requirements of S4.1.2.1. shall be not less than 25 percent of:

(a) The average annual production of passenger cars manufactured on or after September 1, 1984, and before September 1, 1987, by each manufacturer, or

(b) The manufacturer's annual production of passenger car during the period specified in S4.1.3.2.1.

3. Section 4.1.3.3.2 is revised to read as follows:

S4.1.3.3.2 Subject to S4.1.3.4 and S4.1.5, the amount of passenger cars specified in S4.1.3.3.1 complying with the requirements of S4.1.2.1 shall be not less than 40 percent of:

(a) The average annual production of passenger cars manufactured on or after September 1, 1985, and before September 1, 1988, by each manufacturer or

(b) The manufacturer's annual production of passenger cars during the period specified in S4.1.3.3.1.

4. Section S4.1.3.4 is revised to read as follows:

S4.1.3.4 *Calculation of complying passenger cars.*

(a) For the purposes of calculating the numbers of cars manufactured under S4.1.3.1.2, S4.1.3.2.2, or S4.1.3.3.2 to comply with S4.1.2.1:

(1) Each car whose driver's seating position complies with the requirements of S4.1.2.1(a) by means not including any type of seat belt and whose front right seating position will comply with the requirements of S4.1.2.1(a) by any means is counted is counted as 1.5 vehicles, and

(2) Each car whose driver's seating position complies with the requirements of S4.1.2.1(a) by means not including any type of seat belt and whose right front seat seating position is equipped with a manual Type 2 seat belt is counted as one vehicle.

(b) For the purposes of complying with S4.1.3.1.2, a passenger car may be counted if it:

(1) Is manufactured on or after September 1, 1985, but before September 1, 1986, and

(2) Complies with S4.1.2.1.

(c) For the purposes of complying with S4.1.3.2.2, a passenger car may be counted if it:

(1) Is manufactured on or after September 1, 1985, but before September 1, 1987,

(2) Complies with S4.1.2.1, and

(3) Is not counted toward compliance with S4.1.3.1.2

(d) For the purposes of complying with S4.1.3.3.2, a passenger car may be counted if it:

(1) Is manufactured on or after September 1, 1985, but before September 1, 1988,

(2) Complies with S4.1.2.1, and

(3) Is not counted toward compliance with S4.1.3.1.2 or S4.1.3.2.2.

5. A new section S4.1.3.5 is added to read as follows:

S4.1.3.5. Passenger cars produced by more than one manufacturer.

S4.1.3.5.1 For the purposes of calculating average annual production of passenger cars for each manufacturer and the amount of passenger cars manufactured by each manufacturer under S4.1.3.1.2, S4.1.3.2.2 or S4.1.3.3.2, a passenger car produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to S4.1.3.5.2:

(a) A passenger car which is imported shall be attributed to the importer.

(b) A passenger car manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

S4.1.3.5.2 A passenger car produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR Part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S4.1.3.5.1.

6. A new section S4.6 is added to read as follows:

S4.6 *Dynamic testing of manual belt systems.*

S4.6.1 If the automatic restraint requirement of S4.1.4 is rescinded pursuant to S4.1.5, then each passenger car that is manufactured after September 1, 1989, and is equipped with a Type 2 manual seat belt assembly at each front outboard designated seating position pursuant to S4.1.2.3 shall meet the frontal crash protection requirements of S5.1 at those designated seating positions with a test dummy restrained by a Type 2 seat belt assembly that has been adjusted in accordance with S7.4.2.

S4.6.2 A Type 2 seat belt assembly subject to the requirements of S4.6.1 of this standard does not have to meet the requirements of S4.2 (a)–(c) and S4.4 of Standard No. 209 (49 CFR 571.209) of this Part.

7. S7.4.2 is revised to read as follows:

S7.4.2 *Webbing tension relieving device.* Each vehicle with an automatic seat belt assembly or with a Type 2 manual seat belt assembly that must meet S4.6 installed in a front outboard designated seating position that has either manual or automatic devices permitting the introduction of slack in the webbing of the shoulder belt (e.g., "comfort clips" or "window-shade" devices) shall:

(a) Comply with the requirements of S5.1 with the shoulder belt webbing

adjusted to introduce the maximum amount of slack recommended by the manufacturer pursuant to S7.4.2(b);

(b) Have a section in the vehicle owner's manual that explains how the tension-relieving device works and specifies the maximum amount of slack (in inches) recommended by the vehicle manufacturer to be introduced into the shoulder belt under normal use conditions. The explanation shall also warn that introducing slack beyond the amount specified by the manufacturer can significantly reduce the effectiveness of the shoulder belt in a crash; and

(c) Have an automatic means to cancel an shoulder belt slack introduced into the belt system by a tension-relieving device each time the safety belt is unbuckled or the adjacent vehicle door is opened, except that open-body vehicles with no doors can have a manual means to cancel any shoulder belt slack introduced into the belt system by a tension-relieving device.

8. Section 8.1.1(c) is revised to read as follows:

S8.1.1 * * *

(c) *Fuel system capacity.* With the test vehicle on a level surface, pump the fuel from the vehicle's fuel tank and then operate the engine until it stops. Then, add Stoddard solvent to the test vehicle's fuel tank in an amount which is equal to not less than 92 and not more than 94 percent of the fuel tank's usable capacity stated by the vehicle's manufacturer. In addition, add the amount of Stoddard solvent needed to fill the entire fuel system from the fuel tank through the engine's induction system.

* * * * *

9. A new 8.1.1(d) is added to read as follows:

S8.1.1 * * *

(d) *Vehicle test attitude.* Determine the distance between a level surface and a standard reference point on the test vehicle's body, directly above each wheel opening, when the vehicle is in its "as delivered" condition. The "as delivered" condition is the vehicle as received at the test site, with 100 percent of all fluid capacities and all tires inflated to the manufacturer's specifications as listed on the vehicle's tire placard. Determine the distance between the same level surface and the same standard reference points in the vehicle's "fully loaded condition." The "fully loaded condition" is the test vehicle loaded in accordance with S8.1.1 (a) or (b), as applicable. The load placed in the cargo area shall be center over the longitudinal centerline of the vehicle. The pretest vehicle attitude shall be equal to either the as delivered or fully loaded attitude or between the as delivered attitude and the fully loaded attitude.

10. S7.4.3 is amended by removing the reference to "S10.6" and replacing it with a reference to "S10.7."

11. S7.4.4 is amended by removing the reference to "S10.5" and replacing it with a reference to "S10.6."

12. S7.4.5 is amended by removing the reference to "S8.1.11" and replacing it with a reference to "S10."

13. Section 8.1.3 is revised to read as follows:

S8.1.3 *Adjustable seat back placement.* Place adjustable seat backs in the manufacturer's nominal design riding position in the manner specified by the manufacturer. Place each adjustable head restraint in its highest adjustment position.

14. Sections 8.1.11 through 8.1.11.2.3 are removed.

15. Sections 8.1.12 and 8.1.13 are redesignated 8.1.11 and 8.1.12, respectively.

16. Section 10 is revised to read as follows:

S10 *Test dummy positioning procedures.* Position a test dummy, conforming to Subpart B of Part 572 (49 CFR Part 572), in each front outboard seating position of a vehicle as specified in S10.1 through S10.9. Each test dummy is:

(a) Not restrained during an impact by any means that require occupant action if the vehicle is equipped with automatic restraints.

(b) Restrained by manual Type 2 safety belts, adjusted in accordance with S10.9, if the vehicle is equipped with manual safety belts in the front outboard seating positions.

S10.1 *Vehicle equipped with front bucket seats.* Place the test dummy's torso against the seat back and its upper legs against the seat cushion to the extent permitted by placement of the test dummy's feet in accordance with the appropriate paragraph of S10. Center the test dummy on the seat cushion of the bucket seat and set its midsagittal plane so that it is vertical and parallel to the centerline of the vehicle.

S10.1.1 *Driver position placement.*

(a) Initially set the knees of the test dummy 11–3/4 inches apart, measured between the outer surfaces of the knee pivot bolt heads, with the left outer surface 5.9 inches from the midsagittal plane of the test dummy.

(b) Rest the right foot of the test dummy on the undepressed accelerator pedal with the rearmost point of the heel on the floor pan in the plane of the pedal. If the foot cannot be placed on the accelerator pedal, set it perpendicular to the lower leg and place it as far forward as possible in the direction of the geometric center of the pedal with the rearmost point of the heel resting on the floor pan. Except as prevented by contact with a vehicle surface, place the right leg so that the upper and lower leg centerlines fall, as close as possible, in a vertical longitudinal plane without inducing torso movement.

(c) Place the left foot on the toeboard with the rearmost point of the heel resting on the floor pan as close as possible to the point of intersection of the planes described by the toeboard and the floor pan. If the foot cannot be positioned on the toeboard, set it perpendicular to the lower leg and place it as far forward as possible with the heel resting on the floor pan. Except as prevented by contact with a vehicle surface, place the left leg so that the upper and lower leg centerlines fall, as close as possible, in a vertical plane. For vehicles with a foot rest that does not elevate the left foot above the level of the right foot, place the left foot on the foot rest so that the upper and lower leg centerlines fall in a vertical plane.

S10.1.2 *Passenger position placement.*

S10.1.2.1 *Vehicles with a flat floor pan/toeboard.*

(a) Initially set the knees 11¾ inches apart, measured between the outer surface of the knee pivot bolt heads.

(b) Place the right and left feet on the vehicle's toeboard with the heels resting on the floor pan as close as possible to the intersection point with the toeboard. If the feet cannot be placed flat on the toeboard, set them perpendicular to the lower centerlines and place them as far forward as possible with the heel resting on the floor pan.

(c) Place the right and left legs so that the upper and lower leg centerlines fall in vertical longitudinal planes.

S10.1.2.2 *Vehicles with wheelhouse projections in passenger compartment.*

(a) Initially set the knees 11¾ inches apart, measured between outer surfaces of the knee pivot bolt heads.

(b) Place the right and left feet in the well of the floor pan/toeboard and not on the wheelhouse projection. If the feet cannot be placed flat on the toeboard, set them perpendicular to the lower leg centerlines and as far forward as possible with the heels resting on the floor pan.

(c) If it is not possible to maintain vertical and longitudinal planes through the upper and lower leg centerlines for each leg, then place the left leg so that its upper and lower centerlines fall, as closely as possible, in a vertical

longitudinal plane and place the right leg so that its upper and lower leg centerlines fall, as closely as possible, in a vertical plane.

S10.2 *Vehicle equipped with bench seating.* Place a test dummy with its torso against the seat back and its upper legs against the seat cushion, to the extent permitted by placement of the test dummy's feet in accordance with the appropriate paragraph of S10.1.

S10.2.1 *Driver position placement.* Place the test dummy at the left front outboard designated seating position so that its midsagittal plane is vertical and parallel to the centerline of the vehicle and so that the midsagittal plane of the test dummy passes through the center of the steering wheel rim. Place the legs, knees, and feet of the test dummy as specified in S10.1.1.

S10.2.2 *Passenger position placement.* Place the test dummy at the right front outboard designated seating position as specified in S10.1.2, except that the midsagittal plane of the test dummy shall be vertical and longitudinal, and the same distance from the vehicle's longitudinal centerline as the midsagittal plane of the test dummy at the driver's position.

S10.3 *Initial test dummy placement.* With the test dummy at its designated seating position as specified by the appropriate requirements of S10.1 or S10.2, place the upper arms against the seat back and tangent to the side of the upper torso. Place the lower arms and palms against the outside of the upper legs.

S10.4 *Test dummy settling.*

S10.4.1 *Test dummy vertical upward displacement.* Slowly lift the test dummy parallel to the seat back plane until the test dummy's buttocks no longer contact the seat cushion or until there is test dummy head contact with the vehicle's headlining.

S10.4.2 *Lower torso force application.* Using a test dummy positioning fixture, apply a rearward force of 50 pounds through the center of the rigid surface against the test dummy's lower torso in a horizontal direction. The line of force application shall by 6½ inches above the bottom surface of the test dummy's buttocks. The 50 pound force shall be maintained with the rigid fixture applying reaction forces to either the floor pan/toeboard, the 'A' post, or the vehicle's seat frame.

S10.4.3 *Test dummy vertical downward displacement.* While maintaining the contact of the horizontal rearward force positioning fixture with the test dummy's lower torso, remove as much of the 50 pound force as necessary to allow the test dummy to return downward to the seat cushion by its own weight.

S10.4.4 *Test dummy upper torso rocking.* Without totally removing the horizontal rearward force being applied to the test dummy's lower torso, apply a horizontal forward force to the test dummy's shoulders sufficient to flex the upper torso forward until its back no longer contacts the seat back. Rock the test dummy from side to side 3 or 4 times so that the test dummy's spine is at any angle from the vertical in the 14 to 16 degree range at the extremes of each rocking movement.

S10.4.5 *Upper torso force application.* With the test dummy's midsagittal plane vertical, push the upper torso back against the seat back with a force of 50 pounds applied in a horizonal rearward direction along a line that is coincident with the test dummy's midsagittal plane and 18 inches above the bottom surface of the test dummy's buttocks.

S10.5 *Placement of test dummy arms and hands.* With the test dummy positioned as specified by S10.3 and without including torso movement, place the arms, elbows and hands of the test dummy, as appropriate for each designated seating position in accordance with S10.3.1 or S10.3.2. Following placement of the arms, elbows and hands, remove the force applied against the lower half of the torso.

S10.5.1 *Driver's position.* Move the upper and the lower arms of the test dummy at the driver's position to their fully outstretched position in the lowest possible orientation. Push each arm rearward permitting bending at the elbow, until the palm of each hand contacts the outer part of the rim of the steering wheel at its horizontal centerline. Place the test dummy's thumbs over the steering wheel rim and position the upper and lower arm centerlines as close as possible in a vertical plane without inducing torso movement.

S10.5.2 *Passenger position.* Move the upper and the lower arms of the test dummy at the passenger position to fully outstretched position in the lowest possible orientation. Push each arm rearward, permitting bending at the elbow, until the upper arm contacts the seat back and is tangent to the upper part of the side of the torso, the palm contacts the outside of the thigh, and the little finger is barely in contact with the seat cushion.

S10.6 *Test dummy positioning for latchplate access.* The reach envelopes specified in S7.4.4 are obtained by positioning a test dummy in the driver's seat or passenger's seat in its forwardmost adjustment position. Attach the lines for the inboard and outboard arms to the test dummy as described in Figure 3 of this standard. Extend each line backward and outboard to generate the compliance arcs of the outboard reach envelope of the test dummy's arms.

S10.7 *Test dummy positioning for belt contact force.* To determine compliance with S7.4.3 of this standard, position the test dummy in the vehicle in accordance with the appropriate requirements specified in S10.1 or S10.2 and under the conditions of S8.1.2 and S8.1.3. Pull the belt webbing three inches from the test dummy's chest and release until the webbing is within 1 inch of the test dummy's chest and measure the belt contact force.

S10.9 *Manual belt adjustment for dynamic testing.* With the test dummy at its designated seating position as specified by the appropriate requirements of S8.1.2, S8.1.3 and S10.1 through S10.5, place the Type 2 manual belt around the test dummy and fasten the latch. Remove all slack from the lap belt. Pull the upper torso webbing out of the retractor and allow it to retract; repeat this operation four times. Apply a 2 to 4 pound tension load to the lap belt. If the belt system is equipped with a tension-relieving device introduce the maximum amount of slack into the upper torso belt that is recommended by the manufacturer for normal use in the owner's manual for the vehicle. If the belt system is not equipped with a tension relieving device, allow the excess webbing in the shoulder belt to be retracted by the retractive force of the retractor.

17. S11 is removed.

18. S4.1.3.1.1, S4.1.3.2.1, S4.1.3.3.1, S4.1.4 and S4.6.1 are amended by adding a new second sentence to S4.1.3.1.1, S4.1.3.2.1, S4.1.3.3.1 and S4.1.4 and a new second sentence to S4.6.1 to read as follows:

A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirement of this standard.

19. S8.1.5 is revised to read as follows:

S8.1.5 Movable vehicle windows and vents are, at the manufacturer's option, placed in the fully closed position.

20. S7.4 is revised to read as follows:

7.4 *Seat belt comfort and convenience.*

(a) *Automatic seat belts.* Automatic seat belts installed in any vehicle, other than walk-in van-type vehicles, which has a gross vehicle weight rating of

10,000 pounds or less, and which is manufactured on or after September 1, 1986, shall meet the requirements of S7.4.1, S7.4.2, and S7.4.3.

(b) *Manual seat belts.*

(1) *Vehicles manufactured after September 1, 1986.* Manual seat belts installed in any vehicle, other than manual Type 2 belt systems installed in the front outboard seating positions in passenger cars or manual belts in walk-in van-type vehicles, which have a gross vehicle weight rating of 10,000 pounds or less, shall meet the requirements of S7.4.3, S7.4., S7.4.5, and S7.4.6.

(2) *Vehicles manufactured after September 1, 1989.*

(i) If the automatic restraint requirement of S4.1.4 is rescinded pursuant to S4.1.5, then manual seat belts installed in a passenger car shall meet the requirements of S7.1.1.3(a), 7.4.2, 7.4.3, S7.4.4, S7.4.5, and S7.4.6.

(ii) Manual seat belts installed in a bus, multipurpose passenger vehicle and truck with a gross vehicle weight rating of 10,000 pounds or less, except for walk-in van-type vehicles, shall meet the requirements of 7.4.3, S7.4.4, S7.4.5, and S7.4.6.

§ 571.209 Standard No. 209, Seat belt assemblies.

1. A new S4.6 is added, to read as follows:

S4.6 *Manual belts subject to crash protection requirements of Standard No. 208.*

(a) A seat belt assembly subject to the requirements of S4.6.1 of Standard No. 208 (49 CFR Part 571.208) does not have to meet the requirements of S4.2(a)–(c) and S4.4 of this standard.

(b) A seat belt assembly that does not comply with the requirements of S4.4 of this standard shall be permanently and legibly marked or labeled with the following language:

This seat belt assembly may only be installed at a front outboard designated seating position of a vehicle with a gross vehicle weight rating of 10,000 pounds or less.

§ 571.210 Standard No. 210, Seat belt assembly anchorages.

1. The second sentence of S4.3 is revised to read as follows:

S4.3 Location.

Anchorages for automatic and for dynamically tested seat belt assemblies that meet the frontal crash protection requirement of S5.1 of Standard No. 208 (49 CFR Part 571.208) are exempt from the location requirements of this section.

* * * * *

1. Chapter V, Title 49, Transportation, the Code of Federal Regulations, is amended to add the following Part:

PART 585—AUTOMATIC RESTRAINT PHASE-IN REPORTING REQUIREMENTS

Sec.

Authority: 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.50.

§ 585.1 Scope.

This section establishes requirements for passenger car manufacturers to submit a report, and maintain records related to the report, concerning the number of passenger cars equipped with automatic restraints in compliance with the requirements of S4.1.3 of Standard No. 208, *Occupant Crash Protection* (49 CFR Part 571.208).

§ 585.2 Purpose.

The purpose of the reporting requirements is to aid the National Highway Traffic Safety Administration in determining whether a passenger car manufacturer has complied with the requirements of Standard No. 208 of this Chapter (49 CFR 571.208) for the installation of automatic restraints in a percentage of each manufacturer's annual passenger car production.

§ 585.3 Applicability.

This part applies to manufacturers of passenger cars.

§ 585.4 Definitions.

All terms defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used in their statutory meaning.

"Passenger car" is used as defined in 49 CFR Part 571.3.

"Production year" means the 12-month period between September 1 of one year and August 31 of the following year, inclusive.

§ 585.5 Reporting requirements.

(a) *General reporting requirements.* Within 60-days after the end of each of the production years ending August 31, 1987, August 31, 1988, and August 31, 1989, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the requirements of Standard No. 208 for installation of automatic restraints in its passenger cars produced in that year. Each report shall—

(1) Identify the manufacturer;

(2) State the full name, title and address of the official responsible for preparing the report;

(3) Identify the production year being reported on;

(4) Contain a statement regarding the extent to which the manufacturer has complied with the requirements of S4.1.3 of Standard No. 208;

(5) Provide the information specified in § 585.5(b);

(6) Be written in the English language; and

(7) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

(b) *Report content.*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of passenger cars manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that is, for the first time, manufacturing passenger cars for sale in the United States must report the number of passenger cars manufactured during the current production year.

(2) *Production.*

Each manufacturer shall report for the production year being reported on, and each preceding production year, to the extent that cars produced during the preceding years are treated under Standard No. 208 as having been produced during the production year being reported on, the following information:

(i) The number of passenger cars equipped with automatic seat belts and the seating positions at which they are installed,

(ii) The number of passenger cars equipped with air bags and the seating positions at which they are installed, and

(iii) The number of passenger cars equipped with other forms of automatic restraint technology, which shall be described, and the seating positions at which they are installed.

(3) *Passenger cars produced by more than one manufacturer.*

Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by section S4.1.3.5.2. of Standard No. 208 shall:

(i) Report the existence of each contract, including the names of all parties to the contract, and explain how

the contract afffects the report being submitted,

(ii) Report the actual number of passenger cars covered by each contract.

§ 585.6 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number and type of automatic restraint for each passenger car for which information is reported under § 585.5(b)(2), until December 31, 1991.

§ 585.7 Petition to extend period to file report.

A petition for extension of the time to submit a report must be received not later than 15 days before expiration of the time stated in § 585.5(a). The petition must be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. The filing of a petition does not automatically extend the time for filing a report. A petition will be granted only if the petitioner shows good cause for the extension and if the extension is consistent with the public interest.

Issued on March 18, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-6231 Filed 3-18-86; 2:22 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC-176]

Short Notice Effectiveness for Independently Filed Motor Passenger Carrier Rates

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission, pursuant to applications filed by several passenger carriers, and under 49 U.S.C. 10762(d)(1), adopts final rules that amend 49 CFR Part 1312, to reduce the notice period required for independent rate filings by motor carriers of passengers, including regular route passenger, express and special and charter operations. Independently established rate reductions, rate increases, and new rates for motor passenger carrier fares may now become effective on 1-day's notice, rather than the 30-days' notice previously required by 49 CFR 1312.4(e)(1)(ii)(A). The reduced notice period will enable passenger-carriers to compete more effectively and to respond more quickly to various types of competition, particularly since fuel prices and insurance costs continue to fluctuate. The final rules are set forth in the appendix to this notice.

EFFECTIVE DATE: March 21, 1986.

FOR FURTHER INFORMATION CONTACT:

Robin Williams Denick (202) 275-7711

or

Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION: Proposed rules in this proceeding were published at 50 FR 53168, December 30, 1985.

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, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll fee (800) 424-5403.

Energy and Environmental Considerations

The final rules as adopted here will not affect significantly the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

The Commission certifies that adoption of these rules will not have a significant economic impact on a substantial number of small entities because they affect only the notice period required for motor passenger carrier rate filings. Reduction of the notice period is consistent with the National Transportation Policy, 49 U.S.C. 10101, which encourages the Commission to reduce burdens and promote an economic and efficient transportation system.

List of Subjects in 49 CFR Part 1312

Buses, Tariffs.

Decided: March 14, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

Appendix

Title 49 CFR Part 1312, is amended as follows:

PART 1312—[AMENDED]

1. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10762; 5 U.S.C. 553.

2. Section 1312.4(e)(1)(ii) is amended by revising paragraph (A) and by adding a new paragraph (C) to precede the flush paragraph at the end of paragraph (e)(1)(ii) to read as follows:

§ 1312.4 Filing tariffs

* * * * *

(e) * * *

(ii) * * *

(A) 30 days' notice is required.

* * * * *

(C) For independently set rates of motor carriers of passengers, including regular route passenger, package express and special and charter operations, the rule generally is 1-day's notice for reductions and increases of passenger rates. See § 1312.39(i) for details.

* * * * *

3. Section 1312.39 is amended by revising paragraph (f); and adding a new paragraph (i) to read as follows:

§ 1312.39 Miscellaneous provisions that may be filed on less than statutory notice.

* * * * *

(f) *Roundtrip excursion fares.* Fares for a roundtrip excursion limited to a designated period may be established upon posting and filing the tariff on 1-day's notice.

* * * * *

(i) *Tariffs of Motor Carriers of Passengers—Changes—New, Reduced and Increased Rates.* Except as otherwise provided in paragraph (h)(5) of this section, each independently established new or changed rate, charge, rule, or other provision must be filed with the Commission in Washington, DC, at least 1 day before the date upon which it is to become effective. Similarly, each independently established change in a rule or other provision that effects a reduction in the value of service or increase in a rate or charge must be filed with the Commission in Washington, DC, at least 1 day before the date upon which it is to become effective.

[FR Doc. 86-6327 Filed 3-20-86; 8:45 am]

BILLING CODE 7035-10-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Argyroxiphium Sandwicense ssp. Sandwicense ('Ahinahina or Mauna Kea Silversword)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Argyroxiphium sandwicense* ssp.

sandwicense ('Ahinahina or Mauna Kea silversword) to be an endangered species, under the authority contained in the Endangered Species Act of 1973, as amended. The only known natural population of this plant is located on the east slope of Mauna Kea on the island of Hawaii, State of Hawaii. In addition, a small number of individuals have been planted at other places on the mountain. This species in vulnerable to any substantial habitat alteration, and faces the present threat of elimination through grazing and trampling by feral animals, and the potential threat of damage by insect larvae. This determination that *Argyroxiphium sandwicense* ssp. *sandwicense* is an endangered species implements the protection provided by the Endangered Species Act of 1983, as amended.

DATE: The effective date of this rule is April 21, 1986.

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

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

This taxon was first collected in 1825 by James Macrae,and was described in 1836 by De Candolle. When Macrae visited Mauna Kea, several populations of this silversword were extant on the upper slopes of the volcano, and the species presumably numbered thousands of individuals. The only known collections of the Mauna Kea silversword after 1916 are from the Wailuku River population. In 1916, the taxon was abundant at the Wailuku site. However, today only about 110 individuals remain, 95 of which are nursery-raised plants transplanted into the area. Several undocumented sightings of individuals or small numbers of plants have been recorded as recently as 1955 from other places on the mountain.

There has been some disagreement concerning the proper taxonomic disposition of the taxon. *Argyroxiphium sandwicense* has sometimes been interpreted broadly to include plants of both the islands of Maui and Hawaii, without any recognition of infraspecific taxa. Alternatively, the Maui plants have been segregated at the specific level as *A. macrocephalum*. Recent research supports the acceptance of an inclusive concept of the species, with one subspecies (ssp. *sandwicense*) confined to the island of Hawaii and one (ssp. *macrocephalum*) native to Maui. Both taxa are known as 'ahinahina in Hawaiian.

The Hawaii taxon historically occupied the alpine slopes of the Mauna Kea volcanic dome, mostly above the tree line and including barren alpine desert areas above other vegetation. The only known extant natural population is found in the upper limits of *Sophora* woodland and the alpine scrub above the tree line along the Wailuku River drainage. The Wailuku River population is found on State lands in the Mauna Kea Forest Reserve and on Hawaiian Home Lands.

There are also historic reports of silverswords from Hualalai and Mauna Loa on the island of Hawaii. The plants of Hualalai may have been *A. sandwicense* ssp. *sandwicense*. No specimens are know from this population, which is no longer believed to be extant. It may have represented an undescribed and now-extinct taxon. Reports from Mauna Loa are believed to have been based on the related *A. kauense*, which is endemic to Mauna Loa.

Argyroxiphium sandwicense ssp. *sandwicense* produces a globose basal rosette of dagger-shaped leaves that are up to 1 foot long and usually less than ½ inch wide at their midpoint; the leaves are cloaked with silvery hairs. These rosettes grow for an average of 5 to 15 years, reaching diameters of 2 feet or more before producing a rather narrow flowering stalk with numerous branches, each bearing a flowering head about 1 inch in diameter with pinkish ray flowers. After flowering, plants with a single rosette die. Individual rosettes of multiple-rosette plants also die after flowering.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species. General comments on the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). *Argyroxiphium macrocephalum* was included in the June 16, 1976, proposal. It is apparent that this was mistaken, and that the intent was to indicate *A. sandwicense* in an inclusive sense, comprising both the Maui and Hawaii taxa.

The Endangered Species Act Amendments of 1978 required that all proposals over two years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979, the Service published a notice of the withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with other proposals that had expired (44 FR 70796); this notice of withdrawal included *Argyroxiphium macrocephalum*.

Argyroxiphium sandwicense was included in the December 15, 1980 (45 FR 82479) updated review notice. *Argyroxiphium macrocephalum* was included in that notice as a taxon no longer under review because it was not considered to be a separate entity. A reproposal for the Mauna Kea silversword subspecies was published March 6, 1985 (50 FR 9092), based on information available at the time of the 1976 proposal and information gathered after that time and summarized in a detailed status report prepared under contract by a University of Hawaii botanist (Carr 1982). The Service now determines the Mauna Kea silversword to be an endangered species with the publication of this final rule.

Summary of Comments and Recommendations

In the March 6, 1985, proposed rule (50 FR 9092) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in the *Honolulu Star Bulletin* on April 1, 1985. Nine comments were received and are discussed below. A public hearing was requested and held in Hilo, Hawaii, June 24, 1985, five people testified, and their testimony is also included in the following summary.

Comments were received from the Governor of Hawaii, the Hawaii Audubon Society, the Director of the Waimea Arboretum and Botanical Garden, the Environmental Defense Fund, and five private individuals. Testimony at the public hearing was presented on behalf of the Chairperson of the State Department of Land and Natural Resources, and four private individuals. All comments received in the period from March 6, 1985, to May 6, 1985, and all testimony given at the public hearing, have been considered in formulating this final rule. The comment period was reopened for 15 working days following the public hearing, closing again July 15, 1985. One additional letter of comment, from Dr.

Otto Degener, was received during this period. The Governor deferred his support of the listing of the taxon. He stated in his letter of May 1, 1985, that it would be ". . . premature to make any firm decision," and recommended that representatives of the Service and Department of Land and Natural Resources staff meet to discuss the activities which the State had undertaken, such as the construction of exclosures and propagation of silverswords in these exclosures. All other responding organizations and individuals supported the listing as an endangered species.

The activities listed in the Governor's letter include the construction of a 2-acre exclosure in 1973, a 50-acre exclosure near Wailuku in 1975, and two 5-acre exclosures above Pu'u La'au in 1978; these are all of Mauna Kea within the historic range of the Mauna Kea silversword. Approximately 50 seedlings were planted in the two 5-acre exclosures. In June 1985, the Service inspected the two exclosures; there were 10 silverswords growing in one, and 21 in the other. At least three of the silverswords had flowered during past flowering seasons and one was just coming into flower, but no seedlings or young plants were evident. A total of 385 sliversword seedlings were planted in the 50-acre and adjoining 2-acre exclosures between 1974 and 1982. Some of these plants have flowered, and at least 17 seedlings were produced. A census of these exclosures, made by four botanists in August 1984, produced a total count of 110 plants, 15 of which they believed to be remnants of the natural population. The other 95 had been nursery-raised and planted out by the Hawaii State Division of Forestry and Wildlife. The proposed rule, which was based upon a status report completed in 1982 by a University of Hawaii Professor of Botany (Carr 1982), treated only naturally occurring individuals. The estimate at that time was 35, and is now believed to be down to 15 individuals. The comments of Ms. Elizabeth Powell, a botany graduate student presently studying the silversword, indicate that the plant is not self-compatible and that sibling incompatibility may prevent 50% of sibling matings from resulting in viable seed. She states that closely spaced, synchronously blooming plants are required for cross-pollination. As most of the out-planted individuals are from seed collected from one or two parents, and as the remaining populations are small, and the plant is monocarpic, a greater number of individuals must be propagated and new seed sources must be incorporated if the outplanting program is to be successful and the plant is to be saved from eventual extinction.

Mr. Tom K. Tagawa, testifying as a private citizen, strongly objected to the Service's statement that, "A portion of the only known extant population has been fenced by the State of Hawaii; however, the exclosure has not been effective against the more recently introduced mouflon sheep, which are currently threatening the species' survival by grazing and browsing activities." He believes that, "This statement implies that the State have [sic] constructed exclosure haphazardly and is indifferent to the protection and perpetuation of the Mauna Kea silversword," that ". . . the success of the endangered species programs depends upon the good working relationship between the Federal and State agencies," and that the Federal Government ". . . should have supported the State with grants to build a strong, durable exclosure to avoid significant adverse effects on the preservation of the Mauna Kea silversword." Dr. Donald Kyhos, Professor of Botany, University of California at Davis, Dr. Carl Christensen, commenting for the Hawaii Audubon Society, Mr. Rick Warshauer, and Ms. Powell all commented on the ineffectiveness of the exclosures. They contended that the mouflon can readily leap the 4.5 foot fence surrounding the silversword. The Service agrees, as personnel from its Honolulu Endangered Species Field Office have seen mouflon in the Wailuku exclosure. The proposed rule was referring only to the inadequacy of the height of the fence, and was not intended to imply indifference on the part of the State to the protection and preservation of the silversword. Mr. Susumu Ono, Chairperson of the Board of Land and Natural Resources, in reference to the Wailuku exclosure, stated that, "We did have problems in the beginning. However, the problem has been taken care of and the fence has proved quite adequate . . ." The construction of the exclosures and the planting of silverswords testify to the State's interest in the species. The Service agrees that the success of the endangered species program in Hawaii is dependent upon the cooperation of State and Federal agencies, and believes that it presently has a good working relationship with the State concerning these programs. Formal and informal meetings, exchange of information, funding of programs, and the cooperative development and implementation of recovery plans are all parts of this. Once a species is listed, funding is available for its conservation through cooperative agreements under section 6 of the Act.

Mr. Tagawa also questioned a statement in the proposed rule that, "[W]ithout the institution of appropriate conservation measures, the species is likely to become extinct . . ." The statement was intended to express the Service's belief that the Mauna Kea silversword requires immediate attention and management to ensure its survival. A recovery plan to address these needs has been given high priority and will be scheduled for completion as soon as possible.

In the proposed rule, under factor "D" of the Summary of Factors Affecting the Species, the Service stated that, "No regulatory mechanisms exist at the present time." Mr. Tagawa and Ms. Powell both pointed out that the silverswords grow within a State Forest Reserve, and that by law the removal, injury, or destruction of any form of plant or animal life therein is prohibited. The Service has corrected this statement in this final rule. Ms. Powell noted that the mouflon sheep in the same area are also presently being managed on a sustained-yield basis by the State Division of Forestry and Wildlife, and that the two resources are in direct conflict.

Mr. Tagawa strongly objected to having graduate or undergraduate students conduct ecological or other related botanical studies because of a statement ". . . made by three peers in the environmental fields in the past. 'None of these students were competent to conduct a serious scientific ecological study, although the excursion provided excellent experience for them . . . . Their final report, however does not in any sense consitute a significant contribution to knowledge.'" He also questioned the "creditability [sic]" of the ". . . so called environmental experts in Hawaii." Mr. Tagawa was referring to a student-originated National Science Foundation grant that was awarded to university undergraduate students, based upon their submitted proposal, and whose purpose was primarily to provide field experience for qualified undergraduates. The ecological study at issue was conducted in the rain forests on the island of Maui and had no relation to any study of the Mauna Kea silversword, which grows in the alpine and sub-alpine regions of Mauna Kea on the island of Hawaii. The quoted statement was made by a university professor. The status survey that

provided the documentation to justify listing the Mauna Kea silversword as an endangered species was compiled by Dr. Gerald D. Carr, Associate Professor of Botany at the University of Hawaii. Any information in it provided by students resulted from research leading to an advanced degree. All status-survey work was supervised, reviewed, and accepted by members of the University graduate faculty.

Another of Mr. Tagawa's concerns was the manner in which priorities were set in deciding which species to list as endangered. In Hawaii, priorities for the listing of plants have been set by the Service after consultation with local professional and amateur botanists and after considering the Service's listing priority guidelines (48 FR 43098, Sept. 21, 1983) the individuals consulted on listing priorities, including the State Botanist, botanists from the University of Hawaii and the Bishop Museum, and knowledgeable naturalists, made recommendations to the Service's botanist, who developed a list of what were considered the most endangered of the Hawaiian plants. This list was used by the Service to determine the order in which listing packages were developed for the local species of plants.

The testimony of Mr. Susumu Ono was read at the public hearing by Mr. Libert Landgraf, Administrator of the State Division of Forestry and Wildlife. Two topics, the construction of exclosures and the planting out of silverswords, and the effectiveness of the exclosure fence against the mouflon sheep have been addressed above.

Mr. Ono mentioned that former forester, L.W. Bryan, stated in his notes that he observed a single silversword above Kanakaleonui in 1950, while the proposed rule stated that "the only known collections of Mauna Kea silverswords after 1916 are from the Wailuku River population." The Service has on file nine records of occurrences of the silverswords, other than the Wailuku population, dating from 1834 to 1955. The records include the 1950 Bryan sighting as well as another made by him at a lower elevation in the Wailuku area in 1955. The proposal included only those records that had been documented by the collection of herbarium specimens.

The proposed rule, under factor "B" of the Summary of Factors Affecting the Species, refers to large quantities of fruit removed for propagation purposes and to threats due to collection for horticultural purposes. Both Mr. Ono and Ms. Powell stated that the last large collection of seed was made in 1973 by a well-intentioned individual, and that the seed eventually was given to the National Park Service and served as the core of the out-planting project. Ms. Powell further stated that the collection was probably more beneficial than detrimental to the species. The Service concurs, and has modified factor "B" to reflect these comments. Collections of whole plants for ornamental or horticultural purposes apparently have been minimal for the last 50 or 60 years.

Under the same item in the proposed rule, the Service made the statement that, "Propagation of silverswords is not easy as few flowers produce viable seed and seed germination is low." Mr. Ono stated that, although detailed germination tests have not been conducted, the State has found Mauna Kea silversword seed quite viable, but short-lived, even when stored under refrigeration. He noted that even with abundant viable seed, very few seedlings in nature become established, but believed this is due to the moisture requirements of the plant rather than its seed viability. Studies by Siegel et al. (1970), Kobayashi (1973), and Powell (information included in her written comments and oral testimony on the proposed rule) all indicate that self-incompatibility, depressed inter-sibling fertility, a narrow range of temperature tolerance, seed dormancy factors, a relatively short seed life, and the soil moisture and other edaphic requirements of the silversword species in Hawaii result in a low rate of regeneration. The highest germination rate, under optimal laboratory conditions, of seed of the Haleakala subspecies was 27.7% (Siegel et al. 1970). Mr. Kaoru Sunada, in his testimony at the public hearing, reported a germination percentage of 20% for the Haleakala plants and 6% for the Mauna Kea plants used in his propagation project.

The proposed rule stated that, "The species grows as a rosette for between 5 and 15 years before flowering." Mr. Ono commented that, "There are some naturally occurring plants which we have observed for about 15 years that have not grown appreciably and still show no indication of flowering," and that, "It is not uncommon for the silverswords planted in better sites to bloom in two to three years. We had some bloom one year after planting." A silversword plant, unless multiheaded, flowers and produces seeds once, then dies. The age at which it flowers varies, but 5 to 15 years is frequently used as an average. Younger or older flowering plants, especially under artificial stress or non-optimal conditions, are to be expected.

Mr. Ono questioned whether the Service had assessed the best scientific information available regarding the species in formulating its proposal and stated that the Service had not made an effort to contact the State Division of Forestry and Wildlife in gathering its information. He was concerned by an apparent lack of response by the Service to the public and a failure to work with the landowner (the State) while gathering status information. He believed that the Service may have been unaware of the conditions under which the remaining naturally-occurring silverswords have survived and of what was being done by the State to protect and perpetuate the species. Although he disagreed with statements made in the Service's proposal, he did agree that the silversword warranted listing and offered the support of the State Department of Land and Natural Resources in the listing. In gathering the information that led to its proposal to list the Mauna Kea silversword, the Service attempted to address all known threats to the species. The status report and first draft of the proposed rule were prepared under contract by the Research Corporation of the University of Hawaii, whose staff were in informal contact with State personnel. Any information thus provided to the Research Corporation was incorporated into the survey and proposal. The Service has also provided all its endangered plant data to the State Division of Forestry in a cooperative effort to develop a data base. Apparently, these efforts failed to reveal the State's program to plant out silverswords at Pu'u La'au. The Service believes that it has made a good-faith effort to gather information regarding the status of the species and has responded adequately to the concerns of the public and the State, as borne out by the fact that, with the exception of an interim response from the Governor of Hawaii, all the written and informal comments received, and all testimony presented at the public hearing, have supported its determination that the Mauna Kea silversword is an endangered species. Further information brought out in response to the proposed rule regarding the species' status has been incorporated into the final rule.

Mr. Ono's letter continues that the next vital step in protecting a species, after its listing, ". . . is to develop a recovery plan to which those involved are committed." He believes that the agency proposing listing should be the lead agency in formulating a recovery plan and that the landowner should be involved. He states that recovery programs initiated by the State have suffered from the lack of coordination

among agencies and from recovery activities carried out by other agencies without the State's knowledge. The Service intends to develop a recovery plan for this species and, as with all provious recovery plans, will involve all interested parties, including the landowners.

Comments from six individuals or agencies were received concerning the designation of critical habitat for the Mauna Kea silversword. Mr. Ono did not believe it necessary to designate critical habitat; the other five favored its designation. The Service continues to believe that no net benefit would be provided for the plant by designating critical habitat, and that the designation could make the species more vulnerable to acts of vandalism. The remainder of Mr. Ono's comments concerned recovery actions.

Ms. Elizabeth Powell submitted written comments on the proposal, and testified as an individual and on behalf of the Hawaii Audubon Society at the public hearing. Much of her contribution consisted of extensive historical, biological, distributional, and demographic information. Other of her comments have been incorporated above.

The correct scientific name for the Mauna Kea silversword was the concern of three individuals. Ms. Powell and Dr. Degener believe that the Mauna Kea and the Heleakala plants are distinct at the specific level. Dr. Carr, based on the master's thesis of one of his students (Meyrat et al. 1983), considers the two to be distinct at the subspecific level. The proposed rule distinguishes the two at the varietal level. Based upon research by a Service botanist, the Service now recognizes the taxon at the subspecific level.

Ms. Powell and five other commenters, in their letters or testimony, addressed problems caused by feral ungulates. Mr. Ono believed that the existing enclosures have protected, and can continue to protect, the silversword against damage by feral animals. The remainder believe the feral animals, in some comments specifically the mouflon sheep, to be a great, if not the greatest, single threat to the silversword.

Dr. Otto Degener and Mr. Kaoru Sunda supported the listing of the silversword as an endangered species. Both supplied background and historical information. Their specific comments have been incorporated above. Mr. Rick Warshauer stated that the listing of the silversword is long past due and may now be too late. His other comments also have been incorporated above.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Mauna Kea silversword should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Argyroxiphium sandwicense* DC. ssp. *sandwicense* (Mauna Kea silversword or 'ahinahina) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The species historically was abundant on Mauna Kea from the 8,500 foot level to the 12,000 foot level. The activity of feral animals (goats, cattle, sheep, pigs, and horses) that was first introduced in the late 18th century has eliminated the silversword from the fragile upper zones of its former range and has reduced the species throughout its range to one known natural population of about 15 individuals. Feral animal populations have vastly altered and degraded the vegetation of Mauna Kea in general (Warner 1960). Direct results of animal activity have included mechanical damage of aerial and subterranean plant parts, consumption of plant material, and dispersal of exotic plant species. Secondary effects include wind and water erosion of the thin soil mantle after it has been stripped of stabilizing vegetation.

The only known extant natural population of this species has been fenced by the State of Hawaii; however, the exclosure is too low to be effective against more recently introduced mouflon sheep, which threaten the species' survival by grazing and browsing activities.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The species is of horticultural and ornamental interest, and in the past was threatened by collection of seed for propagation or of entire plants for ornamental purposes. However, these activities are now believed to be minimal, and represent only a potential threat to its existence. Propagation of silverswords is not easy as few flowers produce viable seed and seed germination is low (Kobayashi 1974).

C. *Disease or predation.* The closely related Haleakala silversword is damaged by the predacious larvae of insects such as *Rhynchephestia rhabdotis* and *Tephritis cratericola*, which were found to have damaged a mean of 60% of the seeds produced. An insect thought to be the latter or a similar species has been observed on the Mauna Kea silversword (Carr 1982). As these are native insects which evolved with the silversword, they may not be a threat to the plant, at least under normal conditions. Plants have been severely grazed by introduced herbivores even within exclosures estalished for the protection of the silversword.

D. *The inadequacy of existing regulatory mechanisms.* Most of the silverswords grow within the boundaries of the Mauna Kea Forest Reserve and are thus protected by State law against removal, injury or destruction. Federal listing would automatically invoke listing under Hawaiian State law, which would provide additional protection, and which would make Section 6 funds available for conservation programs under a cooperative agreement between the State and the Service.

E. *Other natural or manmade factors affecting its continued existence.* The extremely small size of the remaining populations of the species threatens its reproductive capacity and has resulted in a reduced gene pool that may threaten its adaptive capacity. The species grows as a rosette for between 5 and 15 years before flowering. Its low reproductive potential has been severely affected by reduction of the population size. Very few individuals produce a fruit crop in any given year. For 2 or more years no plants may bloom, and in some years only 4 or 5 plants may bloom.

Concurrent with population decline in insect-pollinated species, such as the silversword, is often a loss of evolved pollinator species. The drastic alteration of the upper forest zone on Mauna Kea in general (Warner 1960) may have resulted in a parallel reduction of potential pollinators.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Argyroxiphium sandwicense* ssp. *sandwicense* as endangered. This designation reflects the strong likelihood that, without the institution of appropriate conservation measures, the species is likely to

become extinct throughout its range. The reasons for which critical habitat is not being designated are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor "B" in the Summary of Factors Affecting the Species, *Argyroxiphium sandwicense* ssp. *sandwicense* potentially is threatened by taking, an activity difficult to control and not regulated by the Endangered Species Act with respect to plants, except for a prohibition against removal and reduction to possession of endangered plants from areas under Federal jurisdiction.

The species is known only from lands owned by the State of Hawaii and from Hawaiian Home Lands. The State is aware of the existence of the species and has taken preliminary steps for protection. Upon Federal listing the silversword will be placed upon the Hawaii State list of Endangered plants; Hawaii law prohibits taking and encourages conservation by State governmental agencies for such species. See Hawaii Rev. Stat. ch. 195D, as amended (1976 Replacement & Supp. 1984). Management for the survival and recovery of the species can be coordinated between the U.S. Fish and Wildlife Service and the State of Hawaii. No net benefit would be provided to *Argyroxiphium sandwicense* ssp. *sandwicense* through critical habitat designation, and publication of critical habitat descriptions in the **Federal Register** and local newspapers, as required by law, could make this species even more vulnerable.

Available Conservation Measures

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

Section (7)(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to consult with the Service on any action that is likely to jeopardize the continued existence of a listed species. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. Currently, no activities to be authorized, funded, or carried out by Federal agencies are known to exist that would affect *Argyroxiphium sandwicense* ssp. *sandwicense*.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Argyroxiphium sandwicense* ssp. *sandwicense*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. No trade in this species presently is known. It is anticipated that few trade permits involving this species will be requested.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisidiction. This prohibition now applies to *Argyroxiphium sandwicense* ssp. *sandwicense* if it is found to occur on land under Federal jurisidiction. Permits for exceptions to this prohibition are available through section 10(a) of the Act and regulations to be codified at 50 CFR 17.62 (50 FR 39681, September 30, 1985). The only known extant natural population of this species occurs on State of Hawaii or Hawaiian Home lands. It is anticipated that no collecting permits will be requested for the species. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903 or FTS 235–1903).

National Environmental Policy Act

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

Literature Cited

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Warner, R.E. 1960. A forest dies on Mauna Kea. Pacific Discovery 13:6–14.

Author

The primary author of this final rule is Dr. Derral R. Herbst, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., P.O. Box 50167, Honolulu, Hawaii 96850 (808/546–7530).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

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

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

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Asteraceae, to the List of Endangered and Threatened Plants.

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family:						
*	*	*	*	*	*	*
Argyroxiphium sandwicense ssp. *sandwicense.*	'Ahinahina (Mauna Kea silversword)	U.S.A. (HI)	E	219	NA	NA
*	*	*	*	*	*	*

Dated: March 11, 1986.

P. Daniel Smith

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–5559 Filed 3–20–86; 8:45 am]

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Proposed Rules

Federal Register
Vol. 51, No. 55
Friday, March 21, 1986

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 275 and 276

[Amdt. No. 268]

Food Stamp Program; Administrative Review Process for Liabilities and Quality Control Arbitration Process

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the Food Stamp Program's admnistrative review process through which State agencies can seek reconsideration of claims filed against them by the Food and Nutrition Service (FNS). This proposed rule streamlines and simplifies the procedures that State agencies and FNS would follow when State agencies seek reconsideration, making the administrative review process less time consuming and more efficient to administer. Further, this rulemaking establishes arbitration procedures for quality control case findings that are disputed by State agencies.

DATE: Comments on this proposed rulemaking must be received on or before May 20, 1986 to be assured of consideration.

ADDRESS: Comments should be submitted to Thomas O'Connor, Supervisor, State Management Section, Administration and Design Branch, Program Development Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia, Room 706.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposed rulemaking should be directed to Mr. O'Connor at the above address or by telephone at (703) 756–3383.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed in relation to the requirements of Executive Order No. 12291 and Secretary's Memorandum No. 1512–1, and it has been determined that the action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Additionally, this action will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this action has been classified as "not major." The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities. The proposed rule would simplify the administrative review process for liabilities and establish arbitration procedures for quality control (QC) case findings that are disputed by State agencies. Requirements would not be placed on small businesses or small organizations. Some requirements would be placed on State agencies. However, the requirements would not have a significant economic impact on local governments.

This rule does not contain recordkeeping or reporting requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Quality Control Arbitration

Regulations issued on January 23, 1981, at 46 FR 7257, allowed State agencies to have Quality Control cases arbitrated when the State disputed the Federal review findings. Informally, procedures were developed at the regional and national levels to arbitrate disputes about case findings. There were no time limits established as part of these informal procedures. Because of an increased emphasis on timeliness, the Department believes that it is necessary to change the procedures to impose time limits on the arbitration process for FNS and State agencies. As time limits on requests for arbitration will be imposed on State agencies by this change, we have determined that these procedures should be included in the regulations. Discussed below are the significant changes from the current regulations and policy on arbitration. Comments are being sought on all aspects of the arbitration process.

Under the existing procedures, there are two levels of appeal, first is to the regional office and second to the national office of FNS. In this rulemaking, we are proposing to eliminate the appeal to the national office. This one-tiered arbitration system will bring cases to finality sooner. Thus, FNS will be able to make earlier determinations regarding States' eligibility for enhanced funding or liability for errors.

Currently, the regulations at § 275.3(c)(5) specify that the regional office shall designate the arbitrator. At the regional level under the current two-tier system, the individual designated as arbitrator has varied from region to region. Some arbitrators have worked in the Food Stamp Program; others have worked outside it. In this rulemaking, we are proposing to revise the regulation to state that the Regional Administrator or his/her designee shall serve as the arbitrator. If the Regional Administrator designates someone to serve as the arbitrator, that individual should be knowledgeable about Food Stamp policy and have the authority to carry out determinations.

Presently, there are no timeframes established for States to request arbitration of a particular case determination nor for FNS to conduct the review and make a decision. Under this proposed rulemaking, State

agencies would be given 28 calendar days to submit a request for arbitration. In the event the last day of the time limit falls on a weekend or holiday, the final date would be moved forward to the next working day. We believe that 28 days is sufficient to allow a State agency to review the regional findings to determine any disagreement and to prepare and submit a request for arbitration. Further, 28 days is consistent with current Aid to Families with Dependent Children program practices. In addition, we are also proposing a 30-day time limit for the FNS arbitrator to review a case and make a decision or to notify the State agency of the status of the case.

Administrative Review Process

The provisions of Section 14 of the Food Stamp Act of 1977 (7 U.S.C. 2023) require that State agencies aggrieved by claims issued by FNS under section 13 of the Act be given the opportunity to have the claims reviewed through an administrative review process.

Proposed rules published November 9, 1979 (44 FR 65336) gave State agencies the opportunity to seek a review of any claims against them under section 13 of the Act. These rules also proposed that State agencies might request a hearing for claims based on either negligence or on a disallowance for failure to meet the corrective action plan. The Department expected that such claims might require a more detailed review of the circumstances and might be more satisfactorily resolved if a State agency representative were allowed to present a case in person. The Department did not propose to allow hearings for all types of claims, since this would require an unnecessary and excessive commitment of manpower.

On November 21, 1980, the Department issued final rules on Federal Sanctions and State Agency Liabilities (45 FR 77258). All of the provisions of those regulations were issued as final, except the provisions pertaining to the Administrative Review Process, which were issued as interim rules with commitments solicited.

Comments received on the November 9, 1979, proposed regulations included a suggestion that State agencies be given the opportunity to have an in-person hearing on all claims that are appealed. This would include in-person hearings of appeals of issuance claims, as well as negligence claims or disallowances of funds. The Department felt that issuance claims would generally be disputes over records, such as accountability and inventory reports, and did not foresee that in-person hearings would be necessary to reach equitable decision in these cases. The Department believed that a review of the disputed records, along with any other information provided by the State agency, would be adequate. However, to ensure that the appeals process was equitable, the Department, in the interim rules published November 21, 1980, stated its willingness to grant State agencies the option of having in-person hearings in all cases.

Under the interim rules, whenever FNS asserts a claim against a State agency, the State agency may appeal the claim by requesting an administrative review. FNS claims that may be appealed are: billings based on excessive quality control error rates; billings resulting from financial losses involved in the acceptance, storage and issuance of coupons; billings based on charges of negligence or fraud; and disallowances of Federal matching funds for State agency failures to comply with the Food Stamp Act, the regulations, or the FNS-approved State Plan of Operations.

Currently, a State agency aggrieved by a claim has the option of requesting a hearing to present its position in addition to a review of the record and any written submission presented by the State agency. Unless circumstances warrant differently, appeals of quality control and negligence claims and disallowances of Federal funds are heard before a full Appeals Board appointed by the Secretary.

Appeals of other claims are heard before a single hearing official. In all cases, the person(s) reviewing the claim was not involved in the decision to file the claim.

In light of the Administration's efforts to improve and simplify program administration and the comments received on the interim procedures, the Department has reexamined the interim administrative review procedures and intends to significantly modify them. Therefore, the Department has decided to issue new regulations for public comment prior to publishing a final rule. Comments received on the interim procedures were considered in the development of this proposed rule and this preamble discusses the basis and purpose of the revisions of the interim rule that the Department is proposing in this rulemaking.

The law provides that, when a claim against a State agency is made, a State agency may request an opportunity to submit information in support of its position. The law does not mandate formal hearings. What the Department had originally envisioned as an informal discussion or review under the requirements of the Act has become a costly, time-consuming, quasi-judicial procedure. Under section 14 of the Food Stamp Act (7 U.S.C. 2023(a)), State agencies may obtain a formal judicial review by the courts through a trial *de novo* if they wish to appeal a final administrative determination. Therefore, the Department feels that the formal review by the current Appeals Board is unnecessary and should be replaced by more informal review procedures.

The Department proposes to substitute for the Appeals Board an administrative review process based solely on a single official's review of the record submitted by the State agency. This does not preclude personal contact between the reviewing official, FNS and the State agency, when necessary. However, any such contact would not affect the established timeframes for completing reviews or delay the review process. The reviewing officials, designated by the Secretary, would be an individual in a position to modify the original determination made by FNS while ensuring that the determination is in keeping with Food Stamp Program law and regulations. To assure this combination of authority to affect the original determination and program expertise, this proposal would permit the Secretary to designate an official who participated in the original decision to assert the claim against the State agency.

We believe this type of review will have practical advantages both for the Department and State agencies pursuing administrative review. Aside from the reduced procedural burdens inherent in simplification of the review process, the system will assure State agencies the opportunity to present their cases directly to an official who has broad authority to reconsider the Department's position.

While the current Appeals Board would be abolished, the role of the Executive Secretary would be retained. The Director, Administrative Review Division (ARD), FNS, who currently serves as Executive Secretary to the Appeals Board would retain the functions now being performed by the Executive Secretary. This would include acknowledgment, in writing, of all State agency requests for administrative review and informing the State agency whether the request is timely and acceptable.

Another proposed change affecting the nature of review has to do with the kinds of arguments that Senate agencies may raise during reviews of quality control billings. Currently, a State agency that fails to meet its quality control error rate target is informed of

its potential liability and has an opportunity to submit any good cause arguments for the failure. If FNS rejects the Stage agency's good cause arguments, a bill is sent to the State agency. Under the current rules the State agency may then appeal the billing through the administrative review process. Very often, many of the arguments raised by State agencies during the adminstrative review are the same as those raised during the consideration of good cause. Thus, the same arguments are being heard twice.

When Congress enacted the quality control billing provisions in the 1980 Food Stamp Amendments (Pub. L. 96–249, May 26, 1980), the possibility of good cause arguments being heard twice was realized and addressed. In the House *Report* accompanying these amendments, the House noted:

> Every State against which the Secretary asserted a claim would have the right to seek administrative and judicial review of the claim in accordance with the procedures contained in section 14 of the Act. None of these procedures would be applicable to the Secretary's review of the State's contention that it had good cause for its failure to meet the appropriate level of error. (House Report No. 96–788, page 74.)

Thus, Congress' stated method to avoid the redundancy currently being experienced was to exclude good cause arguments from the administrative review process.

The current administrative review process is being slowed down by having to consider good cause arguments that have already been rejected by the Department and which the Department is not obligated to consider again Unlike the billing itself, which is computed according to reviewable standards, good cause is an exercise of discretion which makes administrative review difficult.

To eliminate these problems, the Department proposes to prohibit State agencies from raising good cause arguments during the administrative review of quality control billings. This change would not only help to streamline the administrative review process, it would also make the Department's policy in this area the same as the policy followed in the AFDC Program. This prohibition would not limit the ability of State agencies to have quality control billings themselves reviewed through the administrative review process. It would apply only in an instance where a State agency sought to challenge the decision not to waive a sanction on the basis of good cause.

Review of Suspensions of Funds

The Department received comments on the interim rule recommending that State agencies be allowed to appeal suspensions of funds. Several State agencies argued that it was unfair to exempt suspensions from appeals because the Department could willfully tie up State agency funds through lengthy suspensions and the State agency would not have the ability to appeal the basis of the withholding.

The Department is concerned that allowing suspensions to be reviewed could result in certain cases being reviewed twice. This could occur if a review of a suspension were decided against the State agency, and at some later date the State agency sought review of the disallowance that was asserted against it as a result of the same issues that led to the initial suspension of funds. Therefore, this rule does not propose that suspensions of funds be included in the review process. Although not covered by the review process, State agencies would be free to dispute suspensions with FNS personnel and to contact the Department if they continue to feel suspensions are unwarranted.

Process Timeframes

A number of State agencies have contended that the initial 10-day limit for submitting a request for review does not allow them enough time to determine whether the FNS action was warranted and, thus, whether review should be requested. As discussed in the preamble to the interim rule, the 10-day limit is prescribed by Section 14 of the Act, and is appropriate in light of the need to expeditiously process reviews. The Department, however, is proposing to amend the regulations so that the time limit would be computed by work days rather than calendar days. This would allow State agencies additional time to study any disallowance or claims made against them. All other timeframes would continue to be computed by calendar days.

This proposed rule also clarifies the deadlines that may be extended by the reviewing official. In addition to prohibiting any extension of the deadline by which State agencies must file their initial request for administrative review, this proposed rule provides that the date that a review decision becomes final and the deadline by which a State agency must file for judicial review will not be delayed. These timeframes are set out in section 14 of the Act. Under the current rules, all other requests for the extension of any deadline contained in 7 CFR 276.7 will be granted only for good cause shown and only when received by the Director of ARD before the expiration of the particular deadline involved. The Department is proposing that any requests for extensions other than those prescribed by the law would be granted only in unusual cases and only when the requests are postmarked prior to the expiration of the particular deadline involved. These requests would be granted by the reviewing official on a case-by-case basis.

Under the current rule, State agencies have 30 days from their request for a review to submit any additional information. This means that the timeframes for submitting information begin before the State agency knows whether its request for review has been accepted. It also means that State agencies have often had to prepare their cases without knowing the Department's administrative record. In many cases, this has resulted in State agencies requesting and being granted more time to ready their arguments. In order to rectify this problem, the Department proposes to allow the State agencies 30 days from the date of their receipt of the administrative record to submit any additional information. The regulations would require the administrative record to be provided promptly. Except in unusual cases, promptly means the State agency should expect to receive the administrative record within 30 days of the request for review being accepted. The additional time gives the State agencies a greater opportunity to review the administrative record and assemble data and any other supportive information, if necessary.

Final Determinations

Under the current rules, when a hearing is not held a final determination must be made within 30 days after receipt of a State agency's information. The Department is proposing that reviews of claims under the revised system reach a final determination promptly. As noted above, the expectation is that final determinations would be made within 30 days after receipt of the State agency's information.

Other Issues

It has been suggested that claims or disallowances resulting from an alleged failure by a State agency to reduce, cancel, or suspend benefits, if such action became necessary under § 271.7, should be stayed during the review process as is the case with all other claims. A State agency violation of a Department order to reduce or cancel benefits clearly results in the State agency being out of compliance with the Food Stamp Act and Program regulations. Under section 18(b) of the

Act, (7 U.S.C. 2027(b)) the Secretary is without authority to obligate funds in excess of the amount authorized by Congress in any fiscal year and is specifically required to direct States to reduce benefits to avoid such an occurrence. Such expenditures could also result in a violation of the Anti-Deficiency Act (31 U.S.C. 665) by the Department. For these reasons, the Department needs maximum authority to enforce any directive to reduce, cancel or suspend benefits. Therefore, the Department would not, under this proposal, return any funds withheld from State agencies under § 271.7(h) during reviews. The Department is, however, including in this proposed rule a requirement that these withheld funds be returned to the State agency within 30 days of the review decision if the State agency's position is upheld.

Another commenter asked that the regulations be amended to stay the collection of a claim until a final judicial decision is reached, if the State agency requests judicial review of the matter. The Department has not amended the regulation, however, because section 14 of the Food Stamp Act specifically requires that the decision remain in effect during judicial review unless the court orders that funds be returned to the State agency.

The Department is also proposing a new provision to 7 CFR 276.7 of the regulations allowing the State agency to withdraw, at any time, its request for the review and pay the claim. While this has always been the case in practice, the Department wanted to explicitly state the policy into the regulations so that there was no confusion about it.

Finally, the Department wishes to call to your attention an amendment to section 14 of the Food Stamp Act enacted by the Food Security Act of 1985. That legislation changed the criterion a State agency would need to meet to obtain a judicial stay of an administration action. Prior to this legislative change, a State agency could obtain a judicial stay of an administrative review if it could show that irreparable injury would result if the administrative action remained in force. Under the legislative change, the courts would also consider the State agency's likelihood of prevailing on the merits of the case. The Department considers this legislative change to be "self-implementing," i.e., effective upon enactment of the statute. Given the fact that the provision is a directive aimed at the courts and that Congress gave no discretion in this area, regulations do not need to be issued to implement the policy. However, in the interest of ensuring that our regulations present a complete picture of the administrative and judicial review process, we will include this provision in another rulemaking that will be issued in the near future.

Implementation

The Department proposes that the QC arbitration rules and the revised Administrative Review Process become effective 30 days after the publication of the final rulemaking. Any QC cases submitted for review after this date would be subject to the arbitration rules. Where requests for review of claims have been filed prior to the effective date of the final rule, State agencies would still have the option of requesting a review of the record or an in-person hearing before the current Appeals Board. The 30-day transition period minimizes the overlap between requests filed under the current rule and the revised procedures. As to requests filed after the effective date of the final rulemaking, all reviews would be conducted according to the procedures set forth in the final rule.

List of Subjects

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting and recordkeeping requirements.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Fraud, Grant programs—social programs, Penalties.

Therefore, 7 CFR Parts 275 and 276 are proposed to be amended as follows:

PART 275—PERFORMANCE REPORTING SYSTEM

1. The authority citation for Parts 275 and 276 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2029).

2. Section 275.3 is amended by revising paragraph (c)(5) to read as follows:

§ 275.3 Federal monitoring.

* * * * *

(c) *Validation of State Agency Error Rates.* * * *

(5) *Arbitration.* Whenever the State agency disagrees with the FNS regional office concerning individual case findings and the appropriateness of actions taken to dispose of individual cases on a case-by-case basis, the State agency may request that the dispute be arbitrated by the regional office.

(i) The FNS Regional Administrator or his/her designee shall be the arbitrator and shall sign the decision.

(ii) *Timeframes for arbitration.* (A) The State agency shall request arbitration within 28 calendar days of the date the regional office transmits its case findings to the State agency. Requests submitted later than 28 calendar days shall be denied. In the event the last day of this time period falls on a Saturday, Sunday or Federal or State holiday, the period runs to the end of the next work day.

(B) The arbitrator shall have 30 days to review the case and make a decision or to notify the State agency of the status of the case.

(iii) Full documentation of the case and the policy in question must be submitted with the request for arbitration. Requests without such documentation shall be returned to the State agency. The State agency may resubmit the request with the documentation, provided it can do so within the 28 days allowed in § 275.3(c)(5)(ii)(A).

* * * * *

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

3. Section 276.7 is revised in its entirety to read as follows:

§ 276.7 Administrative review process.

(a) *General.* (1) Whenever FNS asserts a claim against a State agency or disallows federal funds to collect a claim, the State agency may seek reconsideration of the claim or disallowance by requesting an administrative review. State agencies may request review of FNS billings to enforce orders to reduce, cancel or suspend benefits in accordance with § 271.7; billings based on excessive quality control error rates, except for the Department's prior determination of good cause (§ 275.25); billings resulting from financial losses involved in the acceptance, storage, and issuance of coupons (§ 276.2); billings based on charges of negligence or fraud (§ 276.3); and disallowances of Federal funds for State agency failures to comply with the Food Stamp Act, regulations or the FNS-approved State Plan of Operations (§ 276.4), but not suspensions of funds preceding disallowances (§ 276.4).

(2) A State agency aggrieved by a claim or disallowance shall be given the opportunity to have its case reviewed through a review of the record which

shall include a written submission presented by the State agency. The review shall be performed by the Secretary or his delegate. The reviewing official may be an individual who was involved in the decision to file the claim or disallow funds. At any time during the appeals process, a State agency may withdraw its request for the review and pay the Department's claim.

(b) *Notice of claims.* FNS shall provide a notice by certified mail or personal service when asserting claims against or disallowing funds to State agencies.

(c) *Filing a request for review.* A State agency aggrieved by a claim or disallowance may file a written request for review with the Director, Administrative Review Division (ARD), Food and Nutrition Service, USDA, Alexandria, Virginia 22302, requesting an opportunity to present information in support of its position. The State agency shall attach a copy of the notice which it received pursuant to § 276.7(b). Requests must be filed with the Director, ARD, or postmarked within 10 work days of the date of delivery of the notice. If the State agency does not request a review within the prescribed 10 work day period or fails, after requesting such review, to submit information pursuant to § 276.7(g) in support of its position, the administrative determination on the claim shall be final. No extension shall be granted in the time allowed for requesting review.

(d) *Computation of time.* The time period for the State agency's filing of a request for administrative review shall be computed according to work days. A work day is any day that is not a Saturday, Sunday or Federal or state holiday. All other time periods shall be computed using calendar days. In computing any period of time prescribed or allowed under these procedures, the day of delivery of any notice of action, acknowledgement, or reply shall not be included. If the last day of any time period is not a work day, the period runs until the end of the next day which is a work day.

(e) *Stay of administrative action.* The filing of a timely request for administrative review of a claim or disallowance shall automatically stay the action of FNS to collect the claim or disallowance asserted against the state agency until a decision is reached on the acceptability of the request, and in the case of an acceptable request, until a final determination has been issued. However, if a State agency requests review of any action taken against it because of its failure to comply with an order to reduce, suspend or cancel benefits in accordance with § 271.7, the disallowance and/or billing shall remain in effect during the entire review process. Should the State agency's position be upheld, disallowed funds and/or funds collected as a result of a billing shall be restored to the State agency within 30 days.

(f) *Acceptability of an appeal.* Upon receipt of a request for administrative review, the Director, ARD, shall provide the State agency with a written acknowledgement of the request. This acknowledgement shall also notify the state agency of the acceptability of the request. A request shall be acceptable if it is submitted in a timely manner as defined in § 276.7(c) and is for the purpose of obtaining review of any FNS action described in § 276.7(a).

(g) *Submitting additional information.* (1) A State agency shall have 30 days from the date of its receipt of the administrative record pursuant to § 276.7(g)(2) to submit three sets of all information it wishes the reviewing official to consider. This information shall be completed in a format prescribed by FNS and sent to the Director, ARD. In order to expedite the review process, the submission should, to the extent possible, include the following:

(i) A clear, concise identification of the issue or issues in dispute;

(ii) The State agency's position with respect to the issue or issues in dispute;

(iii) The pertinent facts and reasons in support of the State agency's position with respect to the issue or issues in dispute;

(iv) All pertinent documents, correspondence and records which the state agency believes are relevant and helpful toward a more thorough understanding of the issue or issues in dispute; and,

(v) The relief sought by the State agency.

(2) With regard to reviews of quality control billings, arguments relating to whether or not the State agency had good cause for an error rate that resulted in a billing shall not be considered by the review official. Therefore, State agencies should not submit information relating to these issues.

(3) FNS shall, upon receipt of an acceptable appeal pursuant to § 276.7(f), promptly provide one copy of the administrative record, including all documents, correspondence and records compiled by FNS in support of the claim or disallowance, to the State agency.

(h) *Final determination.* (1) For reviews of all claims, a final determination shall be made promptly after receipt of supporting information submitted by the State agency pursuant to § 276.7(g). The final determination shall take effect 30 days after delivery of the notice of the final decision to the State agency.

(2) The reviewing official shall either uphold the claim, deny the claim, or adjust the claim downward in such amounts as the reviewing official shall determine. The final determination is not subject to reconsideration.

(i) *Judicial review.* State agencies aggrieved by the final determination may obtain judicial review and trial *de novo* by filing a complaint against the United States within 30 days after the date of delivery or service of the final notice of determination, pursuant to the provisions of section 14 of the Food Stamp Act of 1977. The final determination shall remain in effect during the period the judicial review is pending unless the court temporarily stays such administrative action pending disposition of the complaint.

(j) *Extension of time.* No extension of time shall be permitted with regard to filing an initial request for an administrative review or the effective date of the final review decision or filing a complaint for judicial review. All other requests from a State agency for the extension of any deadline contained in § 276.7 of the regulations or imposed by the reviewing official shall be granted only for good cause and only when the request is postmarked prior to the expiration of the particular deadline involved. A request for an extension shall be in writing. Requests shall be granted by the reviewing official on a case-by-case basis. Filing a request for an extension stops the running of the prescribed period of time. When a request for an extension is granted, the requester shall be notified in writing of the amount of additional time granted. When a request is denied for being untimely or because good cause is not found, the requester shall be notified and the prescribed period of time shall resume from the date of the receipt of the denial.

Dated: March 17, 1986.

John W. Bode,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 86-6281 Filed 3-20-86; 8:45 am]

BILLING CODE 3410-30-M

Federal Crop Insurance Corporation

7 CFR Part 400

[Doc. No. 0067A]

General Administrative Regulations; Late Planting Agreement Option Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Late Planting Option (7 CFR Part 400, Subpart A), effective with the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Delete the adverse weather condition requirement; (2) Publish a corrected list of crop insurance regulations to which the Late Planting Option applies; (3) Provide availability of the Late Planting Option beginning with 1987 crop year fall-planted crops; and (4) Add a new subsection to comply with OMB regulations requiring codification of OMB control numbers assigned to information collection requirements. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than April 21, 1986, to be sure of consideration.

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

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1 This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations in January 1, 1991.

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

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

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

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

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

Other than minor changes in language and format, the principal changes in the Late Planting Option Regulations are:

1. Section 400.3.—Add a new subsection in the Late Planting Agreement Option (LPAO) regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations.

2. Section 400.5.—Delete the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434) as this tobacco is now insured under the Tobacco (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 436).

Add Sweet Corn (Canning and Freezing) Crop Insurance Regulations (7 CFR Part 437) as a crop eligible for the Late Planting Option.

Allow the Late Planting Agreement (LPA) to be used beginning with 1987 crop year fall-planted crops. The availability of this option to most spring planted crops has allowed FCIC to avoid extension of final planting dates with the concurrent reduction in yields. The Agreement actually allows an extension of the final planting date with a reduction in guarantee and is more actuarially sound than the previous procedure. FCIC has allowed the program in a limited winter wheat area and the results have been favorable for both the Corporation and the insured. This change will allow the LPA to be used for all fall planted wheat, barley, oat and rye programs provided these corps are insurable under the basic policy.

3. Section 400.6.—Delete the adverse weather conditions requirement. It is difficult to determine if the planting delay is due to adverse weather conditions or some other factor. Since no actuarial basis exists for the restriction, FCIC proposes to delete it and allow an optio regardless of the reason. This change will allow the Late Planting Option to be used whenever the otherwise insurable crop is planted after the final planting date without regard to the reason.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC, 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 400

Crop Insurance; Late Planting Agreement Option.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Late Planting Agreement Option Regulations, Subpart A of Part 400, Title 7 of the Code of Federal Regulations, effective for the 1987 and succeeding crop years, as set forth below:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart A—Late Planting Agreement Option; Regulations for the 1987 and Succeeding Crop Years

Sec.

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

Subpart A—Late Planting Agreement Option; Regulations for the 1987 and Succeeding Crop Years

§ 400.1 Availability of the late planting option.

The Late Planting Option shall be offered under the provisions contained in 7 CFR Parts 402, *et seq.*, within limits

prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), only on those crops identified in § 400.4 of this subpart. All provisions of the applicable contract for the insured crop apply, except those provisions which are in conflict with this part.

§ 400.2 Definitions.

For the purposes of the Late Planting Option:

(a) "Final planting date" means the final planting date for the insured crop contained in the actuarial table on file in the service office.

(b) "Late Planting Agreement Option" means that agreement between the FCIC and the insured whereby the insured elects, and FCIC provides, insurance on acreage planted for up to 20 days after the applicable final planting date. The production guarantee applicable on the final planting date will be reduced on the acreage planted after the final planting date by 10 percent for each 5 days that the acreage is planted after the final planting date.

(c) "Production guarantee" means the guaranteed level of production under the provisions of the applicable contract for crop insurance (sometimes expressed in amounts of insurance).

§ 400.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 400.4 Responsibilities of the insured.

The insured is solely responsible for the completion of the Late Planting Option Application and for the accuracy of the data provided on that application. The provisions of this subsection shall not relieve the insured of any responsibilities under the provisions of the insurance contract.

§ 400.5 Applicability to crops insured.

The provisions of this subpart shall be applicable to the provisions of FCIC policies issued under the following regulations for insuring crops:

7 CFR Part 418 Wheat
7 CFR Part 419 Barley
7 CFR Part 420 Grain Sorghum
7 CFR Part 421 Cotton
7 CFR Part 422 Potatoes
7 CFR Part 423 Flax
7 CFR Part 424 Rice
7 CFR Part 425 Peanuts
7 CFR Part 427 Oats
7 CFR Part 428 Sunflowers
7 CFR Part 429 Rye
7 CFR Part 430 Sugar Beets
7 CFR Part 431 Soybeans
7 CFR Part 432 Corn
7 CFR Part 433 Dry Beans
7 CFR Part 435 Tobacco (Quota Plan)
7 CFR Part 436 Tobacco (Guaranteed Production Plan)
7 CFR Part 437 Sweet Corn (Canning and Freezing)
7 CFR Part 438 Tomatoes
7 CFR Part 443 Hybrid Seed
7 CFR Part 447 Popcorn

The Late Planting Option shall be available in all counties in which the Corporation offers insurance on these crops.

§ 400.6 The late planting agreement.

The provisions of the Late Planting Agreement are as follows:

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

LATE PLANTING AGREEMENT

Insured's Name _____
Address _____
_____
Contract No. _____
Crop Year _____
Crop _____

Notwithstanding the provisions of section 2 of the policy regarding the insurability of crop acreage initially planted after the final planting date on file in the service office, I elect to have insurance provided on acreage planted for 20 days after such date. Upon my making this election, the production guarantee or amount of insurance, whichever is applicable, will be reduced 10 percent for each five days or portion thereof that the acreage is planted after the final planting date. Each 10 percent reduction will be applied to the production guarantee or amount of insurance applicable on the final planting date. The premium will be computed based on the guarantee or amount of insurance applicable on the final planting date; therefore, no reduction in premium will occur as a result of my election to exercise this option. If planting continues under this Agreement after the acreage reporting date on file in the service office, the acreage reporting date will be extended to 5 days after the completion of planting the acreage to which insurance will attach under this Agreement.

Insured's signature _____
Date _____
Corporation representative's signature _____
and Code Number _____
Date _____

COLLECTION OF INFORMATION AND DATA (PRIVACY ACT)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)).

The authority for requesting the information to be supplied on this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and regulations promulgated thereunder (7 CFR Part 400 *et seq.*). The information requested is necessary for FCIC to institute the Late Planting Agreement Option. The information may be furnished to FCIC contract agencies and loss adjusters, reinsured companies, processors, other U.S. Department of Agriculture agencies, the Internal Revenue Service, Department of Justice, other State and Federal law enforcement agencies, U.S. Government contract collection agencies and in response to orders of a court, magistrate, or administrative tribunal. Furnishing the information requested on this form is voluntary. However, failure to furnish the complete requested information may result in the Late Planting Agreement not being accepted by the Corporation.

Done in Washington, DC, on January 22, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-6201 Filed 3-20-86; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

[Plum Reg. 17, Amdt. 3, Plum Reg. 19, Amdt. 8]

Pears, Plums and Peaches Grown in California; Container and Pack Requirements; Grade and Size Requirements for Plums

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule with request for comments.

SUMMARY: This proposed rule invites comments on several changes to the container and pack requirements and grade and size requirements for shipments of fresh plums grown in California. The proposed requirements are designed to provide uniformity of sizes of plums in containers and assure adequate quality of the plum pack during the 1986 season.

DATES: Comments are due by April 7, 1986.

ADDRESSES: Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2069, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be available for public inspection in the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC. 20250, (202) 447-5053.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's

Memorandum No. 1512–1 and has been determined to be a "non-major" rule.

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

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

It is estimated that approximately 608 handlers will be subject to regulation under the Marketing Order for California pears, peaches, and plums (7 CFR Part 917) during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers, the added burden on small entities, if present at all, is not significant.

The proposed rule is issued under the marketing agreement, as amended, and Marketing order 917, as amended (7 CFR Part 917), regulating the handling of pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Shipments of these California fruits are regulated by container and pack under Plum Regulation 17 (7 CFR 917.454) and by grade and size under Plum Regulation 19 (7 CFR 917.460). Because these regulations do not change substantially from season to season, they are issued on a continuing basis subject to amendment, modification or suspension as may be recommended by the applicable committee and approved by the Secretary.

It is found that good cause exists for limiting the comment period on this action to 15 days after publication in the **Federal Register** (5 U.S.C. 553) because the 1986 shipping season is expected to begin shortly. Therefore, prompt commenting on this action is necessary so that handlers can adjust in a timely manner to any possible changes resulting from this action.

This proposed rule is based upon the recommendation and information submitted by the Plum Commodity Committee, and other available information.

With respect to container and pack requirements, the committee recommended a size variance between the smallest and largest plums of ⅜ inch for plums 2¼ inch in diameter and larger packed in volume-filled containers. Currently, the maximum variation permitted is ¼ inch (or ⅝ inch) regardless of the diameter of the plums and the type of container. The proposed size variation requirement would allow handlers additional flexibility in packing larger size plums in volume-filled containers. For plums smaller than 2¼ inches in diameter packed in volume-filled containers and any size plums packed in tray packs the ⅝ inch size variance would continue to apply. In addition, because the proposed ⅜ inch variance is greater than the ⅝ inch variance permitted in the standard pack requirements in the United States Standards for Grades of Fresh Plums and Prunes (§§ 51.1520 to 51.1538), the current requirement that shipments of plums meet all standard pack requirements would be deleted. Instead, the proposed rule lists the specified pack requirements for shipments of plums.

With respect to size requirements, the committee recommended that all plums regulated by size be subject to a two-pound subsample of the smallest plums taken from each eight-pound sample used in checking compliance with size requirements. The volume-filled container is the most frequently used container in the California plum industry (it comprised more than 89 percent of total 1985 shipments). However, the nature of such packs allows for significant diameter variation. The additional two-pound subsample would limit such variations and help assure that the individual plums in each pack are uniformly sized.

Another proposed size requirement change would establish minimum size requirements for three varieties of plums, and would remove minimum size requirements for six varieties of plums. This change would bring the variety-specific size regulations established for plums into conformity with a long-standing industry practice of applying such regulations to varieties produced in commercially significant quantities. Shipments of the varieties that would be regulated exceeded 10,000 packages per variety during the 1985 season. Shipments of the varieties that would be removed from variety-specific size regulation fell below 5,000 packages per variety during the season.

A final size recommendation would require all varieties not subject to the variety-specific regulations to be subject to a minimum size requirement. That requirement would require the eight-pound sample to contain no more than 139 plums and the two-pound subsample of the smallest plums to contain no more than 38 plums. This change would help to improve the size and maturity of the varieties not specifically regulated by size and thereby promote the availability of suitable quality fruit in the interest of producers and consumers.

These proposals would amend Subpart—Container and Pack Regulation (7 CFR 917.454; 50 FR 39073) by revising § 917.454 (a)(1), (a)(2), and (d) and Subpart—Grade and Size Regulation (7 CFR 917.460; 50 FR 27813) by revising § 917.460(a), deleting the provisions presently contained in § 917.460(b) and redesignating the present § 917.460(c) as § 917.460(b), adding and deleting certain varieties to Table I and adding a new column to Table I, revising the redesignated § 917.460(b), and adding a new paragraph and designating it § 917.460(c).

List of Subjects in 7 CFR Part 917

Marketing agreements and orders, Pears, Plums, and Peaches from California.

1. The authority citation for 7 CFR Part 917 continues to read as follows:

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

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

2. Section 917.454 (a)(1), (a)(2), and (d) are proposed to be revised to read as follows:

Subpart—Container and Pack Regulation

§ 917.454 Plum Regulation 17.

(a) * * *

(1) Such plums, when shipped in closed packages or containers, except master containers of consumer packages and individual consumer packages therein, shall meet the following pack requirements as set forth below.

(i) All packages shall be tightly packed or well filled, according to the approved and recognized methods.

(ii) The plums in the top layer of any package shall be reasonably representative in quality and size of those in the remainder of the package.

(iii) Four-basked crates shall not be packed more than three layers deep. The arrangement of the bottom layer shall be one row less one way, and may be one

row less each way than the arrangement of the top layer; the arrangement of the middle layer may be the same as the top layer, or may be one row less one way than the arrangement of the top layer. In the 3½—4x5 and 3½—4x4 packs the face of each half of the crate shall be packed as a unit, with no shim between the two baskets.

(2) The diameter of the smallest and largest plums in any individual pack or container shall not vary more than one-fourth (¼) inch, except that plums which are placed in volume-fill or tight-fill type containers and have a diameter of two and one-fourth (2¼) inches or larger shall not vary more than three-eights (⅜) inch. A total of not more than five (5) percent, by count, of the plums in any package or container may fail to meet this requirement.

* * * * *

(d) When used herein "diameter" shall have the same meaning as set forth in the U.S. Sandards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 to 51.1538) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. "No. 12B standard fruit box" measures 2⅜ to 7⅛x11½x16⅛ inches, "No. 22D standard lug box" measures 2⅞ to 7⅛x13½x16⅛ inches, "No. 22G standard lug box" measures 7⅜ to 7½x13¼x15⅞ inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions).

3. Section 917.460 would be revised to read as follows:

Subpart—Grade and Size Regulation

§ 917.460 Plum Regulation 19.

(a) No handler shall ship any lot of packages or containers of any plums unless such plums grade at least U.S. No. 1, except that maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal-State Inspection Service. Internal discoloration not considered serious damage and healed growth cracks emanating from the step end which do not cause serious damage shall be permitted. In addition to the above, any lot of Tragedy or Kelsey plums shall be permitted and additional 10 percent tolerance for defects not considered serious damage.

(b) No handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table, and that a two pound subsample of the smallest plums in each eight pound sample contains not more than the number of plums listed for the variety in Column C of said table.

TABLE I

Col. A, variety	Col. B, plums per sample	Column C, plums per subsample
Amazon	64	17
Ambra	67	18
Andys Pride	69	18
Angeleno	67	18
Angee	67	18
Autumn Rosa	72	19
Bee Gee	65	17
Blackamber	56	15
Black Beaut	69	19
Black Diamond	59	16
Black Jewel	54	14
Black Knight	58	16
Carolyn Harris	61	17
Casselman	63	17
Catalina	59	16
Durado	74	20
Early Hawaiian Ann	60	16
Ebony	66	18
El Dorado	66	18
Empress	57	15
Freedom	56	15
Friar	56	15
Frontier	61	17
Gar-Rosa	71	19
Grand Rosa	54	14
July Red	64	17
July Santa Rosa	69	18
Kelsey	47	13
King David	50	14
King Richard	54	14
King's Black	58	16
Laroda	58	16
Late Santa Rosa (including improved Late Santa Rosa and Swali Rosa)	64	17
Linda Rosa	63	17
Mariposa	61	17
Midsummer	63	17
Nubiana	56	15
President	57	15
Prima Black	69	13
Queen Ann	50	14
Queen Rosa	53	14
Red Beaut	74	20
Red Glow	60	16
Red Rosa	64	17
Redroy	58	16
Rich Red	74	20
Rosa Ann	69	18
Rosemary	50	14
Rose Ann	60	16
Royal Red	74	20
Roysum	74	20
Santa Rosa	69	19
Simka, Arrosa, New Yorker	50	14
Spring Beaut	74	20
Standard	83	21
Wickson	51	14

(c) No handler shall ship any package or container of any variety of plums not specifically named in paragraph (b) of this section, unless such plums are of a size that an eight pound sample representative of the sizes of the plums in the package or container contains not more than 139 plums, and that a two pound subsample of the smallest plums in each eight-pound sample contains not more than 38 plums.

(d) As used herein, "U.S. No. 1" and "serious damage" mean the same as defined in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 through 51.1538).

Dated: March 14, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 86-6141 Filed 3-20-86; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Station Blackout

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its regulations to require that light-water-cooled nuclear power plants be capable of withstanding a total loss of alternating current (AC) electric power (called "station blackout") for a specified duration and maintaining reactor core cooling during that period. This proposed requirement is based on information developed under the Commission's study of Unresolved Safety Issue A-44, "Station Blackout." The proposed change is intended to provide further assurance that a station blackout (loss of both offsite power and onsite emergency AC power systems) will not adversely affect the public health and safety.

DATE: The comment period expires on June 19, 1986. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received before this date.

ADDRESSES: Send comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined and copied for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan Rubin, Division of Safety Review and Oversight, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-8303.

SUPPLEMENTARY INFORMATION: The alternating current (AC) electric power for essential and nonessential service in a nuclear power plant is supplied primarily by offsite power. Redundant onsite emergency AC power systems are also provided in the event that all offsite power sources are lost. These systems

provide power for various safety systems including reactor core decay heat removal and containment heat removal which are essential for preserving the integrity of the reactor core and the containment building, respectively. The reactor core decay heat can also be removed for a limited time period by safety systems that are independent of AC power.

The term "station blackout" means the loss of offsite AC power to the essential and nonessential electrical buses concurrent with turbine trip and the unavailability of the redundant onsite emergency AC power systems (e.g., as a result of units out of service for maintenance or repair, failure to start on demand, or failure to continue to run after start). If a station blackout persists for a sufficient time during which the capability of the AC-independent systems to remove decay heat is exceeded, core melt and containment failure could result.

The Commission's existing regulations establish requirements for the design and testing of onsite and offsite electric power systems that are intended to reduce the probability of losing all AC power to an acceptable level. (See General Design Criteria 17 and 18, 10 CFR Part 50, Appendix A.) The existing regulations do not require explicitly that nuclear power plants be designed to assure that the core can be cooled and the integrity of the reactor coolant pressure boundary can be maintained for any specified period of loss of all AC power.

As operating experience has accumulated, the concern has arisen that the reliability of both the onsite and offsite emergency AC power systems might be less than originally anticipated, even for designs that meet the requirements of General Design Criteria 17 and 18. Many operating plants have experienced a total loss of offsite power, and more occurrences can be expected in the future. Also, operating experience with onsite emergency power systems has included many instances when diesel generators failed to start. In a few cases, there has been a complete loss of both the offsite and the onsite AC power systems. During these events, AC power was restored in a short time without any serious consequences.

In 1975, the results of the Reactor Safety Study (WASH-1400) showed that station blackout could be an important contributor to the total risk from nuclear power plant accidents. Although this total risk was found to be small, the relative importance of the station blackout accident was established. Subsequently, the Commission designated the issue of station blackout as an Unresolved Safety Issue (USI); a Task Action Plan (TAP A-44) was issued in July 1980, and work was initiated to determine whether additional safety requirements were needed. Factors considered in the analysis of risk from station blackout included: (1) The likelihood and duration of the loss of offsite power; (2) the reliability of the onsite AC power system; and (3) the potential for severe accident sequences after a loss of all AC power, including consideration of the capability to remove core decay heat without AC power for a limited time period.

The technical findings of the staff's studies of the station blackout issue are presented in NUREG-1032, "Evaluation of Station Blackout Accidents at Nuclear Power Plants, Technical Findings Related to Unresolved Safety Issue A-44." [1] Additional information is provided in supporting contractor reports: NUREG/CR-3226, "Station Blackout Accident Analyses" published in May 1983; NUREG/CR-2989, "Reliability of Emergency AC Power System at Nuclear Power Plants"published in July 1983; and NUREG/CR-3992, "Collection and Evaluation of Complete and Partial Losses of Offsite Power at Nuclear Power Plants" published in February 1985.[2] The major results of these studies are given below.

- Losses of offsite power can be characterized as those resulting from plant-centered faults, utility grid blackout, and severe weather-induced failures of offsite power sources. Based on operating experience, the frequency of total losses of offsite power in operating nuclear power plants was found to be about one per 10 site-years. The median restoration time was about one-half hour, and 90 percent of the offsite power losses were restored in approximately 3 hours (NUREG/CR - 3992).
- The review of a number of representative designs of onsite emergency AC power systems has indicated a variety of potentially important failure causes. However, no single improvement was identified that could result in a significant improvement in overall diesel generator reliability. Data obtained from operating experience show that the typical individual emergency diesel generator failure rate is about 2.5×10^{-2} per demand (i.e., one chance of failure in 40 demands), and that the emergency AC power system unavailability for a plant which has two emergency diesel generators, one of which is required for decay heat removal, is about 2×10^{-3} per demand (NUREG/CR-2989).
- Given the occurrence of a station blackout, the likelihood of resultant core damage or core melt is dependent on the reliability and capability of decay heat removal systems that are not dependent on AC power. If sufficient AC-independent capability exists, additional time will be available to restore AC power needed for long-term cooling (NUREG/CR-3226).
- It was determined by reviewing design, operational, and site-dependent factors that the expected frequency of core damage resulting from station blackout events could be maintained near or below 10^{-5} per reactor-year for any nuclear plant with readily achievable diesel generator reliabilities, provided that the plant is designed to cope with station blackout for a specified duration. The duration for a specific plant is based on a comparison of the plant's characteristics to those factors that have been identified as the main contributors to risk from station blackout (NUREG-1032).

As a result of the station blackout studies, improved guidance will be provided to licensees regarding maintaining minimum emergency diesel generator reliability to minimize the probability of losing all AC power. In addition, the Commission is proposing to amend its regulations by adding a new § 50.63 and by adding a new final paragraph to General Design Criterion 17, Appendix A of 10 CFR Part 50, to require that all nuclear power plants be capable of coping with a station blackout for some specified period of time. The period of time for specific plant would be determined based on the existing capability of the plant as well as a comparison of the individual plant design with factors that have been identified as the main contributors to risk of core melt resulting from station blackout.

These factors, which vary significantly from plant to plant because of considerable differences in design of plant electric power systems as well as

[1] Draft NUREG-1032 was issued for public comment on June 15, 1985. Copies of this report are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street, NW., Washington, DC 20555. Free single copies of Draft NUREG-1032 may be requested by writing to the Publication Services Section, Room P-130A, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

[2] Copies of these documents are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street, NW., Washington, DC 20555. Copies may also be purchased by calling (202) 275-2171 or (202) 275-2060 or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082.

site-specific considerations, include: (1) Redundancy of onsite emergency AC power sources (i.e., number of sources minus the number needed for decay heat removal (2) reliability of onsite emergency AC power sources (usually diesel generators), (3) frequency of loss of offsite power, and (4) probable time to restore offsite power. The frequency of loss of, and time to restore offsite power are related to grid and switchyard reliabilities, historical weather data for severe storms, and the availability of nearby alternate power sources (e.g., gas turbines). Experience has shown that long duration offsite power outages are caused primarily by severe storms (hurricanes, ice, snow, etc.).

The objective of the proposed rule is to reduce the risk of severe accidents resulting from station blackout by maintaining highly reliable AC electric power systems and, as additional defense-in-depth, assuring that plants can cope with a station blackout for some period of time. If the proposed rule is adopted, all licensees and applicants would be required to assess the capability of their plants to cope with a station blackout (i.e., determine the amount of time the plant can maintain core cooling and containment integrity with AC power unavailable), and to have procedures and training to cope with such an event. Plants would be required to be able to cope with a specified minimum duration station blackout selected on a plant-specific basis.

On the basis of station blackout studies conducted for USI A–44, and presented in the reports referenced above, the NRC staff has developed a draft regulatory guide entitled "Station Blackout,"[3] which presents guidance on (1) maintaining a high level of reliability for emergency diesel generators, (2) developing procedures and training to restore offsite and onsite emergency AC power should either one or both become unavailable, and (3) selecting a plant-specific minimum duration for station blackout capability to comply with the proposed amendment to General Design Criterion 17. Application of the methods in this guide would result in selection of a 4-hour or 8-hour station blackout duration, depending on the specific plant design and site-related characteristics. However, applicants and licensees could propose alternative methods to that specified in the regulatory guide in order to justify other minimum durations for station blackout capability.

If the proposed rule and regulatory guide are issued, those plants with an already low risk from station blackout would be required to withstand a station blackout for a relatively short period of time and probably would need few, if any, modifications as a result of the rule. Plants with currently higher risk from station blackout would be required to withstand somewhat longer duration blackouts. Depending on their existing capability, these plants might also need to make modifications (such as increasing station battery capacity or condensate storage tank capacity) in order to cope with the longer station blackout duration. The proposed rule would require licensees to develop, in consultation with the Office of Nuclear Reactor Regulation, proposed plant-specific schedules for implementation of any needed modifications.

Additional Comments by the Commission

The proposed rule does not require that a single failure be assumed concurrent with a station blackout because station blackout goes beyond the normal single failure criterion. That is, for a station blackout to occur, four AC power supplies must fail (two offsite sources and two safety-related onsite emergency AC sources). The staff's estimated probability of the concurrent failure of all four power supplies leads us to believe that the staff should give further consideration to upgrading to safety grade the plant modifications needed (if any) to meet the proposed rule. Upgrading to safety grade will further ensure appropriate licensee attention is paid to maintaining a high state of operability and reliability. The Commission believes that the question of quality classification of modifications should be addressed by interested parties in comments on the proposed rule.

In addition to comments on the merits of the proposed rule, the Commission specifically requests comments on whether the backfit analysis for this rule adequately implements the Backfit Rule, 10 CFR 50.109.

Additional Comments by Commissioners Roberts and Zech

We agree with soliciting public comments on the proposed rulemaking on station blackout. We will be interested in comments received and staff responses associated with analysis of cost benefit, value impact, and safety improvements and the station blackout standing on the overall risk (e.g., Is the reduction of risk only a small percentage of the overall risk or is it a major component of an already small risk?). This will be one of the first proposed rules to be evaluated by the NRC under its new backfitting requirements. We would be particularly interested in specific comments assessing whether or not this proposal meets the "substantial increase in the overall protection of the public health and safety . . ." threshold now required by the backfit rule.

Separate Views of Commissioner Asselstine

I support the proposed rulemaking but believe substantial additional safety improvements beyond those called for in this rulemaking are achievable and practicable. How to prevent and mitigate a station blackout event is one of the most significant unresolved safety issues associated with nuclear power plants. Extended station blackout can result in core meltdown and loss of containment integrity. Since existing mitigation features such as containment spray would be inoperable, a station blackout could result in a large release of radioactive material to the environment.

Countries abroad that have made a serious commitment to nuclear power and to nuclear safety have, or are planning, backfit features which markedly reduce station blackout risks. For example, the new French 1300 MWe nuclear power plants are designed with a goal of coping with a station blackout for at least 20 hours. According to the NRC staff, the design features that provide this capability (listed below) permit the plant to withstand a station blackout for three days.

- A steam-driven generator provides power for a small positive displacement pump that supplies cooling for reactor coolant pump (RCP) seals and also provides power for instrumentation and controls and control room lighting necessary to withstand a station blackout. This design feature, which is also being backfitted onto all operating 900 MWe nuclear plants in France, addresses two factors that impact the ability to cope with a station blackout—RCP seal cooling with AC power unavailable and battery depletion.
- Two turbine-driven auxiliary feedwater (AFW) pumps included in the 1300 MWE French design in addition to two motor-driven AFW pumps. Most

[3] A notice of availability and request for comments on the draft regulatory guide will be published within a few days of this Notice of Proposed Rulemaking. Copies of the draft regulatory guide are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street, NW., Washington, DC 20555, and will be distributed to those on the automatic distribution list for draft regulatory guides. Free single copies of the draft regulatory guide may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control.

U.S. pressurized water reactors have one turbine-driven AFW pump in addition to two-motor-driven pumps. Therefore, the French design provides additional redundancy in the AC-independent trains of the AFW system.

• Gravity feed back-up water supply from onsite sources to the condensate storage tank provides additional water for decay heat removal via the AFW system for long-duration station blackout events, i.e., up to three days.

This three-day station blackout capability would permit sufficient time to connect a mobile gas turbine generator to provide power if AC power could not be restored from other, preferred sources. A mobile gas turbine genertor is located at, or in the vicinity of, every nuclear power plant site in France. These improvements in safety are being achieved at not unreasonable costs and are being driven by the French goal of achieving a probability of one in ten million (10^{-7}) per reactor-year for a major event such as station blackout. The Commission's rule proposes much less. It proposes an objective of one in one hundred thousand (10^{-5}) per reactor-year for station blackout caused core meltdown and an objective of only about four hours coping capability.

I would appreciate comments on whether the NRC should require substantial improvements in safety with respect to station blackout, like those being accomplished in other countries, which can be achieved at reasonable cost and which go beyond those proposed in this rulemaking.

Finding of No Significant Environmental Impact: Availability

The Commission has determine under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and therefore an environmental impact statement is not required. There would not be any adverse environmental impacts as a result of the proposed rule for the following reasons: (1) There would be no additional radiological exposure to the general public or plant employees, and (2) plant shutdown is not required so there would be no additional environmental impacts as a result of the need for replacement power. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW, Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7827.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Regulatory Analysis

The Commission has prepared a regulatory analysis for this regulation. The analysis examines the costs and benefits of the rule as considered by the Commission. A copy of the regulatory analysis, NUREG–1109, For Comment, "Regulatory Analysis for the Resolution of Unresolved Safety Issue A–44, Station Blackout" (Published in January 1986), is available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555. Free single copies of Draft NUREG–1109 may be obtained by writing to the Publication Services Section, Room P–130A, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

The Commission requests public comment on the regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed rule specifies that nuclear power plants be able to withstand a total loss of AC power for a specified time duration and maintain reactor core cooling during that period. These facilities are licensed under the provisions of 10 CFR 50.21(b) and 10 CFR 50.22. The companies that own these facilities do not fall within the scope of "small entities" as set forth in the Regulatory Flexibility Act or the small business size standards set forth in regulations issued by the Small Business Administration in 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

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

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100–50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10(a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10(b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.2, a definition of "station blackout" is added in the alphabetical sequence to read as follows:

§ 50.2 Definitions.

* * * * *

"Station blackout" means the complete loss of alternating current (AC) electric power to the essential and nonessential switchgear buses in a nuclear power plant (i.e., loss of the offsite electric power system concurrent with turbine trip and unavailability of the onsite emergency AC power system).

3. A new § 50.63 is added to read as follows:

§ 50.63 Loss of all alternating current power.

(a) *Requirements.* Each light-water-cooled nuclear power plant licensed to operate must be able to withstand and recover from a station blackout as defined in § 50.2 for a specified duration in accordance with the requirements in paragraph (e) of General Design Criterion 17 of Appendix A of this part.

(b) *Limitation of Scope.* Paragraphs (c) and (d) of this section do not apply to those plants licensed to operate prior to [insert the effective date of this amendment] if the capability to withstand station blackout was considered in the operating license proceeding and a specified duration was accepted as the licensing basis for the facility.

(c) *Implementation—Determination of Station Blackout Duration.* (1) For each light-water-cooled nuclear power plant licensed to operate on or before [insert the effective date of this amendment], the licensee shall submit to the Director of the Office of Nuclear Reactor Regulation by [insert a date 270 days after the effective date of this amendment]:

(i) A determination of the maximum duration for which the plant as currently designed is able to maintain core cooling and containment integrity in the event of a station blackout as defined in § 50.2;

(ii) A description of the procedures that have been established for station blackout events for the duration determined in paragraph (c)(1)(i) of this section and for recovery therefrom;

(iii) An identification of the factor(s) that limit the capability of the plant to cope with a station blackout for a longer time than that determined in paragraph (c)(1)(i) of this section;

(iv) A proposed station blackout duration to be used in determining compliance with paragraph (e) of General Design Criterion 17 of Appendix A of this part, including a justification for the selection based on—

(A) The redundancy of the onsite emergency AC power sources;

(B) The reliability of the onsite emergency AC power sources;

(C) The expected frequency of loss of offsite power; and

(D) The probable time needed to restore offsite power; and

(v) An identification of the factors, if any, that limit the capability of the plant to meet the requirements of Criterion 17 for the specified station blackout duration proposed in the response to paragraph (c)(1)(iv) of this section.

(2) After consideration of the information submitted in accordance with paragraph (c)(1) of this section, the Commission will notify the licensee of its determination of the specified station blackout duration to be used in determining compliance with General Design Criterion 17 of Appendix A of this part.

(d) *Implementation—Schedule for Implementing Equipment Modifications.* (1) For each light-water-cooled nuclear power plant licensed to operate on or before [insert the effective date of this amendment], the licensee shall, within 180 days of the notification provided in accordance with paragraph (c)(2) of this section, submit to the Director of the Office of Nuclear Reactor Regulation a schedule for implementing any equipment and procedure modifications necessary to meet the requirements of General Design Criterion 17 of Appendix A of this part. This submittal must include an explanation of the schedule and a justification if the schedule does not provide for completion of the modifications within two years of the notification provided in accordance with paragraph (c)(2) of this section.

(2) The licensee and the NRC staff shall mutually agree upon a final schedule for implementing modifications necessary to comply with the requirements of Criterion 17.

4. In Appendix A, General Design Criterion 17 is revised to read as follows.

Appendix A—General Design Criteria for Nuclear Power Plants

* * * * *

II. Protection by Multiple Fission Product Barriers

* * * * *

Criterion 17—Electric power systems. (a) An onsite electric power system and an offsite electric power system shall be provided to permit functioning of structures, systems, and components important to safety. The safety function for each system (assuming the other system is not functioning) shall be to provide sufficient capacity and capability to assure that (1) specified acceptable fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded as a result of anticipated operational occurrences and (2) the core is cooled and containment integrity and other vital functions are maintained in the event of postulated accidents.

(b) The onsite electric power supplies, including the batteries, and the onsite electric distribution system, shall have sufficient independence, redundancy, and testability to perform their safety functions assuming a single failure.

(c) Electric power from the transmission network to the onsite electric distribution system shall be supplied by two physically independent circuits (not necessarily on separate rights of way) designed and located so as to minimize to the extent practical the likelihood of their simultaneous failure under operating and postulated accident and environmental conditions. A switchyard common to both circuits is acceptable. Each of these circuits shall be designed to be available in sufficient time following a loss of all onsite alternating current power supplies and the other offsite electric power circuit, to assure that specified acceptable fuel design limits and design conditions of the reactor coolant pressure boundary are not exceeded. One of these circuits shall be designed to be available within a few seconds following a loss-of-coolant accident to assure that core cooling, containment integrity, and other vital safety functions are maintained.

(d) Provisions shall be included to minimize the probability of losing electric power from any of the remaining supplies as a result of, or coincident with, the loss of power generated by the nuclear power unit, the loss of power from the transmission network, or the loss of power from the onsite electric power supplies.

(e) The reactor core and associated coolant, control, and protection systems, including the station batteries, shall provide sufficient capacity and capability to assure that the core is cooled and containment integrity is maintained in the event of a station blackout (as defined in § 50.2) for a specified duration. The following factors shall be considered in specifying the station blackout duration: (1) the redundancy of the onsite emergency AC power sources, (2) the reliability of the onsite emergency AC power sources, (3) the expected frequency of loss of offsite power, and (4) the probable time needed to restore offsite power.

Dated at Washington, DC, this 17th day of March 1986.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

Backfit Analysis

Analysis and Determination That the Proposed Rulemaking To Amend 10 CFR 50 Concerning Station Blackout Complies With the Backfit Rule 10 CFR 50.109

The Commission's existing regulations establish requirements for the design and testing of onsite and offsite electric power systems (10 CFR Part 50, Appendix A, General Design Criteria 17 and 18). However, as operating experience has accumulated, the concern has arisen regarding the reliability of both the offsite and onsite emergency AC power systems. These systems provide power for various safety systems including reactor core decay heat removal and containment heat removal which are essential for preserving the integrity of the reactor core and the containment building, respectively. In numerous instances emergency diesel generators have failed to start and run during tests conducted at operating plants. In addition, a

number of operating plants have experienced a total loss of offsite electric power, and more such occurrences are expected. Existing regulations do not require explicitly that nuclear power plants be designed to withstand the loss of all AC power for any specified period.

This issue has been studied by the staff as part of Unresolved Safety Issue (USI) A–44, "Station Blackout." Both deterministic and probabilistic analyses were performed to determine the timing and consequences of various accident sequences and to identify the dominant factors affecting the likelihood of core melt accidents from station blackout. These studies indicate that station blackout can be a significant contributor to the overall plant risk. Consequently, the Commission is proposing to amend its regulations to require that plants be capable of withstanding a total loss of AC power for a specified duration and to maintain reactor core cooling during that period.

An analysis of the benefits and costs of implementing the proposed station blackout rule is presented in NUREG–1109, Draft Report For Comment, "Regulatory Analysis for the Resolution of Unresolved Safety Issue A–44, Station Blackout." [4] The benefit from implementing the proposed rule is a reduction in the frequency of core melt per reactor-year due to station blackout and the associated risk of offsite radioactive releases. The risk reduction for 67 operating reactors is estimated to be 80,000 person-rems.[5]

The cost for licensees to comply with the proposed backfit would vary depending on the existing capability of each plant to cope with a station blackout, as well as the specified station blackout duration for that plant. The costs would be primarily for licensees to develop procedures, to improve diesel generator reliability if the reliability falls below certain levels, and to retrofit plants with additional components or systems, as necessary, to meet the proposed requirements.

The estimated total cost for 67 operating reactors to comply with the proposed resolution of USI A–44 is about $40 million. The average cost per reactor would be around $600,000 ranging from $200,000 if only a station blackout assessment and procedures and training are necessary, to a maximum of about $4 million if substantial modifications are needed, including requalification of a diesel generator.

The overall value-impact ratio, not including accident avoidance costs, is about 2,000 person-rems averted per million dollars. If cost savings to industry from accident avoidance (i.e., cleanup and repair of onsite damages and replacement power) were included, the overall value-impact ratio would improve significantly to about 8,000 person-rems averted per million dollars.

This analysis supports a determination that a substantial increase in the protection of the public health and safety will be derived from the backfit in the proposed station blackout rule, and that the backfit is justified in view of the direct and indirect costs of implementing the proposed rule.

The quantitative value-impact analysis discussed above was one of the factors considered in evaluating the proposed rule, but other factors also played a part in the decision-making process. Probabilistic risk assessment (PRA) studies performed for this USI, as well as some plant-specific PRAs, have shown that station blackout can be a significant contributor to core melt frequency, and, with consideration of containment failure, station blackout events can represent an important contributor to reactor risk. In general, active containment systems required for heat removal, pressure suppression, and radioactivity removal from the containment atmosphere following an accident are unavailable during a station blackout. Therefore, the offsite risk is higher from a core melt resulting from station blackout than it is from many other accident scenarios.

Although there are licensing requirements for guidance directed at providing reliable offsite and onsite AC power, experience has shown that there are practical limitations in ensuring the reliability of offsite and onsite emergency AC power systems. Potential vulnerabilities to common cause failures associated with design, operational and environmental factors can affect AC power system reliability. For example, if potential common cause failures of emergency diesel generators exist (e.g., in service-water or DC power support systems), then the estimated core damage frequency from station blackout events can increase significantly.

The estimated frequency of core damage from station blackout events is directly proportional to the frequency of the initiating event. Estimates of station blackout frequencies for this USI were based on actual operational experience. This is assumed to be a realistic indicator of future performance. An argument can be made that the future performance will be better than the past. For example, when problems with the offsite power grid arise, they are fixed, and therefore, grid reliability should improve. On the other hand, grid power failures may become more frequent because fewer plants are being built, and more power is being transmitted between regions, thus placing greater stress on transmission lines.

A number of foreign countries, including France, Britain, Sweden, Germany and Belgium, have taken steps to reduce the risk from station blackout events. These steps include adding design features to enhance the capability of the plant to cope with a station blackout for a substantial period of time, and/or adding redundant and diverse emergency AC power sources.

The factors discussed above support the determination that additional defense in depth provided by the ability of a plant to cope with station blackout for a specific duration is warranted. The Commission has considered how this backfit should be prioritized and scheduled in light of other regulatory activities ongoing at operating nuclear power plants. Station blackout warrants a high priority ranking based on both its status as an "unresolved safety issue" and the results and conclusions reached in resolving this issue. As noted in the implementation section of the proposed rule (§ 50.63(d)), the schedule for equipment modification (if needed to meet the requirements of the proposed rule) shall be mutually agreed upon by the licensee and NRC. Modifications that cannot be scheduled for completion within two years after NRC accepts the licensee's specified station blackout duration must be justified by the licensee.

Analysis of 50.109(c) Factors

1. Statement of the specific objectives that the proposed backfit is designed to achieve.

The NRC staff has completed a review and evaluation of information developed over the past 5 years on Unresolved Safety Issue (USI) A–44, Station blackout. As a result of these efforts, the NRC is proposing to amend 10 CFR Part

[4] Draft NUREG–1109 was issued for public comment in January 1986. Copies of this report are available for inspection and copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555. Free single copies of Draft NUREG–1109 may be obtained by writing to the Publication Services Section, Room P–1030A, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

[5] The value-impact analysis in NUREG–1109 was based on plant-specific information for a total of 67 reactors. Although there are currently about 100 operating reactors, the overall value-impact ratio in NUREG–1109 would not change significantly because of the increase in the number of operating plants.

50, by the introduction of new § 50.63, "Station Blackout," and an additional paragraph to General Design Criterion 17, "Electric Power Systems" in Appendix A.

The objective of the proposed rule is to reduce the risk of severe accidents associated with station blackout by making station blackout a relatively small contributor to total core melt frequency. Specifically, the proposed rule would require all light-water-cooled nuclear power plants to be able to cope with a station blackout for a specified duration, and to have procedures and training for such an event. A draft Regulatory Guide, to be issued along with the proposed rule, would provide an acceptable method to determine the station blackout duration for each plant. The duration would be determined for each plant based on a comparison of the individual plant design with factors that have been identified as the main contributors to risk of core melt resulting from station blackout. These factors are: (1) The redundancy of onsite emergency AC power sources, (2) the reliability of onsite emergency AC power sources, (3) the frequency of loss of offsite power and (4) the probable time needed to restore offsite power.

2. General description of the activity that would be required by the licensee or applicant in order to complete the backfit.

In order to assure that each nuclear power plant is able to withstand and recover from a station blackout for a specified minimum duration, licensees would be required to assess their plants' capability to withstand and recover from a station blackout. This evaluation would include:

- Verifying the adequacy of station battery power, condensate storage tank capacity, and plant/instrument air for the station blackout duration.
- Verifying adequate reactor coolant pump seal integrity for the station blackout duration so that seal leakage due to lack of seal cooling would not result in a sufficient primary system coolant inventory reduction to lose the ability to cool the core.
- Verifying operability of equipment needed to operate during a station blackout for environmental conditions associated with total loss of AC power (i.e., loss of heating, ventilation and air conditioning).

Depending on the plant's existing capability to cope with a station blackout, licensees may or may not need to backfit hardware modifications (e.g., adding battery capacity) to comply with the proposed rule. (See item 8 for additional discussion.) Licensees would be required to have procedures and training to cope with and recover from a station blackout.

3. Potential change in the risk to the public from the accidental off-site release of radioactive material.

Based on an analysis of potential consequences presented in Section 4 of NUREG–1109, if the proposed rule were implemented, the estimated total risk reduction to the public from 67 operating reactors is 80,000 person-rem.

4. Potential impact on radiological exposure of facility employees.

For 67 operating reactors, the estimated total reduction in occupational exposure resulting from reduced core melt frequencies and associated post-accident cleanup and repair activities is 2,000 person-rem (Table 8 in NUREG–1109). No increase in occupational exposure is expected from operation and maintenance or implementing the proposed rule. Equipment additions and modifications contemplated do not require work in and around the reactor coolant system and therefore would not be expected to result in significant radiation exposure (Table 8 in NUREG–1109).

5. Installation and continuing costs associated with the backfit, including the cost of facility downtime or the cost of construction delay.

For 67 operating reactors, the total estimated cost for assessing the station blackout coping capability, procedures and training, installation of hardware backfits (if necessary), plant downtime, and operation and maintenance is $40 million. (See Tables 6 and 8 in NUREG–1109).

6. The potential safety impact of changes in plant or operational complexity, including the relationship to proposed and existing regulatory requirements.

The proposed rule for plants to be able to cope with a station blackout should not add to plant or operational complexity. The relationship between the proposed station blackout rule and proposed and existing regulatory requirements is discussed in Section 4.2 of NUREG–1109. This discussion includes the following NRC generic programs:

- Generic Issue B–56 "Proposed Actions for Enhancing Reliability of Diesel Generators at Operating Plants,"
- Generic Issue 23, "Reactor Coolant Pump Seal Failures,"
- USI A–45, "Shutdown Decay Heat Removal Requirements,"
- Generic Issue A–30, "Adequacy of Safety-Related DC Power Supply."

7. The estimated resource burden on the NRC associated with the proposed backfit and the availability of such resources.

For 67 operating reactors, the estimated total cost for NRC review of industry submittals required by the proposed rule is $500,000 (based on an estimated average of 120 person-hours per reactor; see Table 8 in NUREG–1109).

8. The potential impact of differences in facility type, design or age on the relevancy and practicality of the proposed backfit.

The proposed rule applies to all pressurized water reactors and boiling water reactors. However, in determining the specific minimim station blackout coping capability for each plant, differences in plant design (e.g., number of emergency generators) and the reliability of the offsite and onsite emergency AC power systems could result in different coping capabilities. For example, plants with an already low risk from station blackout would be required to withstand a station blackout for a relatively short period of time; and few, if any, hardware backfits would be required as a result of the proposed rule. Plants with currently higher risk from station blackout would be required to withstand somewhat longer duration blackouts; and, depending on their existing capability, may need some modifications to achieve the longer station blackout capability.

9. Whether the proposed backfit is interim or final and, if interim, the justification for imposing the proposed backfit on an interim basis.

The proposed rule is a final resolution of USI A–44; it is not an interim measure.

[FR Doc. 86–6284 Filed 3–20–86; 8:45 am]
BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–ASW–1]

Proposed Amendment of Transition Area; Dallas/Fort Worth, TX

Correction

In FR Doc. 86–4939, beginning on page 7950, in the issue of Friday, March 7, 1986, make the following corrections:

1. On page 7951, third column, thirty-first line, at the end insert "to latitude 33°13'00" N.,".

2. On same page, third column, thirty-fourth line, before "thence" insert "longitude 97°39'30" W.,".

BILLING CODE 1505–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 801 0097]

Max Factor & Co.; Proposed consent agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a Stamford, Conn. cosmetics company to make promotional allowances available on proportionally equal terms to all of its customers, and in particular, to make alternatives, such as handbills or other in-store promotional activities, available to customers for whom its basic promotional plans are not usable or economically feasible. Respondent would be required to notify all its customers that the promotional payments and alternatives are available.

DATE: Comments will be received until May 20, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Paul W. Turley, Director, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, CA 90024, (213) 209–7890.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Cosmetics, Promotional allowances, Trade practices.

Before Federal Trade Commission

[File No. 801 0097]

Agreement Containing Consent, Order To Cease and Desist

In the Matter of Max Factor & Co., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Max Factor & Co., a corporation, and it now appearing that Max Factor & Co., hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Max Factor & Co., by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Max Factor & Co. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 50 Gatehouse Road, Stamford, Connecticut 06902.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information with respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public with respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that for the purposes of this order, the following definitions shall apply:

A. the term "cosmetic products" shall mean cosmetics, fragrances, toiletries, and beauty aids.

B. The term "respondent's cosmetic products" shall include (a) all cosmetic products advertised, offered for sale, sold, or distributed by respondent; (b) all cosmetic products bearing any of respondent's trademarks that are advertised, offered for sale, sold, or distributed by respondent's corporate parent or a division or subsidiary of

such parent; and (c) all cosmetic products advertised, offered for sale, sold, or distributed by respondent's corporate parent or a division or subsidiary of such parent as part of a program in which cosmetic products bearing any of respondent's trademarks are also advertised, offered for sale, sold, or distributed.

II

A. It is further ordered that respondent Max Factor & Co., a corporation, and its officers, directors, agents, representatives, and employees, and its successors and assigns, directly or indirectly or through any corporation, subsidiary, division or other device, shall cease and desist from paying or contracting to pay to or for the benefit of any customer anything of value as compensation or in consideration for advertising or promotional services or facilities furnished by or through such customer in connection with the advertising, offering for sale, sale, or distribution of respondent's cosmetic products in or affecting commerce, as "commerce" is defined in the Clayton Act, as amended, or the Federal Trade Commission Act, as amended, unless:

1. Respondent makes such compensation or consideration available on proportionally equal terms for alternative services or facilities that are usable and economically feasible; for all customers who compete in the distribution or resale of respondent's cosmetic products and for whom respondent's basic promotional plans are not usable or economically feasible; provided that with respect to respondent's cooperative advertising and drive plans, such alternative services or facilities may include handbills and circulars in amounts not less than 1,000, or other in-store promotional activities acceptable to respondent; and

2. All customers who compete in the distribution or resale of respondent's cosmetic products are informed in the manner provided in Paragraph II.B. of this order of the availability of such compensation or consideration.

B. It is further ordered that respondent shall inform those retailers who purchase respondent's cosmetic products, including retailers who do not purchase directly from respondent, of the availability of its promotional plans, as required by Paragraph II.A. of this order, as follows:

1. Respondent shall imprint on the smallest shipping container used for respondent's cosmetic products the legend, "Promotional allowances are periodically made available by Max Factor & Co. to all retailers. To obtain information about these promotional opportunities contact your Sales Representative or call [Mary O'Brian at our Headquarters office (212) 856-6664]"; and

2. For each promotion respondent shall cause copies of "offer letters" or similar materials explaining the availability of alternative methods of participation in respondent's advertising or promotional program or plan to be supplied to all direct purchasing retailers, and to its wholesalers or distributors in sufficient quantity for presentation or delivery by such wholesalers or distributors to each customer of such wholesaler or distributor, and shall request such wholesalers and distributors to present or deliver such materials to such customers.

C. Provided, however, that nothing herein contained shall be construed or interpreted to abridge or otherwise restrict respondent's entitlement to avail itself of the "Meeting Competition Defense," the provisions of which are contained in section 2(b) of the Clayton Act, 15 U.S.C. 13(b), as amended.

III

It is further ordered that respondent shall deliver, within thirty (30) days of the date of service upon it of this order, a copy of this order to all current sales management and sales personnel who are engaged in the sale of any of respondent's cosmetic products within the United States, and shall for a period of five (5) years thereafter deliver a copy of this order to all such future sales management and sales personnel within thirty (30) days of their employment in such positions.

IV

It is further ordered that respondent shall, within sixty (60) days after the date of service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

V

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries doing business in the United States, or any other change in respondent that may affect compliance obligations arising out of the order.

Analysis of Proposed Consent Order To Aid Public Comment

[File No. 801 0097]

The Federal Trade Commission has accepted an agreement to a proposed consent order from Max Factor & Co.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The compliant in this matter alleges that Max Factor & Co. violated section 5 of the Federal Trade Commission Act, as amended, and section 2(d) of the Clayton Act, as amended, by paying discriminatory promotional allowances to some of its customers in connection with the sale of its cosmetic products. In granting promotional allowances, respondent allegedly discriminated against particular customers in that it did not make such promotional allowances functionally available, on proportionally equal terms, to all customers competing in the sale and distribution of respondent's cosmetic products. Respondent allegedly failed to offer alternative terms and conditions to customers for whom its basic promotional allowances were not usable and suitable.

The proposed consent order requires that Max Factor & Co. cease and desist from paying promotional allowances to any customer, unless respondent provides functionally available alternatives for customers that cannot take advantage of its regular promotional programs.

The proposed consent order specifies that with respect to respondent's cooperative advertising and drive plans, such alternative services or facilities may include handbills and circulars in amounts not less than 1,000, or other in-store promotional activities acceptable to respondent.

The proposed consent order requires that respondent notify its competing customers of the availability of promotional payments in two ways. First, notice of the general availability of the promotional payments and how to obtain further information must be imprinted on respondent's shipping containers. Second, for each promotion, respondent must cause copies of materials explaining the availability of alternative methods of participation in respondent's promotional program to be

supplied to all direct purchasing retailers and to its wholesalers for presentation to each of its indirect customers.

The proposed consent order explicitly preserves for respondent the availability of the "Meeting Competition Defense," contained in section 2(b) of the Clayton Act, as amended.

Additionally, the proposed consent order requires that respondent provide copies of the order to sales personnel, that respondent file a compliance report with the Commission within sixty days after service upon it of the order, and that respondent notify the Commission of certain corporate reorganizations thirty days prior to each such proposed change.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-6182 Filed 3-20-86; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6630; IC-14984; S7-8-86]

Disclosure of Security Ratings by Money Market Funds

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission is publishing for comment three proposed rule amendments under the Securities Act of 1933 regarding the voluntary disclosure of ratings assigned by nationally recognized statistical rating organizations to money market funds. The Commission also is publishing a proposed staff guideline regarding disclosures that should be made when security ratings assigned to money market funds are used in Form N-1A, the simplified registration statement for mutual funds. The rule amendments, if adopted, would facilitate the use of money market fund ratings in the statutory and omitting prospectuses and tombstone ads of money market funds.

DATE: Comments on the proposed rule amendments must be received on or before May 16, 1986.

ADDRESS: Three copies of all comments should be submitted to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments letters should refer to File No. S7-8-86. All comments received will be available for public inspection in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Jay Gould, Staff Attorney (202) 272-2107, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission today is publishing for comment proposed amendments to rules under the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77a *et seq.*] to facilitate the use in money market fund prospectuses and certain advertisements of ratings assigned by nationally recognized statistical rating organizations ("NRSROs").[1] The proposal consists of three rule changes. The first would amend subparagraph (g) of Rule 436 under the Securities Act [17 CFR 230.436(g)] to provide that a rating assigned to a money market fund by an NRSRO is not part of a registration statement, report, or valuation prepared or certified by a person within the meaning of sections 7 and 11 of the Securities Act [15 U.S.C. 77g and 77k]. The second revision would amend Rule 134(a)(14)(i) under the Securities Act [17 CFR 230.134] to permit the disclosure of and set conditions on the use of ratings assigned to a money market fund by an NRSRO in certain communications deemed not to be a prospectus ("tombstone ads"). The third change would amend Rule 482 [17 CFR 230.482] by adding a new paragraph (e) to permit the disclosure of and set conditions on the use of money market fund ratings in certain investment company advertisements which satisfy the conditions of section 10(b) [15 U.S.C. 77j(b)] of the Securities Act ("omitting prospectuses"). If adopted, these proposed amendments would (i) eliminate the requirement of section 7 of the Securities Act that a money market fund file with its registration statement the consent of any NRSRO issuing a money market fund rating when the rating is used in the fund's prospectus; (ii) exempt from civil liability under section 11 the NRSRO issuing the rating if the rating is included in a money market fund prospectus; [2] and (iii) facilitate the use by a money market fund of an NRSRO rating in its statutory and omitting prospectuses and tombstone ads, subject to certain conditions.

While the proposed rule changes would be limited to ratings of money market fund securities, the Commission is requesting comment on whether similar changes should be considered for NRSRO ratings assigned to securities issued by unit investment trusts and other types of investment companies and, if so, under what conditions.

I. Background

A. Prior Commission Action

In 1982, the Commission amended Rule 436 to provide that a rating assigned to a class of debt securities, convertible debt securities, or class of preferred stock by an NRSRO would not be deemed part of a registration statement prepared or certified by a person within the meaning of sections 7 and 11 of the Securities Act. The effect of the action was to exempt issuers of the designated securities from obtaining consents under section 7 and exempt NRSROs from section 11 liabiity, where a rating of those securities is included in a Securities Act registration statement. The Commission took this action, in part, due to the practical problem of registrant's obtaining consents from the NRSROs to use the ratings in registration statements and the recognition that NRSROs, irrespective of consents, are subject to the antifraud provisions of the federal securities laws. The Commission also amended Rule 134 to permit issuers of debt and preferred stock to use their ratings in tombstone ads.

The Commission's 1982 action did not extend to equity securities other than preferred stock. Therefore, because money market fund shares are equity securities, a money market fund which has received an NRSRO rating must obtain the consent of the NRSRO or

[1] The term "nationally recognized statistical rating organization" as used in existing Rules 134 and 436(g) and the proposed revisions to these rules and Rule 482 would have the same meaning as in the Commission's uniform net capital rule [17 CFR 240.15c3-1(c)(2)(vi)(F)]. Currently, the following organizations are considered NRSROs under the net capital rule: Duff and Phelps, Inc.; Fitch Investors Services, Inc.; Moodys Investors Services, Inc.; McCarthy, Crisanti & Maffei; and Standard & Poors Corporation. The Commission's Division of Market Regulation responds to requests for NRSRO designation through no-action letters.

[2] The NRSRO would continue to be subject the antifraud provisions of the federal securities laws. *See* section 17(a) of the Securities Act [15 U.S.C. 77q(a)]; section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 CFR 240.10b-5]; an NRSRO which was registered as an investment adviser or subject to regulation under the Investment Advisers Act of 1940 also would be subject to section 206 of the Investment Advisers Act of 1940 [15 U.S.C. 80b-6].

seek a waiver of consent under Rule 437 [17 CFR 230.437] [3] before using the rating in its registration statement. Beginning in 1984, a number of money market funds obtained NRSRO ratings of their securities. These funds have been precluded from using these ratings in their registration statements filed under the Securities Act because of the refusal of the NRSRO assigning the ratings, based on concerns over the effect of Section 7 [4] and section 11[5] of the Securities Act, to consent to the use of the ratings in this manner. Money market funds may, however, use their rating in certain types of sales literature, without consent, so long as the sales literature is preceded or accompanied by a statutory prospectus. They may not use their ratings in tombstone ads, though, because the Commission's 1982 revision of Rule 134 did not apply to equity securities other than preferred stock.

B. Money Market Fund Ratings

A money market fund rating purports to evaluate the safety of principal invested in a money market fund. Like ratings assigned to classes of debt securities, convertible debt securities, and preferred securities, a money market fund rating uses an alphabetical designation to indicate the NRSRO's assessment of the fund's relative degree of investment safety. One NRSRO, which provides rating of money market funds, has advised the Commission's staff that it typically considers a wide variety of factors in formulating a rating for a money market fund. These include management philosophy, operating policies and procedures; credit risk, including the types and diversity of portfolio investments; and market price exposure, specifically the degree of liquidity of investments, distribution and average length of maturities, and volatility of portfolio cash flows. The rating purports to summarize these factors and indicate the NRSRO's assessment of the fund's overall investment safety.[6]

The Commission believes that the information provided by a money market fund rating may be of interest to investors. Currently, investors are able to compare money market funds primarily on the basis of yield calculations disclosed in fund prospectuses and advertising and reported in news publications. In determining whether to invest in a particular fund, an investor also may wish to consider other factors such as preservation of capital, risk preference and management policies.[7] A money market fund rating could provide a convenient means of conveying additional information to investors in these areas. To date, relatively few money market funds have obtained ratings. Under current Securities Act requirements, funds may not use NRSRO ratings in statutory and omitting prospectuses without obtaining NRSRO expert consent, although they may use them in sales literature that is accompanied, or preceded, by a statutory prospectus. Because current requirements limit the ability of money market funds to use these ratings in prospectuses and advertising, they may operate as an impediment to funds seeking these ratings. Accordingly, the Commission believes it appropriate to consider providing money market funds greater flexibility in the disclosure of NRSRO ratings assigned to their shares.

The Commission wishes to emphasize that none of the proposed rule amendments, if adopted, would require the use of money market fund ratings. Each money market fund would be responsible for deciding whether to obtain a rating and, once obtained, whether to disclose it.[8] However, as stated in the proposed new guideline for Form N–1A and in the proposed revisions to Rules 134 and 482, a money market fund disclosing a rating in its statutory or omitting prospectus or tombstone ad must disclose the most recent rating and disclose any other rating assigned by an NRSRO and intended for public dissemination which differs materially from the one initially disclosed.

II. Proposed Rule Amendments

A. Rating Organization Consent

The proposed amendment to Rule 436(g) would provide that a rating assigned to a money market fund by an NRSRO [9] will not be considered part of a registration statement, report or valuation prepared or certified by a person within the meaning of sections 7 and 11 of the Securities Act. This proposal would, if adopted, exempt money market funds from the section 7 requirement of filing the consent of the NRSRO assigning the rating to their securities and exempt the NRSRO from civil liability as an expert under section 11 for use of the rating in that situation.

The Commission believes that exempting money market funds from the consent requirement of section 7 and NRSROs from the civil liability provisions of section 11 is a logical extension of the Commission's action in 1982 adopting Rule 436(g) and providing similar relief to issuers and NRSROs in connection with debt securities, convertible debt securities and preferred stock.[10] The proposed change should facilitate the use of money market fund ratings in registration statements and provide money market funds with greater flexibility in the disclosure

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[3] Rule 437 under the Securities Act sets up a procedure for the Commission, upon application by a registrant, to dispense with the written consent required by section 7.

[4] Section 7 [15 U.S.C. 77g] provides in part "[i]f any accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, is named as having prepared or certified a report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement. If any such person is named as having prepared or certified a report or valuation (other than a public official document or statement) which is used in connection with the registration statement but is not named as having prepared or certified such report or valuation for use in connection with the registration statement, the written consent of such person shall be filed with the registration statement unless the Commission dispenses with such filing as impracticable or as involving undue hardship on the person filing the registration statement."

[5] Section 11(a) [15 U.S.C. 77k(a)] provides in part that "[i]n case any part of the registration statement, when such part became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading, any person acquiring such security (unless it is proved that at the time of such acquisition he knew of such untruth or omission) may, either at law or in equity, in any court of competent jurisdiction, sue [five separate categories of persons]." Section 11(a)(4) subjects to liability "every accountant, engineer, or appraiser, or any person whose profession gives authority to a statement made by him, who has with his consent been named as having prepared or certified any part of the registration statement, or as having prepared or certified any report or valuation which is used in connection with the registration statement, with respect to the statement in such registration statement, report, or valuation, which purports to have been prepared or certified by him."

[6] This NRSRO uses four categories of ratings ranging from AAm (indicating a fund where it believes safety is excellent and there is superior capacity to maintain principal value and limit exposure to loss) to Bm (indicating a fund where the NRSRO believes safety is uncertain and there is limited capacity to maintain principal value and limit exposure to loss.)

[7] For example, a money market fund with a lower yield than other funds may have arrived at this yield through a more conservative investment strategy. Disclosure of the fund's rating in its prospectus could assist the investor in evaluating the appropriateness of investing in that fund relative to others.

[8] As discussed below, the Commission is seeking comment on whether the cost of obtaining a rating would be paid by the fund, or another person such as its principal underwriter or adviser.

[9] Organizations other than NRSROs which provide ratings would continue to be required to provide consents under section 7 and would be subject to section 11 of the Securities Act.

[10] Although this proposal would extend the 1982 action to a type of equity security, securities issued by money market funds are merely equity interests in a pool of debt securities and their NRSRO ratings are based primarily on the NRSRO's assessment of these debt securities.

process without impairing investor protection. NRSROs are now, and will continue to be, subject to the antifraud provisions of the securities laws.[11] Adopting the proposed amendments to Rules 134, 436, and 482 will not alter the applicability of the antifraud provisions to NRSROs.

B. Tombstone Ads

Subparagraph (14) of Rule 134(a) would be amended to permit a tombstone ad to include a money market fund rating (or ratings) and the name or names of the NRSRO(s) assigning the rating or ratings. As in the case of Rule 436(g), the term "Nationally recognized statistical rating organization" would be defined by reference to the uniform net capital rule under the Exchange Act. To ensure that investors adequately understand the meaning of ratings used in tombstone ads, the proposed amendment to Rule 134(a) provides that the ad, if it includes any money market fund rating, must include the date of any rating and all other currently available NRSRO ratings intended for public dissemination which materially differ from one another and the name (or names) of the person(s) assigning such ratings. To ensure the currency of any advertised NRSRO money market fund rating, the rule would require that the most recent rating assigned by a NRSRO be used.

C. Omitting Prospectus

Money market funds frequently advertise their securities through the use of omitting prospectuses under Rule 482. Advertisements relying on Rule 482 may contain only information the substance of which is included in the statutory or section 10(a) [15 U.S.C. 77j(a)] prospectus. Because money market funds disclosing their ratings in their registration statements may seek to advertise the rating in a Rule 482 advertisement, the Commission proposes to amend Rule 482 under the Securities Act to indicate the conditions under which it would be permissible to use a money market fund rating in an omitting prospectus. The conditions follow those developed in proposed Guide 34 for use in Form N–1A (discussed below), but have been streamlined to accommodate the abbreviated nature of many omitting prospectuses.

[11] *See* Section 17(a) of the Securities Act, section 10(b) of the Exchange Act and Rule 10b–5 thereunder; with respect to advisers registered or subject to regulation under the Investment Advisers Act of 1940, see section 206 of the Investment Advisers Act. The five organizations which now qualify as NRSROs (see note 1, *supra*) are registered with the Commission as investment advisers.

III. Staff Position on the Use of Exempt Money Market Fund Ratings

In connection with the proposed amendments to Rules 134, 436(g), and 482, the Commission is publishing a proposed new guide—Guide 34—to the staff "Guidelines for Form N–1A." The proposed guideline represents the staff's interpretation on the appropriate disclosure of money market fund ratings in registration statements. The guideline generally follows Regulation S–K [17 CFR 229.10], which sets forth the Commission's basic policy on the use of security ratings of debt securities, convertible debt securities, and preferred securities in Commission filings. Guide 34 differs in some respects from Regulation S–K to accommodate the unique nature of money market funds and the ratings of their securities. While Regulation S–K advises registrants to consider disclosure of certain matters, Guide 34 calls for information which, in the staff's view, must be disclosed if a money market fund rating is to be used in Form N–1A, *e.g.*, the nature of a money market fund rating, material changes in a rating, the date of the rating, the availability of materially different ratings, a decision to discontinue a rating, and related matters. The staff considers the disclosures mandatory because the securities of a money market fund are typically highly liquid, short term, and subject to rapid turnover—factors which could cause a given rating to become quickly outdated.[12]

IV. Cost/Benefit of Proposed Action

Because the proposed rule amendments would make the use of securities ratings optional, the proposal would not impose any costs on money market funds except those associated with the required disclosure about the ratings, which would appear to be minimal. Only where it was decided that the use of a rating would be economically beneficial would the cost of obtaining and maintaining a rating be incurred. Presently, because NRSROs will not consent to expert status as to money market fund ratings, funds may use these ratings only in sales literature which accompanies, or is preceded by, a statutory prospectus. The proposed rule revisions would facilitate the use of ratings in statutory and omitting prospectuses, and in advertising materials such as tombstone ads not accompanied by a statutory prospectus, and would thus reduce the cost to funds of making their ratings known. The Commission believes that, in addition to providing greater flexibility to funds in the use of these ratings, the proposal benefits those investors who find the ratings useful in making investment decisions. The Commission requests specific comment on its assessment of the costs and benefits associated with the proposal, including specific estimates of any costs and benefits perceived by commentators.

[12] In this regard, the one NRSRO which today rates money market funds has advised the Commission staff that it reviews its money market fund ratings at least weekly to ensure currency.

V. Other Matters

A. Ratings of Other Types of Investment Company Securities

NRSROs have assigned ratings to the units of unit investment trusts, particularly units of insured unit investment trusts. The Commission understands that NRSROs have provided consents under section 7 to use of ratings of insured unit investment trusts and the ratings routinely have been included in unit investment trust registration statements and omitting prospectuses. Nevertheless, the Commission requests comment on whether, and under what conditions, it should consider relief with respect to unit investment trusts and other investment company ratings similar to that being proposed for money market funds.

B. Currency of Ratings

The Commission requests comment on the registration statement updating that would be required by the proposed guideline to ensure that material information about ratings is disclosed. The Commission is concerned that money market funds not be permitted to use outdated ratings, given the liquid, short term nature of their portfolios. For this reason the proposal would require that only the most recent rating assigned by each NRSRO could be used in the fund's prospectus and advertising, and that prospectus disclosure be made of any rating change, including a decision by the fund to no longer be rated.

C. Cost of Ratings

The Commission seeks information and comment on how the cost of NRSRO money market fund ratings would be paid and whether payments for ratings could be made pursuant to a distribution plan adopted under Rule 12b–1 [17 CFR 270.12b–1] under the Investment Company Act.[13]

[13] Rule 12b–1 permits funds to pay expenditures primarily intended to result in the sale of fund shares only under the circumstances described in the rule.

List of Subjects in 17 CFR Part 230

Advertising, Confidential business information, Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rule

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

PART 230—RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 is amended by adding the following citations:

(Citations before * * * indicate general rulemaking authority)

Authority: Sections 230.100 to 230.174 issued under Sec. 19, 48 Stat. 85, as amended; 15 U.S.C. 77s, unless otherwise noted. * * *

§ 230.134 also issued under 15 U.S.C. 77b, secs. 2(10), 10(b), 10(c), 10(f) and 19(a) of the 1933 Act;

§ 230.436 also issued under 15 U.S.C. 77f, 77g, 77h, 77s(a), 78c(b), 771, 78m, 78n, 780(d), 78w(a), 78t(a), 78sss(a), 80a–37; and

§ 230.482 also issued under 15 U.S.C. 77g, 77j and 77s(a).

2. By revising paragraph (a)(14)(i) of § 230.134 to read as follows:

§ 230.134 Communications not deemed a prospectus.

* * * * *

(a) * * *

(14)(i) With respect to any class of debt securities, any class of convertible debt securities or any class of preferred stock, the security rating or ratings assigned to the class of securities by a nationally recognized statistical rating organization and the name or names of the nationally recognized statistical rating organization(s) which assigned such rating(s). With respect to any class of money market fund securities, the security rating or ratings assigned to the class of securities by a nationally recognized statitical rating organization and the name or names of the nationally recognized statistical rating organization(s) which assigned such rating(s) and the date(s) the ratings were assigned, *provided* that the communication discloses the most recent rating assigned by each such nationally recognized statistical rating organization and discloses all currently available ratings by a nationally recognized statistical rating organization of such securities which are intended for public dissemination and are materially different from one another.

* * * * *

3. By revising paragraph (g)(1) of § 230.436 to read as follows:

§ 230.436 Consents required in special cases.

* * * * *

(g)(1) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the security rating assigned to a class of debt securities, a class of convertible debt securities, a class of preferred stock or a class of money market fund securities by an nationally recognized statistical rating organization shall not be considered a part of a registration statement prepared or certified by a person within the meaning of sections 7 and 11 of the Act.

* * * * *

4. By amending § 230.482 by adding paragraph (e) before the note to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

* * * * *

(e) In the case of a money market fund which includes in such advertisement a security rating issued by a nationally recognized statistical rating organization it shall include only the most recent rating assigned by each nationally recognized statistical rating organization and shall also include in such advertisement: (1) Any other materially different current rating intended for public dissemination and assigned to the fund by a nationally recognized statistical rating organization; (2) the name of each rating organization whose rating is disclosed and the date the rating was assigned; (3) each rating organization's definition or description of the category in which it rated the fund; (4) the relative rank of each rating within the assigning rating organization's overall classification system; and (5) a statement informing investors that a money market fund rating is not a recommendation to buy, sell, or hold the shares of the fund, and that the rating may be subject to revision or withdrawal at any time by the assigning rating organization.

5. Guideline 34 of Guidelines to Form N–1A which does not appear in the Code of Federal Regulations in published to read as follows:

Guideline 34 to Form N–1A

If a registrant includes in a registration statement filed under the Investment Company Act of Securities Act of 1933 any rating(s) assigned to a money market fund, it must include (A) any other current rating assigned to the fund and intended for public dissemination by an NRSRO ("additional NRSRO rating") that is available on the date of the initial filing to the document and that materially differs from any rating disclosed; and (B) the name of each rating organization whose rating is diclosed and the date the rating was assigned; each rating organization's definition or description of the category in which it rated the fund; the relatives rank of each rating within the assigning rating organization's overall classification system; and a statement informing investors that a money market fund rating is not a recommendation to buy, sell or hold the shares of a particular money market fund, that it may be subject to revision or withdrawal at any time by the assigning rating organization, and that each rating is to be evaluated independently of any other rating. The registrant also is to include the written consent of any rating organization that is not an NRSRO whose rating is included.

If a change in a rating already included in the registration statement is available subsequent to the filing of the registration statement, but prior to its effectiveness, the registrant must include the rating change and its date in the final prospectus. If an additional NRSRO rating which materially differs from any disclosed in the registration statement becomes available during this period, the registrant must amend the registration statement to include the additional rating and its date.

If the fund receives a materially different rating from an additional NRSRO or a change in a rating already included in the registration statement of the fund becomes available during any period in which offers or sales are being made, the registrant must immediately disclose such additional rating or rating change, and its date, by means of a sticker to the prospectus under Rule 497(d) [17 CFR 230.497(d)]. The sticker also must disclose the reason for the change in the rating.

If at any time a registrant decides to no longer disclose its rating, the registrant must immediately disclose the fact by means of a sticker to the prospectus under Rule 497(d). Where the registrant's decision to discontinue disclosure of its rating is preceded by notification from the NRSRO (or other rating organizational) that the rating is under review and is at risk of being lowered, the sticker must disclose these facts.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

March 4, 1986.

Regulatory Flexibility Act Certification

I, John Shad, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rulemaking published in Release Nos. 33–6630 and IC–14984 (March 14, 1986) "Disclosure of Security Ratings by Money Market Funds," will not, if promulgated, have a significant economic impact on a substantial number of small entities. The reason for such certification is that the proposed rules will impose no mandatory requirements upon issuers but, instead, will remove certain regulatory impediments to the voluntary disclosure of security ratings. It is anticipated that the effects of the proposed rules will not be significant for any class of registrants. Thus, the proposed rules will not have a significant economic impact on any small entities.

John Shad,

Chairman.

March 13, 1986

[FR Doc. 86–6153 Filed 3–20–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 86N–0063]

Over-the-Counter Marketing of Beta-Adrenergic Bronchodilators in metered-Dose Inhalers; Establishment of a Public File and Request for Comments

AGENCY: Food and Drug Administration.

ACTION: Request for comments

SUMMARY: The Food and Drug Administration (FDA) is announcing the establishment of a docket containing a public record of the comments, views, and other information submitted to the agency from interested persons concerning the over-the-counter (OTC) marketing of beta-adrenergic bronchodilator drug products in metered-dose inhalers.

DATE: Comments by April 21, 1986.

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

FOR FURTHER INFORMATION CONTACT: Conrad J. Ledet, Center for Drugs and Biologics (HFN–160), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3500.

SUPPLEMENTARY INFORMATION: FDA has established in the Dockets Management Branch, under Docket No. 86N–0063, a public file for all comments, views, and other information submitted to FDA concerning the possible OTC marketing of beta-adrenergic bronchodilators in metered-dose inhalers. At a meeting with firms that submitted applications for the OTC marketing of metered-dose bronchodilators, FDA indicated that the issue would be discussed at a May meeting of the Pulmonary-Allergy Drugs Advisory Committee. The agency also advised applicants of its preliminary view that the information submitted to date in support of the OTC marketing of these products appears to be insufficient, but that the purpose of the advisory committee meeting and the establishment of a docket would be to provide an ample opportunity for all interested parties to submit comments and information for a full consideration of the safety issues involved. Comments supporting or opposing OTC marketing should submit, among other appropriate information, information relating to the safety of OTC marketing beta-adrenergic bronchodilators in metered-dose inhalers. Drug products included in this class are albuterol, isoetharine, isoproterenol, and metaproterenol. The information submitted will be made available to the committee for its consideration at an open meeting of the committee, planned for May 1986. The exact date and detailed agenda for this open meeting will be published in the **Federal Register** at a later date. Received comments will be incorporated into this public file and may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

It is FDA's intent that the discussion at the forthcoming committee meeting be limited to a discussion of OTC marketing of beta-adrenergic bronchodilators in metered-dose inhalers as a class and not a discussion of OTC marketing of specific drug products within the class. Discussion of beta-adrenergic bronchodilators in metered-dose inhalers as a class should include the appropriate criteria that should be used to determine whether any beta-adrenergic bronchodilator in metered-dose inhaler can be safely marketed OTC. Examples of possible appropriate safety considerations include the analysis of abuse and misuse data and adverse reaction data for inhaled beta-adrenergic drugs, the need for physician supervision of the use of these drugs by patients, possible beta-adrenergic drug interactions with other drugs such as theophylline, and the ability to provide adequate labeling that addresses safety concerns and ensures safe self-medication with these products. Safety issues concerning the OTC marketing of specific beta-adrenergic drug products will not be discussed. A discussion of the OTC marketing of specific products within the class may occur at a future meeting of the Pulmonary-Allergy Drugs Advisory Committee depending upon the recommendations at the May 1986 meeting.

The committee's discussion and conclusions regarding beta-adrenergic bronchodilators in metered-dose inhalers may be considered by the agency in its preparation of a final monograph for OTC bronchodilator drug products. Such a monograph is being developed as part of the OTC drug review under Docket No. 76N–052B. The tentative final monograph (proposed rulemaking) for OTC bronchodilator drug products was published in the **Federal Register** of October 26, 1982 (47 FR 47520). Information that has been submitted to the OTC drug review will not be included in this new public file. Any interested person who has submitted information to the OTC drug review and who would like that information made available to the advisory committee should also submit the information to this public file.

It is not FDA's intent to discuss the new drug status of these products at the May meeting. Of course, if the metered-dose product contains a chlorofluorocarbon as a propellant, the product is considered adulterated and/or misbranded unless it is the subject of an approved new drug application under the provisions of 21 CFR 2.125.

Interested persons may submit written comments to the Dockets Management Branch (address above). To assure consideration of comments by the committee, the comments should be submitted on or before April 21, 1986. Two copies of any comments are to be submitted, except that individuals may submit one copy. All comments are to be identified with the docket number found in brackets in the heading of this document.

Dated: March 17, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–6317 Filed 3–19–86; 11:11 am]

BILLING CODE 4160–01–M

21 CFR Part 74

[Docket No. 85N-0150]

D&C Green No. 6; Uniform Specifications

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to establish a uniform set of specifications for D&C Green No. 6 for all of its regulated uses by rescinding the specifications that were established before 1982 for the use of this color additive in sutures and by making that use subject to the specifications that the agency has established for all other uses of this color additive. FDA is also proposing to remove the provision that bars the migration of D&C Green No. 6 from a suture to the surrounding tissues. FDA is taking the latter action because this restriction is not necessary to assure the safety or suitability of the use of D&C Green No. 6 in sutures. Elsewhere in this issue of the **Federal Register**, FDA is issuing a final order that increases the level of D&C Green No. 6 that can be used to color certain sizes of polyglycolic acid surgical sutures, lists the use of the color additive in poly(glycolic acid-*co*-trimethylene carbonate) sutures, and moves the listing of the suture use of D&C Green No. 6 into the subpart of Part 74 for color additives in medical devices.

DATE: Comments by May 20, 1986.

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

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the past 4 years, FDA has adopted three final rules listing new uses of D&C Green No. 6 in drugs, cosmetics, and medical devices (see 47 14138; April 2, 1982; 48 FR 13020; March 29, 1983; and the final rule published elsewhere in this issue of the **Federal Register**). As a result of these changes and of scientific advances, certain provisions of the regulations have become obsolete. FDA is therefore proposing to revise its regulations to establish a uniform set of specifications for all regulated uses of D&C Green No. 6 and to remove an obsolete restriction on its use in sutures.

I. Specifications

There currently are two sets of specifications for D&C Green No. 6. FDA established the first set of specifications in 1962 when it listed the color additive for use in polyethylene terephthalate sutures (27 FR 12828; December 28, 1962; and 33 FR 8815; June 18, 1968). These specifications have been codified at § 74.1206(b)(1) (21 CFR 74.1206(b)(1)). However, elsewhere in this issue of the **Federal Register**, FDA is publishing a final rule that moves the provisions of § 74.1206(b)(1) to § 74.3206 (21 CFR 74.3206). As a result, these specifications are now codified at § 74.3206(b)(2).

In 1982, the agency adopted a second set of specifications for D&C Green No. 6 when it permanently listed the color additive for use in externally applied drugs and cosmetics (47 FR 14138). FDA codified this new set of specifications at § 74.1206(b)(2), although the agency is now recodifying them at § 74.1206(b) (see the final rule published elsewhere in this issue of the **Federal Register**). These specifications are based on the results of methods of analysis that are, for the most part, more specific and more sensitive than those that were used in establishing the original specifications. As a result, § 74.1206(b) contains specifications for specific intermediates instead of a general specification for "intermediates." These newer specifications include a limitation on the carcinogenic impurity *p*-toluidine and restrict the levels of lead and arsenic to no more than 20 parts per million (ppm) and 3 ppm, respectively. The levels for lead and arsenic in the new specifications are higher than in the 1962 specifications. These new levels are appropriate, however, because they are consistent with the current specifications for other D&C color additives and yet still ensure the safety of the color additive.

At the time that it adopted the second set of specifications, FDA announced its intention to establish a single set of specifications for D&C Green No. 6 for all of its regulated uses (47 FR 14145). The agency is now effectuating that intent. This action is appropriate for two reasons. First, because the new specifications are more specific and are based on improved methods, they are more likely to assure the safe use of this color additive than the original specifications. Second, it is more efficient for both the agency and industry to operate under a single set of specifications.

Therefore, FDA is proposing to rescind the specifications in § 74.3206(b)(2). The agency is also proposing to redesignate § 74.3206(b)(1) as § 74.3206(b) and to amend it to provide that the color additive D&C Green No. 6 for use in medical devices shall conform to the specifications of § 74.1206(b).

II. Restriction on Migration

A. Consideration of Need for Restriction

The final rule listing D&C Green No. 6 for use in nonabsorbable polyethylene terephthalate sutures included a restriction that D&C Green No. 6 be added to sutures in such a way as to ensure that there is no migration of the color additive to the surrounding tissue (current § 74.1206(c)(3); redesignated as § 74.3206(c)(3) in the final rule published elsewhere in this issue of the **Federal Register**). This restriction was originally imposed as a suitability requirement. It has no application to absorbable sutures because such sutures, including the color additive, are designed to be absorbed by the surrounding tissue. Nevertheless, in the **Federal Register** of April 25, 1975 (40 FR 18167), when FDA amended § 74.1206 to provide for the use of D&C Green No. 6 in coloring absorbable polyglycolic acid surgical sutures, it inadvertently failed to limit the restriction on migration to nonabsorbable sutures. Consequently, this restriction now applies to polyglycolic acid sutures, which are absorbable, as well as to polyethylene terephthalate sutures, which are not.

FDA has tentatively concluded that the prohibition against migration is not necessary, is impractical for nonabsorbable sutures, and is inappropriate for absorbable sutures. Because analytical methods have become more sensitive since 1962, levels of migration that were undetectable at that time now are measurable. These low levels of migration, which would render the nonabsorbable sutures technically in violation of the current regulation, have no bearing on the suitability of the color additive for suture use.

Color additives are added to sutures to improve their visibility both during suturing and, depending upon the application, during removal of the suture after the sutured area has healed. Thus, to be suitable for use in nonabsorbable sutures, D&C Green No. 6 should be added to the sutures in a way that will ensure that the sutures will retain enough of their color to be visible for removal after healing and that will also preclude visible staining of the surrounding tissues. The petition on the use of D&C Green No. 6 that was submitted in 1962 (CAP 2C0004) includes letters from physicians attesting that the

use of D&C Green No. 6 in polyethylene terephthalate nonabsorbable sutures meets these suitability criteria. Moreover, FDA believes that physicians would not use a suture if the color additive migrated to the extent that removal of the suture would be hindered by visibility problems or that there was marked staining of the tissues. Consequently, the agency tentatively finds that a regulatory restriction on migration is not necessary to assure the suitability of D&C Green No. 6 for suture use.

B. Safety Consideration

FDA also believes that the restriction against migration is not necessary to assure the safety of the use of D&C Green No. 6 in either absorbable or nonabsorbable sutures. The safety of the listed uses of D&C Green No. 6 for coloring absorbable and nonabsorbable sutures is supported by the toxicology studies submitted with the petitions for their listings. These toxicology studies were designed to discover if there were any safety problems from exposure to any D&C Green No. 6 that migrated to the surrounding tissues. They revealed none. Further, none of the toxicology studies submitted to the agency in any of the other petitions for uses of D&C Green No. 6 give any indication that the color additive migrating from sutures poses a potential for harm.

D&C Green No. 6 is manufactured by reacting 1 molecule of quinizarin with 2 molecules of *p*-toluidine. Residual amounts of *p*-toluidine are commonly found among the impurities of this color additive. The presence of *p*-toluidine as a reaction impurity in D&C Green No. 6 is significant because Weisburger et al. have shown that *P*-toluidine is a carcinogen where ingested by mice (Ref. 1). When D&C Green No. 6 originally was listed for coloring polyglycolic acid and polyethylene terephthalate sutures, however, *p*-toluidine had not yet been shown to be a carcinogen. Therefore, FDA did not explicitly evaluate the safety of exposure to *p*-toluidine, which has recently been found to be present in D&C Green No. 6 at levels that average approximately 500 parts per million (see 47 FR 14140), when it listed the use of D&C Green No. 6 in polyethylene terephthalate sutures and in polyglycolic acid sutures.

FDA has concluded that it is possible to list a color additive like D&C Green No. 6 that has not been shown to cause cancer but that contains a carcinogenic impurity (see 47 FR 14140–14145). In deciding whether the use of such an additive is safe, FDA will consider among other things, its calculations of the upper limit of risk from lifetime exposure to the carcinogenic impurity. Evaluation of the risk from exposure to *p*-toluidine from the use of D&C Green No. 6 in polyglycolic acid and polyethylene terephthalate sutures has two parts: (1) An assessment of probable exposure to *p*-toluidine and (2) an extrapolation of the risk from *p*-toluidine observed in the animal bioassay to the possible risk to humans under conditions of use.

1. Exposure

FDA originally listed D&C Green No. 6 for use at levels not to exceed 0.1 percent in polyglycolic acid absorbable sutures and at levels not to exceed 0.75 percent in polyethylene terephthalate nonabsorbable sutures. Although the migration of D&C Green No. 6 from polyethylene terephthalate sutures makes it likely that some *p*-toluidine will move into the surrounding tissues, no data are available on the extent to which *p*-toluidine will migrate from those sutures. For the polyglycolic acid suture, which is absorbable, all of the color additive is released to tissue.

In assessing exposure to *p*-toluidine from the use of D&C Green No. 6 in sutures, the agency has estimated the amount of suture material that a person might receive over a lifetime. Considering the amount of suture material used in various types of surgery, allowing for surgery using a particularly large amount of suture, and considering the probability of multiple surgeries, the agency believes that 10 meters of suture is a reasonable estimate for lifetime use (Ref. 2). Also, to calculate the amount of color additive, the agency is assuming that all suture material is of U.S.P. size 2-0 because that is a common size for general surgery.

The agency is also making the assumptions that all of the suture material to which a person is exposed during his or her lifetime (i.e., 10 meters) contains D&C Green No. 6 at the 0.75 percent level and that all of the *p*-toluidine in the suture migrates. Thus, although (1) nonabsorbable sutures, such as polyethylene terephthalate, would be removed long before all of the color would migrate; and (2) it is extremely unlikely that a person would be exposed to only polyethylene terephthalate suture material (other types of suture materials contain either lower levels or no D&C Green No. 6), the assumptions above are used to represent a worst-case estimate for *p*-toluidine exposure from D&C Green No. 6 in sutures. Based on these assumptions, the agency estimates that lifetime-averaged exposure to *p*-toluidine from D&C Green No. 6 in sutures is not likely to exceed 0.15 nanogram per day (150 picograms per day) (Ref. 3). This estimate of exposure far exceeds the estimated level of exposure from 0.1 percent D&C Green No. 6 in U.S.P. size 2-0 polyglycolic acid sutures (0.03 nanogram per day).

2. Risk Extrapolation

In the agency's document permanently listing D&C Green No. 6 for use in externally applied drugs and cosmetics (47 FR 14138; April 2, 1982), FDA described its use of quantitative risk assessment procedures to extrapolate from the *p*-toluidine dietary dose in the animal experiment to the very low levels of human exposure. The risk analysis employed in this document relies on the same risk assessment procedures.

The simplest method for estimating risk is to compare the human lifetime-averaged systemic exposure to *p*-toluidine from sutures colored with D&C Green No. 6 to the lifetime-averaged systemic exposure of mich fed *p*-toluidine in the Weisburger et al. bioassay (Ref. 1). On this basis, using a linear extrapolation, the agency estimates the upper limit individual lifetime carcinogenic risk from exposure to sutures containing up to 0.75 percent D&C Green No. 6 is 1 in 10 billion or 1 in 100 billion, depending on the specific assumptions in the linear extrapolation procedure (Ref. 3).

The agency recognizes that exposure to *p*-toluidine from sutures is different from that encountered in the Weisburger et al. bioassay, which the agency is using for its risk extrapolation. Exposure to *p*-toluidine from sutures is parenteral and localized, while exposure in the Weisburger bioassay was through lifetime dietary administration. The agency does not wish to imply that linear time-averaging of dose from a dietary study is necessarily the best way to estimate risk from sutures. However, in the absence of explicit scientific information indicating how these exposure differences affect risk, the agency believes that the extremely small risk estimated by simple linear time-averaging of the dose provides a sufficiently large margin of safety for the agency to conclude that use of the color additive in sutures is safe.

The available toxicity data on D&C Green No. 6 and the vanishingly small risk estimate for the exposure to *p*-toluidine that results from the use of this color additive in sutures provide the basis for concluding that there is a

reasonable certainty of no harm from the possibly higher exposure to D&C Green No. 6, including *p*-toluidine, that might occur if all D&C Green No. 6 migrates from nonabsorbably polyethylene terephthalate sutures (or combinations of polyethylene terephthalate and other sutures for which D&C Green No. 6 is listed). As a result, the agency tentatively concludes that the restriction prohibiting migration of the color additive to the surrounding tissue is unnecessary to assure the safety of this use.

Because this restriction is not necessary to assure either the safety or the suitability of the sutures, FDA is proposing to remove it from the regulation.

The agency has determined under 21 CFR 25.24(a)(9) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This proposed rule will subject D&C Green No. 6 for use in sutures to the same specifications that the agency has established for the other uses of this color additive. Because the agency believes that all affected color additive manufacturers are currently able to meet these uniform specifications, FDA does not expect that any additional cost will result from the specifications outlined in the proposal. In addition, the removal of the provision that bars the migration of D&C Green No. 6 is permissive in nature, so no additional cost will be associated with this action.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that this regulation will not result in any additional cost to manufacturers of D&C Green No. 6. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

Although this action is exempt from Executive Order 12291, the agency has analyzed the economic effects of this rule and has determined that it will not result in a major rule as defined by that Order.

Interested persons may, on or before May 20, 1986, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

III. References

The following information has been placed on display with the Dockets Management Branch (address above) and is available for review in that office between 9 a.m. and 4 p.m., Monday through Friday.

1. Weisburger, E.K., et al., "Testing of Twenty-one Enviornmental Aromatic Amines or Derivatives for Long-Term Toxicity or Carcinogenicity," *Journal of Environmental Pathology and Toxicology*, 2:325–356, 1978.

2. Memorandum to the record dated October 10, 1985, from the Food Additive Chemistry Evaluation Branch, Re: "Exposure Estimates from Color Additives in Sutures."

3. Memorandum dated November 1, 1985, from the Quantitative Risk Assessment Committee to Director, Office of Toxicological Sciences, Re: "Risk from *p*-Toluidine in Sutures."

List of Subjects in 21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 74 be amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 is revised to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

2. In § 74.3206 by removing paragraph (c)(3) and by revising paragraph (b), to read as follows:

§ 74.3206 D&C Green No. 6.

* * * * *

(b) *Specifications.* The color additive D&C Green No. 6 for use in medical devices shall conform to the specifications of § 74.1206(b).

* * * * *

Dated: March 18, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–6316 Filed 3–19–86; 11:48 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Government National Mortgage Association

24 CFR Part 390

[Docket No. R–86–1271; FR–2135]

Guaranty of Mortgage-Backed Securities

AGENCY: Office of the President of the Government National Mortgage Association, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the regulations governing the date for the first scheduled monthly payment of principal and interest for a mortgage in a pool backing mortgage-backed securities. Under this rule, a mortgage would have to have a date of first scheduled monthly payment that is no more than 24 months before the issue date of the securities. The current rule requires this date to be no more than 12 months before the date on which GNMA commits to guarantee the issue of securities. This technical revision is being proposed to help implement GNMA's new automated system for handling the issuance of commitments for mortgage-backed securities.

DATE: Comments must be received by May 20, 1986.

ADDRESS: Interested persons are invited to submit written comments regarding this rule on or before the due date to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at above address.

FOR FURTHER INFORMATION CONTACT: Richark W. Dyas, Vice President, Office of Mortgage-Backed Securities, Government National Mortgage Association, Room 6224, 451 Seventh Street, SW., Washington DC 20410–9000. Telephone: (202) 755–8772. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: GNMA is developing a new, highly automated system for dispensing and managing commitments to guarantee mortgage-backed securities. Under this new "commitment line system," issuers will request initial or additional "commitment authority," as opposed to commitments for specific pools, as is

done at present. This new system will eleminate the problems currently experienced with after-the-fact changes to the individual commitments by issuers.

In order to implement this new system, it is necessary to revise the current regulations governing the age of a mortgage eligible for pooling. Currently, the age of a mortgage is measured from the date of GNMA's commitment to guarantee the issue of securities. Since under the new "commitment line system" the date of GNMA's commitment is no longer a critical date, the rule proposes to measure the age of a mortgage from the issue date of the securities. Under this proposed rule a mortgage must have a date for the first scheduled monthly payment of principal and interest that is no more than 24 months before the issue date of the securities. This period is comparable to the period under the current regulations, which is no more than 12 months before the date on which GNMA commits to guarantee the issue of securities. Since the GNMA commitment itself is effective for a period of 12 months, the combined period for the pooling of newly-originated mortgages is currently 24 months.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities. The change to be effected by this rule is a technical revision. It is intended to help implement an automated tracking system; it should have little or no economic impact on any entities participating in the affected program.

The rule was listed as item 933 in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166, 44205), pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Accordingly, GNMA proposes to amend 24 CFR Part 390 as follows:

PART 390—GUARANTY OF MORTGAGE-BACKED SECURITIES

1. The authority citations for Part 390, Subparts A, B, C, D, and E would be removed, and the authority citation for Part 390 would be revised to read as follows:

Authority: Secs. 306(g) and 309(a) of the National Housing Act, 12 U.S.C. 1721(g) and 1723a(a); sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

2. In § 390.7 paragraph (b) would be revised to read as follows:

§ 390.7 Mortgages.

* * * * *

(b) Have a date for the first scheduled monthly payment of principal and interest, or a date of purchase from an Association-approved auction, that is no more than 24 months before the issue date of the securities.

* * * * *

3. In § 390.27, paragraph (b) would be revised to read as follows:

§ 390.27 Mortgages.

* * * * *

(b) Have a date for the first scheduled monthly payment of principal and interest that is no more than 24 months before the issue date of the securities.

* * * * *

4. In § 390.43, paragraph (c) would be revised to read as follows:

§ 390.43 Motgages.

* * * * *

(c) Have a date for the first scheduled monthly payment of principal (which may be negative) and interest, or a date of purchase from an Association-approved auction, that is no more than 24 months before the issue date of the securities.

* * * * *

Dated: March 12, 1986.

Glenn R. Wilson, Jr.,

President, Government National Mortgage Association.

[FR Doc. 86-6226 Filed 3-20-86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 585]

North Fork of Long Island Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area located in Suffolk County on the North Fork of eastern Long Island, New York. The proposed viticultural area includes all of the land areas in the Townships of Riverhead, Shelter Island, and Southold. The petition was submitted by a group of Long Island grape growers and bonded viticultural area. ATF feels that the establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers identify the wines they may purchase.

DATES: Written comments must be received by May 5, 1986.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 585).

Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Reading Room, Room 4406, Ariel Rios Federal Building, 12th and Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR,

Part 4. These regulations allow the establishment of definite viticultural areas. The regulations also allow the name and boundaries of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features, the boundaries of which have been delineated in Subpart C of Part 9.

Section 4.25a(e)(2), outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticutural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticutural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition for "North Fork of Long Island"

AFT has received a petition proposing a viticultural area on the North Fork of eastern Long Island, New York. The proposed viticultural area is to be known as the "North Fork of Long Island." The petition was submitted by the Long Island Grape Growers Association based in Riverhead, New York. The petition was compiled by Richard T. Olsen-Harbich, Winemaker of the Bridgehampton Winery, Bridgehampton, New York and President of the Long Island Grape Growers Association.

Mr. Harbich also prepared a petition on behalf of the Bridgehampton Winery for "The Hamptons, Long Island" viticultural area. "The Hamptons, Long Island" was approved as an American viticultural area on June 17, 1985 (50 FR 20409). It includes all of the land areas in the (South Fork) Townships of Southampton and East Hampton. This viticultural area is located just across the bay from the proposed viticultural area.

The proposed North Fork of Long Island viticultural area consists of the Townships of Riverhead, Shelter Island, and Southold (including all mainland and island areas). The total area encompassed by the proposed boundaries consists of 158.5 square miles of 101,440 acres of land. There are 5 bonded wineries operating within the proposed viticultural area. The petitioner bases this petition on the following information:

Evidence of Name

According to the petitioner, the origin of the name North Fork was based on the way Long Island "forks" at its eastern end at Riverhead into the North and South Fork. The Long Island Railroad uses the term North Line and South Line to describe the rail routes that travel through those parts of Long Island. Those rail route names also point out the division between the North Shore (the area bounded by the Long Island Sound) and South Shore (the area bounded by the Atlantic Ocean) of Long Island. Today, the references North Shore and South Shore are commonly used by Long Islanders to identify the dual maritime coasts of Long Island out to the east end, where the North Fork and South Fork are formed. The two eastern Long Island forks are described as the North and South Forks. The South Fork is also commonly known as The Hamptons.

According to the petitioner, the name "North Fork" is locally used to describe the land area on the North Shore of Long Island beginning at Riverhead Township and extending east for approximately 40 miles to Orient Point. This description is supported by many publications, businesses, and landmarks which use the name North Fork to distinguish this region from the rest of Long Island. According to local phone directories there are at least 45 Long Island businesses which use the term "North Fork" as part of their name.

Evidence of Boundaries

The actual geographic area of the North Fork, although attached to a larger island, may be referred to as a peninsula. This is due to the fact that three of its boundaries are surrounded by water: The Long Island Sound to the north, the Peconic Bay to the south and the Atlantic Ocean to the east.

The proposed North Fork of Long Island viticultural area lies entirely in Suffolk County. The western boundary of the proposed North Fork appellation is the 6.5 mile long boundary line separating Brookhaven and Riverhead Townships. The boundary starts at the mouth of the Wading River and follows it in a southeasterly direction. It then heads south in a straight line cutting through Peconic River Park to meet the beginning of the Peconic River. The boundary travels east along the river until it empties into the Peconic Bay. It is at this point that the boundary line becomes three bodies of water. The Peconic Bay accounts for the rest of the southern boundary, meeting the Atlantic Ocean at Orient Point. The entire length of the North Fork from its start at the Brookhaven/Riverhead Town line, east to Orient Point, is approximately 40 miles. The North Fork is 6 miles wide at its widest point and less than .5 mile wide at its narrowest point. The townships making up the area—Riverhead (78 square miles), Shelter Island (11.5 square miles) and Southold (69 square miles)—cover a combined total of 101,440 acres of land or 158.5 square miles. Shelter Island, although a separate land area from the mainland of Long Island was included in the boundaries of the proposed North Fork viticultural area because of its immediate proximity to the area. Also, another reason for its inclusion in the proposed viticultural area is because it is composed of similar soil associations as those making up the remainder of the North Fork.

According to the petitioner, it is the sea that surrounds Long Island (and more specifically the North Fork) which makes it a unique agricultural area. According to information gathered from the book titled *History of Long Island, New York*, by Benjamin F. Thompson (1839), the sea renders it more temperate than many other places in the same latitude in the interior. Information gathered from that book states that the area is almost regularly fanned by a breeze from the ocean. It states that the air from the sea also has a powerful effect on the climate. It modulates the heat in the summer and the cold in the winter. The petitioner claims that it is this moderating effect of the water on the North Fork which makes it an area suitable for fine wine grapes.

The petitioner referred to the following statement in the book on Long Island history by Thompson: "When Long Island was discovered by Henry Hudson in 1609, he found an island covered with forests, trees loaded with fruit and grapevines of many kinds."

According to the same book, the North Fork was the home of several tribes of Indians prior to its settlement by the English. The primary tribes were Corchougs. It is from these Indians that the English settlers purchased the area known as Southold (the Indians called it Yennecock). This area is roughly equivalent to the boundaries of the proposed viticultural area; the western boundaries of Wading and Peconic Rivers to the eastern boundary of Orient Point.

According to information gathered by the petitioner from Edna Yeager, a historian of the North Fork, "The first settlers found that grapes were just waiting for the winemaker."

The petitioner claims that during Colonial times the major industry of the proposed viticultural area was agriculture. Over the years the conservatism of the farmers helped maintain the area. Today agriculture still is the major industry of the area.

Viticultural History

According to a conversation held between the petitioner and John Wickham (a fruit farmer and pioneer Long Island grape grower whose family dates back some 300 years on the North Fork), the settlers trained the native grapes onto arbors behind their homes. According to Wickham, many of the older homes still have grape arbors. European wine grapes were not used on Long Island until the Prince Nurseries started in the late 1700's. Prince Nurseries located in the Borrough of Queens (New York City), sent European vinifera vines to purchasers all over Long Island, including the North Fork. The backyard arbors were pretty much the extent of grape-growing on the North Fork for the period from 1830 to 1963. There were a few attempts at commercial grape-growing on the North Fork but these failed (most notably by a Moses Fournier who in the late 1800's planted quite a large vinifera vineyard near Mattituck).

According to the petitioner, the beginning of the successful commercial vineyards on the North Fork was in 1963. In that year John Wickham planted a selection of table grapes from Cornell University. So successful was one of the varieties that it was named "Suffolk Red," for the county where it thrieved. Mr. Wickham has grown grapes on the North Fork for over 20 years. Prior to his success, vinifera grapes did not survive because of a combination of diseases.

It is the petitioner's opinion that the success of John Wickham has led others to the North Fork. The petitioner stated that the interest in grape growing on the North Fork started slowly, but has continued at an accelerated pace in recent years. Professor John Tomkins of Cornell University held conferences in the North Fork area in 1968 and 1971. In the Suffolk County Agricultural News, Volume LV, No. 5, (1971), Tomkins wrote, "There are many good sites for grapes on Long Island. Some apple and dairy farmers are taking a real careful look at the opportunities in grape-growing."

The petitioner said that it was Professor Tomkins who steered Alex Hargrave to the North Fork. Hargrave Vineyard was planted in 1973. It was the first commercial vinifera vineyard on the North Fork in the 20th Century. The book *North Fork and Shelter Island Guidebook*, edited by James I. Masters, (1981), quoted Alex Hargrave in the following text: "The Sound and the Great Peconic Bay act as a natural thermostat in the spring and the fall, giving it a longer frost-free season than southern Virginia. The North Fork is a sliver of land almost completely surrounded by water. Compare this with the famous regions of Bordeaux which are on the leeward side of a river a couple of kilometers wide. Long Island is much more at the bord d'eau (at the waters edge) than Bordeaux. The growing season is 45 days longer than upstate. There are over 3,000 hours of sunlight (Cutchogue is the sunniest village in the state). Because there is virtually no fog on the North Fork, crops ripen three weeks earlier than the South Fork and danger from humidity is minimized. The constant offshore breezes control mildew as the leaf blades of the vine are dried within hours of rain. The North Fork is almost 100% photosynthetically efficient."

Present and Future Viticultural Situation

The total grape acreage on the North Fork is approximately 1,000 acres. The petitioner stated that by the end of 1985 it is estimated that there will be over 1,200 acres of grapes on the North Fork. He claims that Long Island's North Fork has been and is today one of the more prominent agricultural areas in New York. The petitioner states that the North Fork is known for a distinction being primarily agricultural with a substantially different character and culture than the South Fork.

According to the petitioner, the North Fork is just beginning to break out of its infancy as a viticultural region. To support this statement, he said that the North Fork has supported vinifera grapes successfully for over a decade. The petitioner said that as the second decade of North Fork grape-growing approaches, much more acreage is expected to produce a full crop as well as new plantings.

Currently, there are 5 wineries in operation on the North Fork of Long Island: Hargrave, Lenz, Jamesport, Pindar and Peconic Bay Vineyards. The petitioner claims that there are 3 other wineries scheduled for opening in 1986 at Riverhead, Laurel, and Cutchogue. The petitioner states that it is very possible that as many as 25–50 wineries could eventually be in operation on the North Fork by the end of this century.

According to the petitioner, the North Fork of Long Island and its potential for producing quality grapes and wine, represents opportunity for the prospective vintner. He said the soil and climate are suited to vinifera grape production like no other area in the Eastern United States. According to the petitioner the early results from grape plantings on the North Fork hold promise for red vinifera varietals such as Carbernet Sauvignon and Merlot.

Appropriate Maps With Boundaries Marked

The petitioner submitted 5 U.S.G.S. maps with the boundaries prominently marked on them. The boundaries of the proposed "The North Fork of Long Island" viticultural area may be found on the following maps: Riverhead, N.Y., 1956, 7.5 minute series, scaled at 1:24,000; Wading River, N.Y. edition of 1956, 7.5 minute series, scaled at 1:24,000; New York, N.Y.; N.J.; Conn., U.S. 1:250,000 series, scaled at 1:250:000, edition of 1960, revised 1979; Hartford, Conn.; N.Y.; N.J.; Mass., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1975; and Providence, R.I.; Mass.; Conn., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969.

Geographical Evidence Which Distinguishes the Proposed Area From Surrounding Areas

Soils

The grape growing region of the North Fork when compared to the South Fork (The Hamptons), has distinctly different soil types. The difference in soil types begins north of the Peconic River and continues eastward toward Orient Point. According to the United States Soil Conservation Service, the major soil types which are found on the North Fork are as follows:

1. *Carver-Plymouth-Riverhead Association.* These soils are excessively well-drained and are very sandy, which may limit its farmability. They are located primarily on the perimeter of the North Fork and are usually rolling or

sloping. The natural fertility of these soils is low and the rapid permeability of water through these soils makes irrigation a desirable option for vineyards in these areas. They are found mainly along the North Shore adjoining the Long Island Sound.

Fishers and Plum Islands, although separate islands located east of the mainland of the North Fork, are composed of this same soil association.

2. *Haven-Riverhead Association.* These soils are characteristically deep and somewhat level and are located further inland on the North Fork. They are well-drained and have a medium texture. Most of these soils have a moderate to high water holding capacity and crops respond well to lime and fertilizer when grown on these soils. Due to these factors, this soil assocation (which is the predominant one of the North Fork) is considered one of the best farming areas in Suffolk County.

3. *Montauk-Haven-Riverhead Associations.* These soils are deep, nearly level to strongly sloping in character. They are well drained to moderately well drained soils. They tend to be moderately coarse in texture. They are the associations found on the North Fork areas of Robins and Shelter Island, located just south of the mainland.

The soils of the South Fork (The Hamptons), on the other hand, are somewhat different, and many more associations are present:

1. *Plymouth-Carver Association.* These soils are rolling, hilly, deep and excessively drained. Characteristically, scrub oak and other minor trees are found as cover. Permeability is rapid and natural fertility is low.

2. *Bridgehampton-Haven Association.* These soils are deep and excessively drained and have a medium texture.

3. *Montauk-Montauk, Sandy Variant—Bridgehampton Association.* These soils are deep and usually very sloping. Presently, most of this area is either idle or wooded.

4. *Montauk, Sandy Variant—Plymouth Association.* These soils are excessively drained and coarse textured. This loamy-sand is droughty but contains a black surface layer which is high in organic matter content.

5. *Montauk-Haven-Riverhead Association.* These soils are fairly well-drained and are sparsely found on the northern side of the South Fork along the Peconic Bay at Cow Neck, Noyack, North Haven, and outlying Gardiners Island. The surface layer is a silt loam, with a fine sandy loam found at deeper levels. These soils are very deep and well-suited to cultivation.

The remainder of the soils on the South Fork consist of the *Dune-Land-Tidal Marsh-Beach Association,* which make up the beach and marshland areas.

Westward from here and into New York City, the soil associations become even more foreign to those found on the eastern end of Long Island. It must also be pointed out that while various soil types found in western Long Island may be similar to those found on the North Fork, the encroachment of suburban development and industry on Long Island has made commercial agriculture and land available for it, almost non-existent in the townships west of Brookhaven.

As one can see, the soils of the North Fork and the South Fork (The Hamptons) are quite different, each giving the grapes that are grown there, a distinct and unique character. At the Town of Brookhaven/Riverhead boundary line where the forks meet, there is still some slight separation of the different soil associations. West of this area, however, the soil associations of Long Island tend to become less restricted to a distinct geographic area and much more intermingling and blending of soil series can be found. Also, there are the soils making up the "spine" of Long Island, namely "The Pine Barrens." The soils of the "Pine Barrens" can support just that; short scrubby pine forests are the only vegetation in the light, extremely sandy and unfertile soils of this area.

Land Classes are sub-divisions determined by the U.S. Soil Conservation Service to rate the capabilities of various soil series. Most of the soils on the North and South Forks fall into the Land Class members I and II, which state that "the soils contain few or moderate limitations that restrict their use." There are, however, a greater percentage of soil series on the South Fork which are listed under Land Class III, which states: "These soils have limitations that reduce the choice of plants, require special conservation practices, or both."

In general, the soils of the North Fork contain a smaller percentage of silt and loam than the soil series found on the South Fork (The Hamptons). This accounts for the fact that South Fork soils have a greater water-holding capacity than North Fork soils and require less irrigation. The soils for the North Fork are also generally slightly higher in natural fertility than the soils of the South Fork.

Climate

According to the petitioner, the climate classification for the North Fork is "humid-continental." However, this is greatly modified by the Atlantic Ocean. The maritime influence on the North Fork is significant. The surrounding water extends the period of freeze-free temperatures, reduces the range of diurnal and annual temperatures, and increases the amount of winter precipitation relative to summer.

Although the North and South Forks of Long Island are relatively close together, there are many climatic differences which exist between these two areas. These differences are due to the unique topography of the Eastern End and the relationship of the two forks to the Atlantic Ocean.

Most of the climatic data for the Eastern End of Long Island is recorded from three stations; the Cornell University Experimental Station in northeast Riverhead Township (located on the North Fork), The Greenport weather station (located on the North Fork), and the U.S. weather station in Bridgehampton (located on the South Fork). The Cornell University station has been recording weather data since the 1950's, while the Bridgehampton station has been operating for almost half a century.

According to this data there are definite climatic differences which exist between the two forks. For example, the average winter temperature on the North Fork is usually lower than that of the South Fork. This is true even though there are often much lower winter minimum temperatures recorded on the South Fork for certain cold days of the year. The reason for this is that the North Fork is further away from the Atlantic Ocean and hence does not receive as great an effect from the warmed southwest winds which come in from the Atlantic Ocean. In the winter, the prevailing winds come from the southwest and are warmed slightly by the Atlantic Ocean. In the winter, the sound, bay, and ocean have buffering effects due to their accumulation of heat from the summer and fall months. This wind will therefore buffer the temperatures of the South Fork, as it passes over, however, by the time the wind passes over the colder land and Peconic Bay and reaches the North Fork, it has lost some of its warmth and has less of a buffering effect on the temperatures of the North Fork. These breezes, along with those coming off the Long Island Sound, will almost always keep winter minimum temperatures high enough to prevent commercial vine damage.

By the time spring arrives, the ocean has cooled somewhat from the low winter temperatures. Breezes coming

from the south at this time of year will therefore become cooled by the ocean, and as they pass over the warming land, a fog will often be produced. This fog will often become trapped on the South Fork and can reduce the accumulation of sunlight and warmth for vine growth. Therefore, in the springtime, the North Fork will usually have more sunshine earlier and also have a higher average temperature.

During the summer months the southern breezes coming off the South Fork and bay will keep the average temperatures of the North Fork slightly higher. As the winds pass over the South Fork, they travel over the Peconic Bay, which is a smaller body of water and hence warmer. During the summer, the North Fork of the Island also receives a greater number of thunder storms. These storms usually arrive from the west, and are pushed over towards the North Fork by the prevailing southwest winds.

During the fall, the North Fork of Long Island can also expect slightly warmer temperatures than the South Fork. Otherwise, both forks have the benefit of enjoying a fall season consisting of a lot of sunshine and normal amounts of precipitation. The ocean effect, which alters the climate of both the North and South Fork, is considerably reduced west of Riverhead, where the island widens. The petitioner claims it is this reason along with the increased blending of soil series, which keeps either Fork from being considered part of a large Long Island appellation.

The petitioner believes that although the amount of sunshine and rainfall can have an effect on the length of the growing season, the single most important factor is the number of days between the spring and fall frosts. In data taken from the Riverhead station on the North Fork and from the Bridgehampton station on the South Fork, the petitioner states that there are differences in the frost dates for both forks. During the 11-year period from 1973–1983, the number of days between frosts, or the length of the growing season averages 195 days at Riverhead (North Fork), 201 days at Greenport (North Fork) and 188 days at Bridgehamption (South Fork).

In 7 out of the 11 years recorded, there was anywhere from 1 to over 3 weeks longer growing season on the North Fork as compared to the South Fork.

The use of heat summation of "Growing-Degree Days" is also another standard for determining climatic differences in the grape-growing areas. Heat-summation is a standard developed by the University of California at Davis, and is the measurement of the mean monthly temperatures of a single area, above 50 degrees F. The importance of heat-summation above 50 degrees F (10 degrees C) as a factor in grape quality has been indicated by Koblet and Zwicky (1965) and also by Amerine and Winkler (1944). The University of California at Davis broke down various areas into 5 climatic regions. They are as follows:

Region I—Less than 2,500 degree days
Region II—2,501–3,000 degree days
Region III—3,001–3,500 degree days
Region IV—3,501–4,000 degree days
Region V—4,001 or more degree days

The average number of degree days for 1941 through 1970 at Riverhead (North Fork) and Bridgehampton (South Fork) are as follows:

Riverhead (North Fork)—2,932
Bridgehampton (South Fork)—2,531

From the period of 1941 and through 1970, the average number of heat summation days for the Riverhead Station (North Fork) placed them between the Regions II and III. During this same period, Bridgehampton (South Fork) was placed between the Region I and II. The Growing Degree Days average for the periods of 1973–1979 averages as follows:

Riverhead (North Fork)—2,987
Bridgehampton (South Fork)—2,572

Once again, it may be observed that during the period of 1973 through 1982, the area of the Riverhead Station (North Fork) varied between Regions II and III while Bridgehampton (South Fork) area varied between Regions I and II.

As the previous data has shown there are quite a few differences between the climate of the North Fork and that of the South Fork. From the following data, one will be able to see that the climate on the rest of Long Island is also significantly different from the climate found in the North Fork:

Days of Growing Season 1973–1982 Averages

Riverhead (North Fork)	194
Bridgehampton (South Fork)	184
Brookhaven Lab (10 miles west of North Fork)	152
Patchogue (20 miles southwest of North Fork)	177
Mineola (50 miles west of North Fork)	206
Central Park NYC (60 miles west of North Fork)	222

According to the petitioner, the previous data shows the differences in growing seasons that can occur from eastern to western Long Island. The Long Island Sound, Atlantic Ocean, and bay areas are the main reasons for the North Fork's buffered climate. As the forks merge into the main body of Long Island, the effect of these waters is greatly diminished especially with southwest winds prevailing. This is evident in the data shown for both Brookhaven and Patchogue. Brookhaven, located 10 miles west of the North Fork, can have as much as 50 days (almost 2 months) less growing season than Riverhead. Patchogue (located on the south shore about 20 miles from the North Fork) can also be seen to be as much as 45 days less, with most seasons being around 1–2 weeks less than Riverhead. The data given for Mineola (a large suburban area in Nassua County about 50 miles west) and Central Park-New York City (located 60 miles west), show the increasing effect of the buffering ocean winds as the western end of the island begins to narrow once again. A great deal of this effect as well, is most likely due to the great amount of industrial warmth supplied from what is largely an urban area.

The petitioner stated that the amount of heat summation or "growing degree days" accumulated in areas west of the North Fork also differs considerably. The following data is taken from the Brookhaven National Laboratory for the periods 1973 through 1979:

Growing Degree Days Averages

Riverhead (North Fork)	2,987
Brookhaven Nat. Lab. (10 miles west)	2,403

Over the period of 1973–1979, Brookhaven averaged 584 growing days less than Riverhead. This significant difference in heat summation correlates with the shorter growing season found there, as shown previously.

The main reason the climate differs west of the North Fork is due to the lesser effect of the ocean and bay on buffering temperatures. The following data shows further, the decreasing buffering effect of the winds of the North Fork:

Minimum Temperatures 1973–1982

	Average
Riverhead (North Fork)	+4
Patchogue (20 miles west—South Shore)	−1.7
Westbury (40 miles west—Central L.I.)	−1
Wantagh (45 miles west—South Shore)	+.5

From the previous data the area of Patchogue averaged 5.7 degrees (F) colder than Riverhead; the limited data on Wantagh also shows a 3.5 degree average lower temperature for the area. The North Fork is a much narrower strip of land than the main body of Long Island, and therefore the temperature of this area is buffered to a much greater degree than the wider area west of Riverhead.

Based on the evidence provided in this notice, it is the opinion of the petitioner, that the proposed boundary for the North Fork of Long Island appellation defines an area with unique climatic and soil conditions, different from the rest of Long Island.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking because the proposal is not expected (1) to have significant secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact nor compliance burdens on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rulemaking is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 34, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments from all interested persons concerning this proposed viticultural area. This document proposes possible boundaries for the "North Fork of Long Island" viticultural area. However, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her requests, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, Wine.

Drafting Information

The principal author of this document is Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

PART 9—[AMENDED]

27 CFR Part 9—American Viticultural areas is amended as follows:

Par. 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. The table of contents in 27 CFR Part 9, Subpart C, is amended to add the title of 9.113 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.
9.113 North Fork of Long Island

Par. 3. Subpart C is amended by adding 9.113 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.113 North Fork of Long Island.

(a) *Name.* The name of the viticultural area described in this section is "North Fork of Long Island."

(b) *Approved Maps.* The appropriate maps for determining the boundaries of the "North Fork of Long Island" viticultural area are 5 U.S.G.S. maps. They are entitled:

(1) Wading River, N.Y. 7.5 minute series, scaled at 1:24,000, edition of 1967.

(2) Riverhead, N.Y. 7.5 minute series, scaled at 1:24,000, edition of 1956.

(3) New York, N.Y.; N.J.; Conn., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1960, revised 1979.

(4) Providence, R.I.; Mass.; Conn.; N.Y., U.S., 1:250,000 series, scaled at 1:250,000, edition of 1947, revised 1969.

(5) Hartford, Conn.; N.Y.; N.J.; Mass., U.S. 1:250,000 series, scaled at 1:250,000, edition of 1962, revised 1972.

(c) *Boundaries.* The boundaries of the proposed viticultural area are as follows:

The proposed North Fork of Long Island viticultural area is located entirely within eastern Suffolk County, Long Island, New York. The proposed viticultural area boundaries consist of all of the land areas of the North Fork of Long Island, New York, including all of the mainland, shorelines and islands in the Townships of Riverhead, Shelter Island and Southold, New York.

(1) The point of beginning is on the Wading River, N.Y., 7.5 minute series U.S.G.S. map at the northern boundary of the Brookhaven/Riverhead Township lines on the Long Island Sound approximately 500 feet east of the mouth of the Wading River;

(2) The boundary goes south on the Brookhaven/Riverhead Town line for approximately 6.5 miles until it meets the Peconic River approximately 1 mile east of U.S. Reservation Brookhaven National Laboratory;

(3) Then the boundary travels east on the Peconic River (Brookhaven/Riverhead Town line) for 2.7 miles until it meets the Riverhead/Southampton Township line on the Riverhead, N.Y. U.S.G.S. map;

(4) It then goes east on the (Riverhead/Southampton Township line) for 4.2 miles until it reaches an area where the Peconic River widens north of Flanders;

(5) Then the boundary proceeds east to Orient Point then west along the shoreline, beaches, islands and mainland areas of the North Fork of Long Island described on the "New York," "Providence," and "Hartford"

U.S.G.S. maps until it reaches the Brookhaven/Riverhead Township line at the point of beginning. These boundaries consist of all of the land (and isolated islands including, without limitation, Wicopesset Island, Robins Island, Fishers Island, Great Gull Island, Plum Island, and Shelter Island) in the Townships of Riverhead, Shelter Island, and Southold.

Approved: March 10, 1986.

W.T. Drake,

Acting Director.

[FR Doc. 86-6195 Filed 3-20-86; 8:45 am]

BILLING CODE 4810-31-M

POSTAL SERVICE

39 CFR Parts 310 and 320

Restrictions on Private Carriage of Letters; Withdrawal of Proposed Rule; Advance Notice of Proposed Rulemaking and Request for Information

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule; advance notice of proposed rulemaking and request for information.

SUMMARY: On October 10, 1985, the Postal Service published in the **Federal Register** (50 FR 41462) a proposed modification and clarification of the regulations on the Private Express Statutes, with minor and procedural revisions on October 22, 1985 (50 FR 42729) and November 8, 1985 (50 FR 46464). The proposed rule, which is hereby being withdrawn, dealt for the most part with the carriage of international letters by private firms who remail them outside the United States.

The Postal Service received a significant number of comments on the proposed rule. Following review of the comments, the Chairman of the Board of Governors of the Postal Service issued a statement, which is reproduced below. The Chairman noted, among other things, that the remail issue has generated considerable controversy about the proper scope of the Private Express Statutes and implementing regulations. Accordingly, the Chairman announced that a new rulemaking proceeding will be initiated as soon as a factual record is fully developed. The Postal Service has sent a letter to each commenter, a sample of which is reproduced below, requesting information for that record. The principal purpose of this notice is to request the same information from other members of the public.

DATE: Withdrawal of the proposed rule is effective March 20, 1986. Comments and information needed to develop a full and factual record must be received on or before April 30, 1986.

ADDRESS: Written comments and information should be addressed to the General Counsel, Law Department, United States Postal Service, Washington, DC 20260-1113. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 5128, 955 L'Enfant Plaza, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 268-2970.

SUPPLEMENTARY INFORMATION: As noted above, the Postal Service is undertaking to develop a factual record in preparation for a new rulemaking proceeding and has sent a letter to each commenter soliciting information for that record. The Postal Service requests the same information from other members of the public. Accordingly, a sample of the letter is reproduced here, along with the Statement of the Chairman of the Board.

List of Subjects in 39 CFR Parts 310 and 320

Postal Service, Computer technology, Advertising.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

March 14, 1986.

Dear ———: For the reasons more fully discussed in the enclosed statement by John McKean, Chairman of the Board of Governors, the Postal Service is undertaking to gather information and develop a factual record in preparation for the initiation of a new rulemaking proceeding relating to the practice of international remailing. We are writing to you, as a person who submitted comments in response to our earlier notice of proposed rulemaking on this subject, to solicit information for that record.

The particular focus of our inquiry is the appropriate scope of a new suspension of the Private Express Statutes which may be necessary to serve the interests of our customers. We solicit information from you as to the kind or kinds of private services which in your experience have met, or in your estimation would meet, your needs or the needs of the public, with respect to letters being sent to addressees in foreign countries, more satisfactorily than those provided by the postal Service. Of greatest value to us in this respect would be information that addresses such points as the following:

- The nature of the correspondence;
- The degree of urgency and the type of harm that would be caused by delay;
- Any differential in promptness of service between letters that are "remailed" and those sent through the Postal Service;
- Whether the correspondence is eligible for private carriage under the current loss-of-value test of the suspension for extremely urgent letters (see 39 CFR 320.6 (b), copy attached);
- The extent to which the correspondence is intra-company;
- The extent to which letters privately carried to foreign countries are "remailed" or are delivered to the adressees by private means;
- Any estimate of the volume of letters "remailed" over the past year;
- Any differential in cost between letters privately carried and letters sent through the Postal Service;
- The extent to which considerations of cost rather than speed of delivery determine the choice of carrier for letters sent overseas; and
- The extent to which a suspension for remailing would preserve the benefits of desirable competition between the Postal Service and private companies.

This is by no means an exhaustive list of points that may be material to the development of the full factual record that we need as a basis for proposing a new suspension of the Statutes. We welcome any additional information and urge that it be as factual and specific as possible. We also solicit your views as to the scope of a suspension which will best serve the relevant interests, and we invite you to suggest specific language for an implementing regulation.

We anticipate proceeding in accordance with the following schedule:

April 30, 1986—Responses due to solicitation of information for factual record.

May 22-23, 1986—Meeting with interested persons to discuss responses and parameters of proposed suspension.

June 16, 1986—Publish notice of proposed rulemaking in Federal Register.

July 16, 1986—Comments due on proposed rule.

August 29, 1986—Publish notice of final rule.

We ask that you send your response so as to reach me not later than Wednesday, April 30, 1986.

We are withdrawing the earlier proposal in order to avoid uncertainty over its status while this new proceeding is pending. To the extent that the earlier proposal dealt with the suspension for extremely urgent letters on matters other than international

remailing, we anticipate initiating a further proposal in the near future.

If you have questions, my telephone number is (202) 268–2970.

Sincerely,

Charles D. Hawley,

Assistant General Counsel, General Administrative Law Division, Law Department.

Enclosures.

39 CFR 320.6(b)

(b)(1) For letters dispatched within 50 miles of the intended destination, delivery of those dispatched by noon must be completed within 6 hours or by the close of the addresse's normal business hours that day, whichever is later, and delivery of those dispatched after noon and before midnight must be completed by 10 A.M. of the addresse's next business day. For other letters, delivery must be completed within 12 hours or by noon of the addressee's next business day. The suspension is available only if the value or usefulness of the letter would be lost or greatly diminished if it is not delivered within these time limits. For any part of the shipment of letters to qualify under this paragraph (b), each of the letters must be extremely urgent.

(2) Letters sent from the 48 contiguous states of the United States to other jurisdictions of the United States or to other nations are deemed "delivered" when they are in the custody of the international or overseas carrier at its last scheduled point of departure from the 48 contiguous states. Letters sent from other jurisdictions of the United States or from other nations into the 48 contiguous states are deemed "dispatched" when they are in the custody of the domestic carrier, having been passed by United States Customs, if applicable, at the letters' point of arrival in the 48 contiguous states.

(3) Except as provided in this paragraph (b)(3), the times and time limits specified in paragraph (b)(1) of this section are not applicable to any locations outside the 48 contiguous states. The times and time limits specified in paragraph (b)(1) are applicable to letters dispatched and delivered wholly within Alaska, Hawaii, Puerto Rico or a territory or possession of the United States. The regulations provided in paragraph (b)(2) relating to the delivery and dispatch of letters are applicable by analogy to letters shipped between these jurisdictions and other nations.

Statement of John R. McKean, Chairman, United States Postal Service Board of Governors, on Remail Issue

March 4, 1986

As some of you may be aware, the Postal Service recently initiated a rulemaking concerning its regulations under the Private Express Statutes. That rulemaking involved the rules bearing on the carriage of international mail by private firms who remail it outside the United States.

In response to this proposed rulemaking, the Postal Service has received a significant number of comments. The Board of Governors has been kept informed of the nature of these comments.

The remail issue has generated considerable controversy about the proper scope of the monopoly under which we operate. It is worth emphasizing that Congress entrusted us with this monopoly not for our own benefit but in order to let us better serve the American people. The critical question raised by this rulemaking is whether enforcement of the monopoly in this context would advance or retard consumer welfare and the interests of this nation.

It is the sense of the Board that private sector competition with the Postal Service in the provision of international remailing services can—and already does—produce significant benefits for the public. Ultimately, even the Postal Service itself can benefit from this kind of competition.

Many businesses appear to view the private sector alternative as preferable to the service we are providing—preferable in terms of price and service. That tells us something important about the way we are now doing our job in this area. The monopoly was not intended to protect us from having to face up to our own shortcomings. I am glad to say that the competition from private remailers has already spurred us on to improve our own efforts and be more competitive in providing international mail services.

As things now stand, therefore, remail services would appear to advance consumer welfare while at the same time fostering innovation and economic efficiency.

The Board of Governors does not believe that any attempt to suppress this kind of competition would advance the long-term objectives of the Postal Reorganization Act or otherwise enhance the welfare of our customers and the American people. Yet we have to deal with the laws and regulations now on the books. As now drafted, they do not appear to leave room for the lawful operation of international remail services. At the very least there is a serious question on this point.

The Board of Governors believes that the appropriate course of action under these circumstances is to change our regulations to make them conform to sound public policy. Accordingly, we are announcing today that the Postal Service will soon be initiating another rulemaking proceeding, this time to remove the cloud that now hangs over the international remail services and preserve the benefits of desirable competition between the Postal Service and private companies.

The Private Express Statutes permit us to suspend their application when the public interest so requires. Such a suspension must be predicated on a fully developed factual record. The Postal Service intends to take the steps necessary to gather information in this regard and proceed with a new rulemaking as quickly as possible.

[FR Doc. 86–6107 Filed 3–20–86; 8:45 am]

BILLING CODE 7710–12–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 86–78; RM–5220; FCC 86–103]

Radio Service, Special; Secondary Fixed Tone Signalling and Alarm Operations by End Users of Trunked SMRS Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to allow trunked SMRS end users to conduct fixed tone signalling and alarm operations on their mobile service frequencies. Allowing such fixed use would increase spectrum utilization without interfering with mobile communications.

DATES: Comments must be filed on or before May 5, 1986, and reply comments on or before May 20, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Private land mobile radio services, Radio.

In the matter of Amendment of Part 90 of the Commission's rules to permit secondary fixed tone signalling and alarm operations by end users of trunked SMRS systems; [PR Docket No. 86–78].

This is a summary of the Commission's notice of proposed rule making, PR Docket No. 86–78, Adopted March 6, 1986, and released March 13, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Notice of Proposed Rule Making

1. On November 5, 1985, the American SMR Network Association, Inc. (ASNA) petitioned the Commission to amend Part 90 of the rules and regulations to allow trunked Specialized Mobile Radio Service (SMRS) end users to conduct fixed operations on mobile service frequencies. The rule changes sought by ASNA would simply extend to end users of trunked 800 MHz SMRS systems the same option available to licensees in certain Public Safety and Industrial Radio Services of using mobile service frequencies for fixed signalling operations. Under the ASNA proposal such fixed use would be secondary to base/mobile communications and subject to the technical limitations put forth in § 90.235.

2. In response to the ASNA petition the Commission proposed to allow trunked SMRS end users to conduct fixed tone signalling and alarm operations on their authorized mobile service frequencies. It was the Commission's belief that allowing such operations would facilitate more effective use of these channels without significantly increasing the potential for interference. Under the Commission proposal any such fixed use must meet the technical requirements specified under § 90.235. Further any fixed transmitters would not count toward meeting the Commission's loading requirements specified in §§ 90.366 and 90.631.

3. This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

5. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

6. Accordingly, notice is hereby given of rule making to amend Part 90 of the Commission's rules and regulations, in accordance with the proposal set forth in the attached Appendix. The proposed amendment to the rules is issued pursuant to authority contained in sections 4(i) 303(b), 303(f), 303(g), and 303(i) of the Communications Act, as amended.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.1415 and 1.419, interested parties may file comments on or before May 5, 1986, and reply comments on or before May 20, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 90 of the Commission's Rules is proposed to be amended as follows:

PART 90—[AMENDED]

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 90.235 is amended by revising the introductory paragraph, adding a new paragraph (c) and changing old paragraph (c) to (d).

§ 90.235 Secondary fixed tone signalling and alarm operations.

In the Local Government, Police, Fire, Highway Maintenance, Forestry Conservation, Power, and Petroleum Radio Services, fixed operations may be authorized for tone or impulse signalling on mobile service frequencies above 25 MHz within the area normally covered by the licensee's mobile system. Such operations will be on a secondary basis to the primary mobile service operation of any other licensee. Such fixed operations are also permitted on trunked SMR systems operating on frequencies available under Subpart M or frequencies in the SMRS Pools listed in Subpart S of this Part.

(a) * * *

(b) * * *

(c) Secondary fixed signalling on frequencies authorized under Subpart M or on SMRS Pool frequencies authorized under Subpart S may be used for any of the purposes specified in subparagraphs (a) and (b) of this section.

(d) All such secondary signalling shall be subject to the following requirements:

* * * * *

[FR Doc. 86–6185 Filed 3–20–86; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Parts 215 and 252

Deprtment of Defense Federal Acquisition Regulation Supplement Cost and Price Management

Correction

In FR Doc. 86–4471 beginning on page 7296 in the issue of Monday, March 3, 1986, make the following correction: In the sixth line of the **"DATE"** paragraph, "DAR Case 85–215" should read "DAR Case 85–219".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed 1986–87 Migratory Game Bird Hunting Regulations (Preliminary)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter the Service) proposes to establish hunting seasons, daily bag and possession limits, and shooting hours for designated groups or species of migratory game birds in the conterminous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands during 1986–87. The Service annually prescribes migratory bird hunting regulations. These regulations provide hunting opportunities, a popular form of outdoor recreation, to the public and aid Federal and State governments in the management of migratory game birds. The Service also proposes to amend § 20.1 of 50 CFR Part 20 by adding a paragraph that serves to clarify the conditions under which a memorandum of understanding between the Service and Indian tribes on the management of migratory birds within a reservation or Indian Territory may be employed and permits such agreements to be formalized.

DATES: The comment period for proposed regulations frameworks for Alaska, Hawaii, Puerto Rico, and the Virgin Islands will end on June 19, 1986; for other early-season proposals (seasons opening before October 1) on July 14, 1986; and for late-season proposals (seasons opening on or about October 1 or later) on August 25, 1986. The comment period on the proposal to amend § 20.1 will end May 1, 1986. Public Hearings: Early-Season Regulations, including those for Alaska, Hawaii, Puerto Rico, and the Virgin Islands—June 19, 1986, at 9 a.m.; Late-Season Regulations—August 1, 1986, at 9 a.m.

ADDRESSES: Comments and requests to testify may be mailed to Director, (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Comments received may be inspected from 8 a.m. to 4 p.m. at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 536, Matomic Building, 1717 H Street, NW., Washington, DC. Both public hearings will be held in the Auditorium, Interior Department Building, 18th and C streets, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (202) 254–3207.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service proposes to establish hunting seasons, bag and possession limits, and shooting hours for migratory game birds during 1986–87 under §§ 20.101 through 20.107 of subpart K of 50 CFR 20.

"Migratory game birds" are those migratory birds so designated in conventions between the United States and several foreign nations for the protection and management of these birds. During the 1986–87 hunting season, regulations are proposed for certain designated members of the avian families *Anatidae* (ducks, geese, brant, and swans); *Columbidae* (doves and pigeons); *Gruidae* (cranes); *Rallidae* (rails, coots, and moorhens and gallinules); and *Scolopacidae* (woodcock and snipe). These proposals are described under Proposed 1986–87 Migratory Game Bird Hunting Regulations (Preliminary) in this document.

Notice of Intention To Establish Open Seasons

The notice announces the intention of the Director, U.S. Fish and Wildlife Service, to establish open hunting seasons, daily bag and possession limits, and shooting hours for certain designated groups or species of migratory game birds for 1986–87 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

Factors Affecting Regulations Process

This is the first in a series of proposed and final rulemaking documents for migratory game bird hunting regulations. Proposed shooting hours and season frameworks, including daily bag and possession limits, are set forth for various groups of migratory game birds for which these regulations ordinarily do not vary significantly from year to year.

The proposals set forth here and the schedule by which more detailed proposals for these and other species will be developed depend upon a number of factors. Among these are the times when various annual population, habitat, and harvest surveys are conducted and results are available for analysis; times of migration and other biological considerations; and times during which hunting may be allowed. The regulatory process for migratory game birds is strongly influenced by the times when the best and latest information is available for consideration in the development of regulations. For these reasons, the overall regulations process for hunting seasons and limits is divided into the following segments: (1) Regulations for migratory game birds in Alaska, Puerto Rico, the Virgin Islands, and Hawaii; (2) seasons in the remainder of the United States opening prior to October 1 (early seasons); and (3) seasons opening in the remainder of the United States about October 1 and later (late seasons). Regulations development for each of the three categories will follow similar but independent schedules. Proposals relating to the harvest of migratory game birds that may be initiated after publication of this proposed rulemaking will be made available for public review in supplemental proposed rulemakings to be published in the **Federal Register.** Also, additional supplemental proposals will be published for public comment in the **Federal Register** as population, habitat, harvest, and other information becomes available.

Because of the late dates when certain of these data become available, it is anticipated that comment periods on some proposals will necessarily be abbreviated. Special circumstances that limit the amount of time which the Service can allow for public comment are involved in the establishment of these regulations. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on one hand, to establish final rules at a time early enough in the summer to allow State agencies to adjust their licensing and regulatory mechanisms and, on the other hand, the lack before late-July of current data on the status of most waterfowl.

Publication of Regulatory Documents

The establishment of migratory bird hunting regulations in the United States involves a series of regulatory announcements published in the **Federal Register** in accordance with the Administrative Procedure Act. The publication of these documents is divided into three phases, as follows:

1. Proposed rulemakings—proposals to amend Subpart K (and other subparts when necessary) of 50 CFR Part 20, including supplementary proposed migratory game bird hunting regulations, and/or regulations frameworks which prescribe shooting hours, season lengths, bag and possession limits, and outside dates within which States may make season selections.

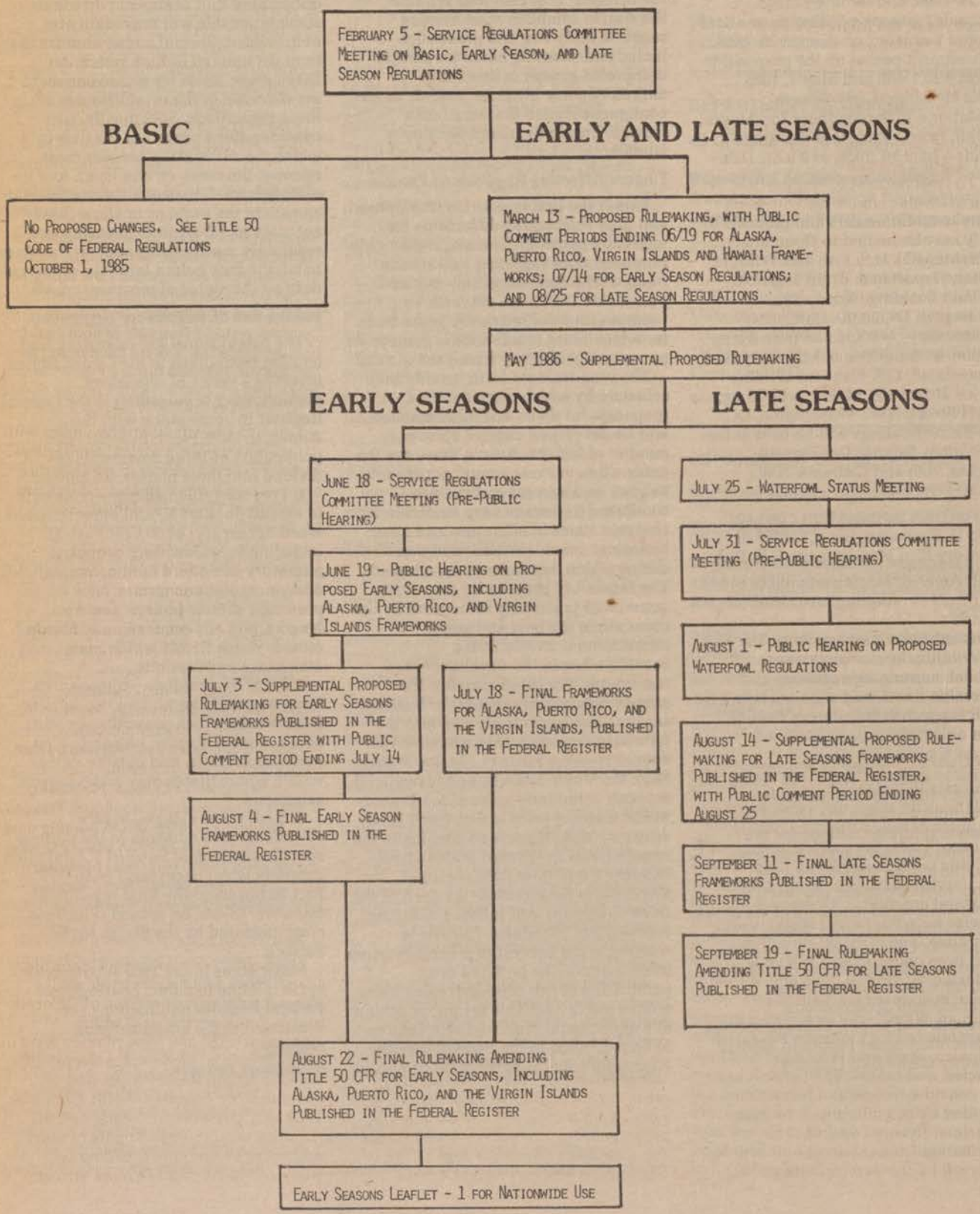
2. Final rulemakings—frameworks. Final migratory game bird regulations frameworks which prescribe shooting hours, season lengths, bag and possession limits, and outside dates within which States may make season selections.

3. Final rulemakings—season selections. Amendments to the various specific sections of Subpart K (and other subparts when necessary) of 50 CFR Part 20 based on the final regulations frameworks and on season selections communicated by the States to the Service.

Major steps in the 1986–87 regulatory cycle relating to public hearings and **Federal Register** notifications are illustrated in the accompanying diagram.

BILLING CODE 4310-55-M

1986 SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS



BILLING CODE 4310-55-C

All dates shown for frameworks and seasons in the Service's regulatory documents are inclusive.

Non-toxic shot regulatory proposals and final regulations are published separately under § 20.21 of subpart C and § 20.108 of Subpart K.

Objectives of the Migratory Bird Hunting Regulations

The objectives of these annual regulations are as follows:

1. To provide an opportunity to harvest a portion of certain migratory game bird populations by establishing legal hunting seasons.
2. To limit harvest of migratory game birds to levels compatible with their ability to maintain their populations.
3. To avoid the taking of endangered or threatened species so that their continued existence is not jeopardized, and their conservation is enhanced.
4. To limit taking of other protected species where there is a reasonable possibility that hunting is likely to adversely affect their populations.
5. To provide equitable hunting opportunity in various parts of the country within limits imposed by abundance, migration, and distribution patterns of migratory game birds.
6. To assist, at times and in specific locations, in preventing depredations on agricultural crops by migratory game birds.

The management of migratory birds in North America is international in scope, and involves other nations, notably Canada and Mexico. Within the United States, other Federal agencies, State conservation agencies, national and regional conservation groups, universities, and the public provide much support to the achievement of these objectives.

Data Used in Regulatory Decisions.

The establishment of hunting regulations for migratory game birds in the United States during the 1986–87 season will take into consideration available population information, data from harvest surveys, and information on habitat conditions. Consideration will also be given to accumulated data and trends. The main sources of data result from operational surveys conducted by the U.S. Fish and Wildlife Service in cooperation with the Canadian Wildlife Service, Direccion General de la Flora y Fauna Silvestres of Mexico, State and Provincial wildlife agencies, and others. The Service will also consider technical information provided by consultants of the four waterfowl flyway councils. The information from these sources will be analyzed by the Service with an opportunity for the public to review and provide comments on management rationales and proposed regulations, either in public hearings, by correspondence, or other communications.

Various surveys are used to ascertain the status, condition, and trends of migratory game bird populations. These include annual surveys of major waterfowl wintering habitats in the United States and in portions of Mexico each January; aerial surveys of major waterfowl production areas in the United States and Canada in May and early June for breeding population data, and again in July for production information; nationwide surveys in the United States and Canada of waterfowl hunters and the waterfowl harvest, including their geographical and temporal distributions, and species, age, and sex composition of the harvest; and band recovery information. Waterfowl breeding pair and production surveys also provide information on the abundance, duration, and quality of water and other habitat conditions in major production areas. Information on waterfowl populations and habitat conditions outside the aerial survey area is furnished by cooperating State, Provincial, and private agencies. Banding information provides insight into shooting pressures sustained by migratory game bird populations under different population levels and types of regulations. When viewed over many years, information on harvests and regulations is useful for predicting approximate harvest levels which may result from various regulations changes.

Many of the surveys conducted primarily for ducks also provide information on geese. In addition, satellite imagery is used to monitor the rate at which snow and ice disappear from subarctic and arctic breeding grounds traditionally used by most species and the greatest numbers of North American geese. Field observations of geese in the fall and winter also provide information on the production success of the past breeding season. Special population surveys are undertaken for many identifiable populations of geese throughout the year.

An annual call-count survey conducted nationwide in the United States in late May and early June provides information on the breeding population of mourning doves. Information from past years and the current year is used to establish population trends. An annual singing-ground survey is conducted throughout the woodcock breeding range in the eastern United States and Canada. Insight into production success is obtained from wing-collection surveys of woodcock hunters in the United States and Canada; data from these surveys indicate the age and sex composition of the harvest and its geographical and temporal distribution. Accumulated and current data are examined for possible long-term trends in population size and productivity. Information on white-winged dove populations in Texas and the Southwest is provided by cooperating State agencies. Spring surveys of sandhill cranes are conducted annually with emphasis on the key staging area of the species along the Platte River in central Nebraska. The Service also solicits information on these and other species from knowledgeable individuals. Last year the Service continued the study to determine if its Waterfowl Harvest Survey can be adjusted to measure harvest trends in migratory shore and upland game birds. Results should be made available in March 1986.

Definitions of Flyways

Flyways are administrative units with broad biological-ecological similarities frequently used for reference in setting hunting regulations on many migratory game birds. These are defined as follows:

Atlantic Flyway: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas; Colorado and Wyoming east of the Continental Divide; Montana east of Hill, Chouteau, Cascade, Meagher and Park Counties; and New Mexico east of the Continental Divide but outside the Jicarilla Apache Indian Reservation.

Pacific Flyway: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof. Flights of most migratory game birds breeding or produced in Alaska are more strongly

oriented to this flyway than to the other flyways.

Definitions of Mourning Dove Management Units

Mourning Dove Management Units are administrative units based upon a reasonable delineation of independent mourning dove population segments encompassing the principal breeding, migration, and United States wintering areas for each population. They are used for reference in setting mourning dove hunting regulations and are defined as follows:

Eastern Management Unit: Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Stabilized Regulations for Duck Hunting

In 1979, a five-year program of stabilized waterfowl hunting regulations was initiated in Canada through the cooperation of the Canadian Wildlife Service and the 3 Prairie Provinces. In 1980 the U.S. Fish and Wildlife Service, with support from the Flyway Councils and other organizations, joined Canada in this program by stabilizing season lengths and bag limits for a 5-year period beginning with the 1980–81 season at the 1979–80 hunting season level. During this five-year program, Canada and the United States have cooperated in investigating the relationship between duck populations and ducks harvests continentally in the absence of annual changes in season lengths and bag limits. The July 1, 1980 **Federal Register** (at 45 FR 44546) advised that the Service planned to take this action in connection with an evaluation program to be conducted in cooperation with the Canadian Wildlife Service. The immediate goal of the study is to develop a strategy to manage duck harvests. The long-term goal is to identify management steps to maintain North American duck populations.

Cooperative U.S.-Canadian investigations of the stabilized regulations program have focused on the mallard. Although, the 1984–85 hunting season marked the final harvest period in the program, field activities, including banding, radio-telemetry, and nesting studies continued through 1985. Because of the time required for analysis and interpretation of data collected, a final, comprehensive report on the evaluation of stabilized regulations will not be available until late 1986.

Migratory Bird Hunting on Indian Reservations

In the September 3, 1985, **Federal Register** (50 FR 35762), the Service implemented interim guidelines for establishing special migratory bird hunting regulations on Federal Indian reservations, Indian Territory, and ceded lands, and amended Section 20.110 of 50 CDE Part 20 by prescribing final hunting regulations for certain tribes in the 1985–86 hunting season. The guidelines provide appropriate flexibility for tribes members to exercise their reserved hunting rights while ensuring that the migratory bird resource receives necessary protection. On December 5, 1985, (at 50 FR 49870), the Service gave notice of its intent to continue to employ the interim guidelines and establish special migratory bird hunting regulations for interested Indian tribes in the 1986–87 hunting season. The Service recognizes that some changes in the guidelines may be necessary and has kept the comment period on them open indefinitely. Use of the guidelines is not necessary if a tribe wishes to observe the hunting regulations established in the State(s) in which the reservation is located.

One of the guidelines applies solely to hunting by tribal memberss with reserved hunting rights on their reservations (including Indian Territory). It provides for hunting regulations outside of usual Federal frameworks but consistent with the closed season requirement mandated by the 1916 Migratory Bird Treaty with Canada. In an August 21, 1985, environmental assessment and in development of the guidelines, the Service concluded that the migratory bird harvest by tribal hunters was not large and indicated the intention of employing a memorandum of understanding to reach mutual agreement on hunting regulations with interested tribes that wish for the Service to recognize their traditional hunting practices. The Service proposes to amend § 20.1 (Scope of regulations) of 50 CFR Part 20 by adding a paragraph to clarify the conditions under which a memorandum of understanding may be employed and to permit such agreements to be made. The paragraph is as follows:

(c) *Hunting by tribal members on Federal Indian Reservations.*

The regulations contained in this Part do not apply to the taking, possession, or transportation of migratory game birds by members of Federally-recognized Indian tribes if: (1) Such taking, possession, or transportation occurs within the boundaries of the tribe's reservation (including Indian Territory); (2) the tribal government has entered into a memorandum of understanding with the U.S. Fish and Wildlife Service on the management of migratory birds within the reservation or Indian Territory; and (3) the tribal members possess legitimate hunting rights created or reserved by treaty, statute, Executive order, agreement, or other law.

The Service welcomes comments on this proposal. All such comments should be submitted to the Service by May 1, 1986, at the address shown under the addresses section of this document.

Subsistence Hunting in Alaska

On January 24, 1986, the U.S. District Court in Alaska ruled that the Migratory Bird Treaty Act did not apply to Native subsistence hunting for migratory birds in Alaska. *Alaska Fish and Wildlife Federation and Outdoor Council* v. *Jantzen*, No. J84–013 CIV. The Court ruled that subsistence hunting in Alaska is governed by the 1925 Alaska Game Law of 1925, 43 Stat. 739, as amended, 54 Stat. 1103–04 (1940). Under the Court's order, Alaska Natives may harvest migratory waterfowl during any season of the year when they are in need of food and other sufficient food is not available until such time as the Department adopts regulations pursuant to section 3(h)(2) of the Fish and Wildlife Improvement Act, 16 U.S.C. § 712(1).

The Service is assessing this decision in order to determine what action is needed for the 1986 and 1987 spring and summer subsistence hunting seasons in Alaska. The Service will announce any actions to be taken in a future **Federal Register** notice(s).

Hearings

Two public hearings pertaining to 1986–87 migratory game bird hunting regulations are scheduled. Both meetings will be conducted in accordance with 455 DM 1 of the Department Manual. One June 19 a public hearing will be held at 9 o'clock in the Auditorium of the Department of the Interior Building, on C Street, between 18th and 19th Streets, NW., Washington, DC. This hearing is for the purpose of reviewing the status of mourning doves, woodcock, band-tailed pigeons, white-winged and white-tipped doves, rails, gallinules, common snipe, and sandhill cranes. Proposed hunting

regulations will be discussed for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; September teal seasons in the Mississippi and Central Flyways; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway, and special falconry seasons. On August 1 a public hearing will be held at 9 o'clock in the Auditorium of the Department of the Interior Building, address above. This hearing is for the purpose of reviewing the status and proposed regulations for waterfowl not previously discussed at the June 19 public hearing. The public is invited to participate in both hearings.

Persons wishing to participate in these hearings should write the Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240, or telephone (202) 254–3207. Those wishing to make statements should file copies of them with the Director before or during each hearing.

Public Comments Solicited

Based on the results of current migratory game bird studies and having due consideration of all data and views submitted by interested parties, the amendments resulting from these proposals will specify open seasons, shooting hours, and bag and possession limits for doves, pigeons, rails, gallinules, woodcock, common snipe, coots, cranes, and waterfowl; coots, cranes, common snipe and waterfowl in Alaska; migratory game birds in Puerto Rico and the Virgin Islands; and mourning doves in Hawaii.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons are invited to submit written comments, suggestions, or recommendations regarding the proposed amendments.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals.

Final promulgation of migratory game bird hunting regulations will take into consideration all comments received by the Director. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals. Interested persons are invited to participate in this rulemaking by submitting written comments as follows:

For comments on Proposed 1986–87 Migratory Game Bird Hunting Regulations (Preliminary) write to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240.

Comments received on the proposed annual regulations will be available for public Inspection during normal business hours at the Service's office in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC. The Service will consider but may not respond in detail to each comment. Specific comment periods will be established for each of the three series of proposed rulemakings. All relevant comments will be accepted through the closing date of the last comment period on the particular proposal under consideration. As in the part, the Service will summarize all comments received during the comment period and respond to them.

Flyway Council Meetings

The Service published a final rule in the **Federal Register** dated December 22, 1981 (46 FR 62077) which established certain procedures in the development of the annual migratory game bird hunting regulations. This rule took effect on January 21, 1982. One provision is to publish notification of meetings of waterfowl flyway councils where Department officials will be in attendance. In this regard, Departmental representatives will be present at the following spring meetings of the various flyway councils:

DATES: March 22, 1986

—Pacific Flyway Council, 2:00 p.m.

March 23, 1986

—Atlantic Flyway Council, 10:00 a.m.
—Mississippi Flyway Council, 9:00 a.m.
—Central Flyway Council, 8:30 a.m.
—National Waterfowl Council, 3:00 p.m.

ADDRESS: Council meetings will be held at the MGM Grand Hotel, Reno, Nevada as follows:

Atlantic Flyway Council, Metro Room B, Mezzanine Level
Mississippi Flyway Council, Capitol Room I, Lobby Level
Central Flyway Council, Capitol Room 4, Lobby Level
Pacific Flyway Council, Palace Room, Mezzanine Level
National Waterfowl Council, Capitol Room 4, Lobby Level

NEPA Consideration

In 1975 the Service determined that the annual migratory bird hunting regulations constituted a major Federal action signficantly affecting the quality of the human environment under the National Environmental Policy Act of 1969. Consequently, the "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was prepared and filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, several environmental assessments have been prepared on specific matters which serve to supplement the material in the Final Environmental Statement (FES). These have addressed regulations for various species of migratory game birds and hunting strategies. Endangered

Species Act Consideration

Prior to issuance of the 1986–87 migratory game bird hunting regulations, consideration will be given to provisions of the Endangered Species of 1973, as amended. (16 U.S.C. 1531–1543; hereinafter the Act) to insure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habital and is consistent with conservation programs for those species. Consultations under section 7 of this Act may cause changes to be made to proposals in this and future supplemental proposed rulemaking documents.

In particular, the Service notes that it has published in the **Federal Register** on January 6, 1986 at 51 FR 409, a proposal to implements additional steel-shot-only zone for the protection of the bald eagle and of migratory waterfowl. In that Notice, the Service pointed out that should such a zone be judged necessary to conservation of the bald eagle, and implementation prevented by a failure of the relevant State wildlife agency to consent, the Service will not open the zone to waterfowl hunting. The Service here reiterates this position, which will be reflected, as necessary, in the final rule.

Regulatory Flexibility Act, Executive Order (E.O.) 12291, and the Paperwork Reduction Act.

In complying with these requirements during the 1981–82 regulatory development cycle, and with Office of Management and Budget concurrence, the Service prepared a Determination of Effects, a Preliminary Regulatory Impact Analysis (PRIA), a Final Regulatory Impact Analysis (FRIA), and a Memorandum of Law. For further information see the **Federal Register:** March 25, 1981, at 46 FR 18669; August

17, 1981, at 46 FR 41739; August 21, 1981, at 46 FR 42643; and September 18, 1981, at 46 FR 46543. The rules for the 1981–82 hunting season were determined to be "major," because the expenditures arising from these regulations exceed $100 million annually and represent a major Federal action.

An updated FRIA, focusing on waterflowl hunting, was completed by the Service March 3, 1983. New economic information was utilized from the *1980 National Survey of Fishing Hunting, and Wildlife-Associated Recreation* which indicated that hunters expended $638 million for migratory bird hunting in 1980. The Service estimated the expenditures for waterfowl hunting in 1980 to be $317 million (adjusted to 1981 dollars).

A Determination of Effects approved by the Assisted Secreatry, Fish and Wildlife and Parks, on February 21, 1986 concluded that the hunting frameworks being proposed for 1986–87 were "major" rules, subject to regulatory analysis. In accordance with Office of Management and Budget instructions, the Service recently prepared an update of the 1981 Final Regulatory Impact Analysis for use in development of the 1986–87 migratory bird hunting regulations to incorporate new economic information and waterfowl hunter activity and harvest information from the 1984–85 season. The summary of the 1986 update of the 1981 FRIA follows:

New information which the can be compared to that appearing in the 1985 update of the 1981 Final Regulatory Impact Analysis (FRIA) includes estimates of the 1984 fall flight of ducks from surveyed areas, and hunter activity and harvest information from the 1984–85 hunting season. The data indicate that fall flights of ducks remained the same as those of 1983–84 in all flyways. Hunter numbers declined and hunter days and seasonal trips per hunter increased while there was no change in the total fall fight. This again demonstrate that non-regulatory factors, e.g., weather, local availability of ducks, habitat conditions, and local economy, also affect hunter participation and the resulting benefits of duck hunting to the economy.

Copies of the supplemental FRIA are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building—Room 536, 18th and C Street, NW., Washington, DC 20240.

The Department of the Interior has determined that this document is a major rule under E.O. 12291 and certifies that this document will have a signficant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

The Service plans to issue its Memorandum of Law for the migratory game bird hunting regulations at the time the first of these rules is finalized.

Authorship

The primary author of the proposed rules on annual hunting regulations Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief, (202) 254–3207.

List of Subjects in 50 CFR Part 20

Hunting, Wildlife, Exports, Imports, Transportation.

PART 20—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 20 is proposed to be amended as follows:

I. The authority for 50 CFR Part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act, sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712), unless otherwise noted.

II. In § 20.1, paragraph (c) is added to read as follows:

§ 20.1 Scope of regulations.

* * * * *

(c) *Hunting by tribal members on Federal Indian Reservations.*

The regulations contained in this Part do not apply to the taking, possession, or transportation of migratory game birds by members of Federally-recognized Indian tribes if: (1) such taking, possession, or transportation occurs within the boundaries of the tribe's reservation (including Indian Territory); (2) the tribal government has entered into a memorandum of understanding with the U.S. Fish and Wildlife Service on the management of migratory birds within the reservation or Indian Territory; and (3) the tribal members possess legitimate hunting rights created or reserved by treaty, statute, Executive Order, agreement, or other law.

III. Proposed 1986–87 Migratory Game Bird Hunting Regulations (Preliminary).

The following general framework and guidelines for hunting certain waterfowl, sandhill cranes, mourning doves, white-winged doves, white-tipped doves, Zenaida doves, scaly-naped pigeons, band-tailed pigeons, moorhens and gallinules, rails, coots, common snipe, and woodcock during the 1986–87 season are proposed. Changes or possible changes, when noted, are in relation to 1985–86 final frameworks or regulations. In this respect, minor date changes due to annual variation in the calendar dates of specific days of the week, are regarded as "no change." All mentioned dates are inclusive. Where applicable, information is provided about proposals for change already submitted to the Service or expected to be submitted in the near future. These and the Service's responses or comments follow the frameworks being proposed. Service views on the items in this proposed rulemaking are subject to change depending on public comments, and additional data and information that may be received later.

In connection with some of the general framework and guidelines of this proposed rulemaking, the Service believes it is time to weigh the cumulative effect of zoning and other special duck management strategies (experimental seasons) on the resource. Information produced by the Service's harvest survey, while meaningful at flyway and regional levels, may not be fully satisfactory for evaluation of some experimental seasons. Until some better informed judgments can be made, the Service believes that present duck hunting zones should not be modified, new duck hunting zones or experimental duck seasons should not be initiated, and decisions concerning operational status for existing experimental duck seasons should be deferred. The Service has requested assistance in this assessment from the four flyway councils.

The proposed changes from the 1985–86 final frameworks are described below:

1. *Shooting hours.* (No change.) Basic shooting hours beginning one-half hour before sunrise and ending at sunset are proposed with the option that more restrictive shooting hours within this framework may be selected by the States or may be established for special seasons.

2. *Frameworks for ducks in the conterminous United States—outside dates, season length and bag limits.* (Possible change.) In 1985, survey information indicated declines in the breeding indices for nine out of 10 important game ducks, including the lowest breeding indices for mallards and pintails in the 31 years of survey records. The forecasted duck fall flight was the smallest on record, and there were other long- and short-term indicators that duck populations were reduced. As a result, the Service initiated various duck season framework restrictions in 1985. Pending the availability of current duck population, habitat and harvest

information, and the receipt of recommendations from the four flyway councils, specific duck framework proposals for opening and closing dates, season lengths and bag limits are deferred. Exceptions to the regular duck season frameworks are given in various numbered items that follow.

3. *American black ducks.* (Possible change.) In 1983 a program to further restrict harvest of American black ducks was developed and initiated in cooperation with flyway councils, State wildlife agencies, and private organizations. The program's harvest restrictions were to remain in place for a period of 3–5 years to facilitate the evaluation of the effects of hunting on the status of the species. However, if the protection provided to the species by the harvest restrictions is considered inadequate, there is provision for modification of the restrictions prior to completion of the program. Alternatives were discussed in an Environmental Assessment, *Proposed Hunting Regulations on Black Ducks, 1983,* (available upon request to the Service).

The duck season framework restrictions initiated in 1985 resulted in some Atlantic Flyway States altering their black duck harvest control strategies that had been in place since 1983. Prior to establishment of the 1986–87 hunting regulations, the Service intends to assess the effect of the black duck harvest management program in the Atlantic and Mississippi Flyways, as well as each member State's harvest reduction strategy, in relation to achieving the goal of a 25% reduction in black duck harvest from the 1977–81 harvest level (5-year average). Those strategies that have not reached the goal will be reviewed and further restrictions imposed.

4. *Wood ducks.* (No change.) In 1977 regulations for this species were changed to permit southeastern States the option of an early-October hunting season during which no special bag and possession limits applied under conventional regulations; under point system regulations, the species was placed in the mid-point category. The criteria for such seasons were described in the **Federal Register** dated May 25, 1977 (42 FR 26669), and are summarized and updated for informational purposes:

The southeastern United States is defined as Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Virginia. The Service proposes to again consider regulations aimed at additional wood duck harvest in the southeastern States only within the following guidelines:

A. In 1986 States in the southeastern United States may split their regular duck hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 8 and October 16.

B. During this period under conventional regulations, no special restrictions within the regular daily bag and posession limits established for the Flyway in 1986 shall apply to wood ducks, and under the point system, the point value for wood ducks shall be reduced from the high to the mid-point category. For other species of ducks daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations.

C. In addition, the extra teal option available to States in the Atlantic and Mississippi Flyways that select conventional regulations and do not have a September teal season may be applied during the period.

D. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 16.

E. This special provision for wood ducks shall be regarded as experimental, and subject to annual and final evaluations by participating States of population, harvest, banding, and other available information.

F. The experiment shall be conducted for a specified time period to be agreed upon between the Service and participating States.

The Service proposes to retain this option for the 1986 season.

5. *See ducks.* (No change.) A maximum open season of 107 days for taking scoter, eider, and oldsquaw ducks is proposed during the period between September 15, 1986, and January 20, 1987, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia. Such areas shall be described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks and they must be included in the regular duck season conventional or point-system daily bag and possession limits.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. Within the special sea duck areas during the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily bag limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Any State desiring its sea duck season to open in September must make its selection no later than July 31, 1986. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl seasons.

6. *September teal season.* (No change.) An open season on all species of teal may be selected by Alabama, Arkansas, Colorado (Central Flyway portion only), Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico (Central Flyway portion only), Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours are from sunrise to sunset daily. The season may not exceed 9 consecutive days between September 1 and September 30, 1986, with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 31, 1986.

7. *Extra teal option.* (No change.)

A. States in the Atlantic Flyway (except Florida), not selecting the point system may select an extra teal limit of no more than 2 blue-winged or 2 green-winged teal or 1 of each daily and no more than 4 singly or in the aggregate in possession for 9 consecutive days during the regular duck season.

B. States in the Mississippi and Central Flyways selecting neither a teal or early duck season in September nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season.

These extra limits are in addition to the regular duck bag and possession limits.

8. *Experimental September Duck Seasons.* Kentucky, Tennessee, and Florida conducted experimental duck seasons during the 1981–83 waterfowl seasons. Regulatory provisions in effect during the 3-year studies were continued through 1984 while each State prepared the final report of its study. In 1985 the Service agreed with the recommendation of the Mississippi

Flyway Council's Lower Region Regulations Committee that additional information was needed regarding the effects of the September duck seasons on the survival rates of wood ducks in Kentucky and Tennessee, and continued these seasons as experimental. In lieu of an Atlantic Flyway Council recommendation, the Service also continued the 1985–86 September duck season in Florida as experimental.

1984 was the final year of a 6-year experimental duck season in Iowa. In response to a recommendation from the Mississippi Flyway Council's Upper Region Regulations Committee, the Service continued the experimental season in Iowa through 1985–86. The State's final report is due by the 1986 winter meeting of the Mississippi Flyway Council Technical Section.

The Service proposes to continue the September duck seasons in Florida, Kentucky, Tennessee and Iowa as experimental in 1986–87 unless final or progress reports provide evidence of a detrimental effect on any segment of the duck resource.

Additional information. At the July 31, 1985, Service Regulations Committee Meeting, the Atlantic Flyway Council recommended that the experimental September duck season in Florida be granted operational status.

Response. The Service notes again its belief that until some better informed judgments can be made regarding the cumulative effect of special duck management strategies on the resource, decisions regarding operational status for existing experimental duck seasons should be deferred.

9. *Special scaup season.* (No change.) States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

A. The season must occur between October 1, 1986, and January 31, 1987, all dates inclusive.

B. The season must occur outside the open season for any other ducks except sea ducks.

C. The season is limited to areas mutually agreed upon between the State and the Service prior to August 31, 1986, and

D. These areas must be described and delineated in State hunting regulations.

E. In lieu of a special scaup-only season, Vermont may, for the Lake Champlain Zone, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate, and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to special scaup seasons elsewhere.

10. *Extra scaup option.* (No change.) As an alternative to a special scaup-only season, States in the Atlantic, Mississippi, and Central Flyways, except those selecting the point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions C and D listed for special scaup seasons. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

11. *Mergansers.* (No change.) States in the Atlantic and Mississippi flyways may select separate bag limits for mergansers in addition to the regular duck bag limits during the regular duck season. The bag limit is 5 mergansers daily and 10 in possession. Elsewhere, mergansers are included within the regular daily bag and possession limits for ducks. The restriction on hooded mergansers of 1 daily and 2 in possession is continued in the Atlantic, Mississippi, and Central Flyways.

12. *Canvasback and redhead ducks.* In 1983 the Service initiated a program whereby the focus of canvasback harvest regulations was changed from one of area closures to one of restrictive bag limits, and an experimental canvasback season was implemented in portions of the closed area in the Atlantic Flyway. This program and alternatives were presented in an Environmental Assessment, *Proposed Hunting Regulations on Canvasback Ducks, 1983* (copies available upon request to the Service). A condition of the harvest program is that all possible actions including a closure on canvasback hunting will be considered should the indicated breeding population of canvasbacks decline below 500,000 birds, consisting of an eastern population of at least 360,000 and a western population of 140,000 canvasbacks. These figures are to be derived from 3-year averages of aerial breeding pair surveys. The intent is to manage the harvest of canvasbacks separately by eastern and western populations. The current continential breeding population index for canvasbacks is near the 500,000 bird level, that for the eastern is 343,000 and the western is 160,000 (1983–85 average). The 1968 breeding population survey data and harvest information from the 1985–86 season will be available in July. At that time the Service, in coordination with the flyway councils, will review the data and consider specific changes in the hunting frameworks for the canvasback.

13. *Duck Zones.* The Service reiterates its earlier statement that it believes present duck hunting zones should not be modified and no new duck hunting zones should be initiated until some better informed judgments regarding their cumulative effect on the resource can be made. The Service intends to continue these constraints until zoning proposals are again considered.

States in all Flyways may split their waterfowl season into two segments. Previously, States in the Atlantic and Central Flyways, in lieu of zoning could split their seasons for ducks or geese into three segments. Since it is proposed that new duck zones not be authorized, a 3-way split is also not offered to States not presently utilizing that option for ducks.

In the June 13, 1984 **Federal Register** (at 49 FR 24421) the Service proposed the following for Louisiana: apply Central Flyway duck season length in its West Zone, Mississippi Flyway duck season length in its East Zone, and Mississippi Flyway bag limits in both zones. The season as proposed was not initiated but the 5 additional days in the west zone was continued during 1985–86. The Service will review this issue in subsequent **Federal Register** documents.

14. *Frameworks for geese and brant in the conterminous United States—outside dates, season length and bag limits.* The Canadian Wildlife Service, the four waterfowl flyway councils, State conservation agencies, and others traditionally provide population and harvest information useful in setting annual regulations for geese and brant. The midwinter survey, the past season's waterfowl harvest surveys, and satellite imagery and ground studies for May and June of 1986 will provide additional information.

Atlantic Flyway. (No change). Seasons and bag limits are deferred pending receipt of additional information and recommendations. No significant changes from those in effect in 1985–86 are anticipated at this time.

Additional information. In a letter dated November 15, 1985, the State of Georgia requested a limited season during 1986–87 on Canada geese previously transplanted in the State.

Response. The Service defers action on the request until such time that the Atlantic Flyway Council reviews it and submits a recommendation.

Mississippi Flyway. (No change.) Seasons and bag limits are deferred pending receipt of additional information and recommendations. No

significant changes from those in effect in 1985–86 are anticipated at this time.

Harvests of the Eastern Prairie and Mississippi Valley (MVP) Populations of Canada geese in this flyway are controlled in part by quota allocations and harvest objectives. Specific quotas will be established after population management objectives, recent population information, production information, and expected fall flights have been taken into consideration. In quota areas it is intended that the entire quota can be safely taken without detriment to population, and that such harvests are appropriate considering population objectives. Goose seasons in quota areas end when the quota has been achieved and the season terminated by State action, emergency order under § 20.26 of CFR 50, or when the permissible number of hunting days has expired. Specific procedural information for seasons closures of quota areas will be included in the final regulations.

Additional information. The General Accounting Office (GAO) by letter dated February 5, 1986, Transmitted to the Department of interior a copy of their report entites *Mississippi Valley Population of Canada Geese: Flyway Management Obstacles.* GAO also supplied a copy to each Mississippi Flyway State. The Department must respond to this report.

The Service anticipates full discussion by the Mississippi Flyway Council regarding MVP management issues. In earlier correspondence to the Mississippi Flyway Council Chairman, the Service identified what it believes to be three principal issues needing close attention for MVP management.

a. Review of the overall MVP program in light of experience to date with harvest controls and progress toward the population objective.

b. Review all States harvest objectives for MVP geese. Provision should be made regarding future MVP harvests in States not now harvesting MVP geese. Further, the harvest of MVP geese in States outside of what is considered the principal MVP range needs to be considered.

c. Criteria should be developed for the establishment of control/quota zones and the necessary monitoring systems.

The cooperation of all states involved in MVP management will be essential in achieving the goal of the Flyway Council's management program. A Departmental response to the GAO report will be developed prior to the due date of April 5, 1986.

Central Flyway. (No change.) Seasons and bag limits are deferred pending additional information and recommendations. No significant changes from those in effect in 1985–86 are anticipated at this time.

Pacific Flyway. (No change.) As a result of available information indicating that substantial declines in populations of dusky Canada geese, Pacific Flyway Greater white-fronted geese, cackling Canada geese and Pacific brant had occurred in recent years, the Service initiated various harvest restrictions on these species in 1984. Additional measures were required for some of the populations in 1985. No significant changes from the restrictive regulations in effect in 1985–86 are anticipated at this time but the Service understands there may be some additional concerns about these species this year. Specific season frameworks, season lengths, an daily bag limits for geese are deferred pending additional information and recommendations.

15. *Tundra Swan.* (No change.) The Fllowing frameworks for tundra swans are proposed. In Utah, Nevada, Montana (Central and Pacific Flyways), North Dakota, and South Dakota an open season for taking a limited number of tundra swans may be selected subject to the following condition:

A. Execept in the Central Flyway portion of Montana, the season must run concurrently with the duck season; in the Central Flyway poriton of Montana, the season mut run concurrent with the goose season;

B. In Utah, no more than 2,500 permits may be issued authorizing each permittee to take 1 tundra swan;

C. In Nevada, no more than 650 permits may be issued authorizing each permittee to take 1 tundra swan in either Churchill, Lyon, or Pershing Counties;

D. In Montana (Pacific Flyway portion only), no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan in either Teton or Cascade Counties;

E. In Montana (Central Flyway portion only), no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan;

F. In North Dakota, no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan;

G.

G. In South Dakota, no more than 1,000 permits may be issued authorizing each permittee to take 1 tundra swan;

H. States must employ a method to assure that hunters validate their harvest.

In North Carolina an experimental seson for taking a limited number of tundra swans may be selected subject to the following conditions:

A. The season may be 90 days and must run concurrently with the snow goose season.

B. The state agency must issue permits and obtain harvest and hunter participation data.

C. No more than 6,000 permits may be issued, authorizing each permittee to take 1 tundra swan.

16. *Sandhill cranes.* (No change.) Pending evaluation of harvest data from the 1985–86 season, seasons for hunting sandhill cranes may be selected within specified areas in Arizona, Colorado, Kansas, New Mexico, Texas, Oklahoma, North Dakota, South Dakota, Montana, and Wyoming with no substantial change in dates from the 1985–86 seasons. The daily bag limit will be 3 and the possession limit 6 sandhill cranes, except in special season areas in Arizona and Wyoming where the limit is 2 cranes per season for 200 and 250 permit holders, respectively. The provision for a Federal sandhill crane hunting permit is continued in all the above areas except special season areas in Arizona and Wyoming.

Additional information. By letter dated January 13, 1986, Wyoming advised the Service it intended to submit to the Pacific and Central Flyway Councils a proposal for an operational sandhill crane—Canada goose hunting season for the Eden-Farson agricultural areas of Sweetwater and Sublette Counties in southwestern Wyoming. The Service awaits the Councils' reviews and recommendations on the proposal.

17. *Coots.* (No change.) Within the regular duck season, States in the Atlantic, Mississippi, and Central Flyways may permit a daily bag limit of 15 and a possession limit of 30 coots; States in the Pacific Flyway may permit 25 coots daily and in possession, singly or in the aggregate with gallinules.

18. *Common Moorhens (formerly Common Gallinules) and Purple Gallinules.* (No change.) States in the Atlantic and Mississippi Flyways may select hunting seasons between September 1, 1986, and January 20, 1987, of not more than 70 days. Central Flyway States may select hunting seasons between September 1, 1986 and January 18, 1987, or not more than 70 days. Any state may split its moorhen/gallinule season without penalty. The daily bag and possession limits may not exceed 15 and 30 common moorhens and purple gallinules, singly or in the aggregate of the two species, respectively. States may select moorhen/gallinule seasons at the time they select their waterfowl seasons. In

this case, daily bag and possession limits will remain the same.

States in the Pacific Flyway must select their moorhen/gallinule hunting seasons within the waterfowl seasons. A moorhen/gallinule season selected by any State or portion thereof in the Pacific Flyway may be the same as but not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and moorhens, singly or in the aggregate of the two species.

19. *Rails.* (No change.) The States included herein may select seasons between September 1, 1986, and January 20, 1987, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days, and any State may split its rail season into two segments without penalty.

Clapper and King Rails.

A. In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

B. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly, or in the aggregate of the two species.

C. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails.

In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, may be selected in States in the Atlantic, Mississippi, and Central Flyways, and portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway. No hunting season is proposed for rails in the remainder of the Pacific Flyway.

20. *Common snipe.* (No change.) States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1986, and February 28, 1987, not to exceed 107 days, except that in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Seasons between September 1, 1986, and February 28, 1987, not exceeding 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado, and New Mexico.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe season to run concurrently with their regular duck season. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season into two segments.

States or portions thereof in the Atlantic, Mississippi, and Central Flyways may defer selection of snipe seasons until they choose their waterfowl seasons in August. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

21. *Woodcock.*

A. Central and Mississippi Flyways. (No change.)

States in the Central and Mississippi Flyways may select hunting seasons of not more than 65 days with daily bag and possession limits of 5 and 10, respectively, to occur between September 1, 1985 and February 28, 1986. States may split their woodcock season without penalty.

B. Atlantic Flyway. (No change.)

The number of woodcock in the Atlantic Flyway has significantly declined since the 1960s. In 1982, the Service implemented an October 1 framework opening date for woodcock hunting in the Atlantic Flyway in order to provide additional protection to woodcock populations. The October 1 opening was continued in 1983 and 1984. In 1985 the Service initiated a program whereby the hunting regulations for woodcock in the Atlantic Flyway were adjusted to bring harvest opportunities to a level commensurate with the current population status. No changes in seasons and bag limits from those in effect in 1985–86 are anticipated at this time pending an evaluation of the changes implemented. For the 1986–87 hunting season in the Atlantic Flyway the Service proposes the following:

States in the Atlantic Flyway may select hunting seasons of not more than 45 days with daily bag and possession limits of 3 and 6, respectively, to occur between October 1, 1986 and January 31, 1987. States may split their woodcock season without penalty.

New Jersey may select woodcock hunting seasons by north and south zones divided by State Highway 70. The season in each zone may not exceed 35 days.

22. *Band-tailed pigeons.* (No change.)

Pacific Coast States California, Oregon, and Washington and the *Nevada* counties of Carson City, Douglas, Lyon, Washoe, Humboldt, Pershing, Churchill, Mineral and Storey. These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1986, and January 15, 1987. The daily bag and possession limits may not exceed 5 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

A. In the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

B. The remainder of the State.

In *Nevada* each hunter must have in possession a valid band-tailed pigeon hunting permit issued by the State.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah). These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1986. The daily bag and possession limits may not exceed 5 and 10, respectively. The season shall be open only in the areas delineated by the respective States in their hunting regulations. New Mexico may divide its State into a North Zone and a South Zone along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1 and November 30, 1986, in the North Zone, and October 1 and November 30, 1986, in the South Zone; hunting seasons not to exceed 20 consecutive days in each zone may be selected.

23. *Mourning doves.* (No change.) States were offered an option of a season length of 70 half or full days with a daily bag and possession limit of 12 and 24, respectively, or a season length of 60 half or full days with a daily bag limit and possesion limit of 15 and 30, respectively. States were allowed to select hunting zones without penalty and to split the season into not more than 3 time periods.

The Service proposes to offer these option, again during the 1986–87 hunting season, pending results of the call-count survey and receipt of additional information and recommendations.

Between September 1, 1986, and January 15, 1987, except as otherwise provided, States may select hunting seasons and bag limits as follows:

Eastern Management Unit: All States east of the Mississippi River and Louisiana.

A. Shooting hours between one-half hour before sunrise to sunset daily.

B. Hunting seasons of not more than 70 full or half days with daily bag and possession limits not to exceed 12 and 24 doves, respectively. As an alternative, seasons not exceeding 60 full or half days and limits of 15 and 30 doves, respectively, may be selected. Under either option, the season may run consecutively or be split into not more than three time periods.

C. As an option to the above, Alabama, Georgia, Illinois, Louisiana, and Mississippi may elect to zone their State as follows:

a. Two zones per State as described in 48 FR 35103.

b. Within each zone, these States may select hunting seasons of not more than 70 days (or 60 under the alternative) which may run consecutively or be split into not more than three periods.

c. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1986.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

A. Shooting hours between one-half hour before sunrise to sunset daily.

B. Hunting seasons of not more than 70 days with daily bag and possession limits not to exceed 12 and 24 doves, respectively. As an alternative, seasons not exceeding 60 days, and limits of 15 and 30 doves, respectively, may be selected. Under either option, the season may run consecutively or be split into not more than three periods.

C. In New Mexico, daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24 (or 15 and 30 under the alternative), singly or in the aggregate of the two species.

D. In addition to the basic framework and the alternative, Texas may divide the State into three zones for purposes of dove hunting in accordance with zoning proposals prviously approved by the Service and he Central Flyway Council. The various zones are described in 50 FR 33740.

a. The hunting seasons may be split into not more than two periods except as noted below.

b. The North and Central Zones may have seasons of not more than 70 (or 60 under the alternative) days between September 1, 1986, and January 25, 1987.

C. The South Zone may have a season of not more than 70 (or 60 under the alternative) days between September 20, 1986, and January 25, 1987. In the special white-winged dove portion of the South Zone, a limited mourning dove season may be held concurrently with the 2-day white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remaining 68 (or 58 under the alternative) days must be within the September 20, 1986, through January 25, 1987 period.

d. The daily bag limit may not exceed 12 (or 15 under the alternative) mourning, white-winged, and white-tipped doves in the aggregate, no more then 2 of which may be white-winged doves nor 2 of which may be white-tipped doves; the possession limit may not exceed 24 (or 30 under the alternative) doves in the aggregate including no more than 4 white-winged and 4 white-tipped doves.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

A. Shooting hours of one-half hour before sunrise to sunset daily.

B. Hunting seasons of not more than 70 full days with daily bag limits not to exceed 12 and 24 doves, respectively, which may run consecutively or be split into not more than three periods.

C. As an alternative, except in Arizona, seasons not exceeding 60 days and limits of 15 to 30 doves, respectively, may run consecutively or be split into not more than 3 periods.

24. *White-winged and white-tipped doves.* (No change). Arizona, California, Nevada, New Mexico, and Texas may select hunting seasons between September 1 and December 31, 1986, and daily bag limits as stipulated below.

Arizona may select a hunting season of not more than 29 consecutive days running concurrently with the first period of the split mourning dove season. The daily bag limit may not exceed 12 mourning and white-winged doves in the aggregate, no more than 6 of which may be white-winged doves, and a possession limit twice the daily bag limit after the opening day.

Nevada, in the counties of Clark and Nye, and in the *California* counties of Imperial, Riverside, and San Bernardino, the daily bag and possession limits of mourning and white-winged doves may not exceed 12 and 24, respectively singly or in the aggregate, with a 70-day season, or 15 and 30 if the 60-day option for mourning doves is selected; however, in either season, the bag and possession limits of white-winged doves may not exceed 10 and 20, respectively.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 12 and 24 (or 15 and 30 if the 60-day option for mourning doves is selected) white-winged and mourning doves, respectively, singly or in the aggregate of the 2 species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 2 days for the special white-winged dove area of the South Zone. The daily bag limit may not exeeed 10 white-winged, mourning, and white-tipped doves in the aggregate, including no more than 2 mourning doves and 2 white-tipped doves; and the possession limit may not exceed 20 white-winged, mourning, and white-tipped doves in the aggregate including no more than 4 mourning doves and 4 white-tipped doves in possession.

In addition, Texas may also select a hunting season of not more than 70 (or 60 under the alternative) days to be held between September 1, 1986, and January 25, 1987, and coinciding with the mourning dove season. The daily bag limit may not exceed 12 white-winged, mourning and white-tipped doves (or 15 under the alternative) in the aggregate, of which not more than 2 may be white-winged and not more than 2 of which may be white-tipped doves. The possession limit may not exceed 24 white-winged, mourning, and white-tipped doves (or 30 under the alternative) in the aggregate, of which not more than 4 may be white-winged doves and not more than 4 which may be white-tipped doves.

Florida may select a white-winged dove season of not more than 70 (or 60 under the alternative) days to be held between September 1, 1986, and January 15, 1987, and coinciding with the mourning dove season. The daily bag limit of both species in the aggregate may not exceed 12 (or 15 under the alternative), of which not more than 4 may be whitewings. The possession limit of both species in the aggregate may not exceed 24 (or 30 under the alternative) of which not more than 8 may be whitewings.

Additional Information. In 1985, because of declines in white-winged dove numbers as a result of reduced citrus habitat, the Service shortened the normal 4-day white-winged dove season in Texas' special white-winged dove area of its South Zone to 2 days. Texas chose not to open the 2-day season in 1985–86 but has indicated it may recommend a return to the 4-day season for 1986–87. Service action is deferred pending receipt of 1986 status information on whitewings and their nesting habitat.

25. *Migratory bird hunting seasons in Alaska.* The Service proposes to allow Alaska to continue their stabilized duck

hunting frameworks during the 1986–87 season.

Proposed Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Alaska, 1986–87

Outside Dates: Between September 1, 1986, and January 26, 1987, Alaska may select seasons on waterfowl, snipe, and sandhill cranes, subject to the following limitations;

Shooting Hours: One-half hour before sunrise to sunset daily.

Hunting Seasons:

Ducks, geese, and brant—107 consecutive days in each of the following: North Zone (State Game Management Unit 11–13 and 17–26); Gulf Coast Zone (State Game Management Units 5–7, 9, 14–16, and 10-Unimak Island only); Southeast Zone (State Game Management Units 1–4); Pribilof and Aleutian Islands Zone (State Game Management Unit 10-except Unimak Island); Kodiak Zone (State Game Management Unit 8). The season may be split without penalty in the Kodiak Zone. Exceptions: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. Throughout the State there is no open hunting season for Aleutian and Cackling Canada geese.

Snipe and sandhill cranes—An open season concurrent with the duck season.

Daily Bag and Possession Limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

Geese—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be Greater white-fronted (white-fronted) or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 4 and a possession limit of 8 Emperor geese.

Brant—A daily bag limit of 4 and a possession limit of 8.

Common snipe—A daily bag limit of 8 and a possession limit of 16.

Sandhill cranes—A daily bag limit of 3 and a possession limit of 6.

26. *Migratory game birds in Puerto Rico and in the Virgin Islands.* [No change.]

Proposed Frameworks for Selecting Open Season Dates for Hunting Migratory Birds in Puerto Rico, 1986–87.

Shooting hours: Between one-half hour before sunrise and sunset daily.

Ducks, Coots, Moorhens, Gallinules, and Snipe

Outside Dates: Between November 5, 1986, and February 28, 1987, Puerto Rico may select hunting seasons as follows.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens (common gallinules), and common snipe. The season may be split into 2 segments.

Daily Bag and Possession Limits:

Ducks—Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); the White-cheeked pintail (*Anas bahamensis*); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*), which are protected by the Commonwealth of Puerto Rico.

Coots—There is no open season on coots, i.e., common coots (*Fulica americana*) and Caribbean coots (*Fulica carabaea*).

Common Moorhens—Not to exceed 6 daily and 12 in possession, except that the season is closed on purple gallinules (*Porphyrula martinica*).

Common snipe—Not to exceed 6 daily and 12 in possession.

Closed Areas: No open season for ducks, moorhens and gallinules, and snipe is prescribed in the Municipality of Culebra and on Desecheo Island.

Doves and Pigeons

Outside Dates: Puerto Rico may select hunting seasons between September 1, 1986, and January 15, 1987, as follows.

Hunting Seasons: Not more than 60 days for Zenaida, mourning, and white-winged doves, and scaly-naped pigeons.

Daily Bag and Possession Limits: Not to exceed 10 doves of the species named herein, singly or in the aggregate, and not to exceed 5 scaly-naped pigeons.

Closed Areas: No open season for doves and pigeons in prescribed in the following areas:

Municipality of Culebra and Desecheo Island—closed under Commonwealth regulations.

Mona Island—closed to protect the reduced population of white-crowned pigeon (*Columba leucocephala*), known locally as "Paloma cabeciblanca."

El Verde Closure Area—consisting of those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) all lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west to Route 186 for one (1) kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public. The purpose of this closure is to afford protection to the Puerto Rican parrot (*Amazona vittata*) presently listed as an endangered species under the Endangered Species Act of 1973.

Cidra Municipality and Adjacent Closure Areas consisting of all of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the Municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality, and westerly, northerly, and easterly along the Cidra Municipality boundary to the point of beginning. The purpose of this closure is to protect the Plain (Puerto Rican plain) pigeon (*Columba inornata wetmorei*), locally known as "Paloma Sabanera," which is present in the above locale in small numbers and is presently listed as an endangered species under the Endangered Species Act of 1973.

Proposed Framework for Selecting Open Season Dates For Hunting Migratory Birds in the Virgin Islands, 1986–87

Shooting Hours: Between one-half hour before sunrise and sunset daily.

Ducks

Outside Dates: Between December 1, 1986, and January 31, 1987, the Virgin Islands may select a duck hunting season as follows.

Hunting Seasons: Not more than 55 consecutive days may be selected for hunting ducks.

Daily Bag and Possession Limits: Not to exceed 4 daily and 8 in possession, except that the season is closed on the ruddy duck (*Oxyura jamaicensis*); White-cheeked pintail (*Anas*

bahamensis); West Indian whistling (tree) duck (*Dendrocygna arborea*); fulvous whistling (tree) duck (*Dendrocygna bicolor*), and the masked duck (*Oxyura dominica*).

Doves and Pigeons

Outside Dates: The Virgin Islands may select hunting seasons between September 1, 1986, and January 15, 1987, as follows.

Hunting Seasons: Not more than 60 days for Zenaida doves and scaly-naped pigeons throughout the Virgin Islands.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves and 5 scaly-naped pigeons.

Closed Season: No open season is prescribed for common ground-doves or quail doves, or other pigeons in the Virgin Islands.

Local Names for Certain Birds.

Zenaida dove (*Zenaida aurita*)—mountain dove.

Bridled quail dove (*Geotrygon mystacea*)—Barbary dove, partridge (protected).

Common Ground-dove (*Columbina passerina*)—stone dove, tobacco dove, rola, tortolita (protected).

Scaly-naped pigeon (*Columba squamosa*)—red-necked pigeon, scaled pigeon.

27. *Migratory game bird seasons for falconers.* (No change).

Proposed Special Falconry Frameworks

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall within the regular season framework dates and, if offered and accepted, other special season framework dates for hunting.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note.—In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceed 107 days for a species in one geographical area.

28. *Hawaii mourning doves.* (No change.) The mourning dove is the only migratory game bird occurring in Hawaii in numbers to permit hunting. It is proposed that mourning doves may be taken in Hawaii in accordance with regulations set by the State of Hawaii as has been done in the past and subject to the applicable provisions of Part 20 of Title 50 CFR. Such a season must be within the constraints of applicable migratory bird treaties and annual regulatory frameworks. These constraints provide that the season must be within the period of September 1, 1986, and January 15, 1987, the length may not exceed 60 (or 70 under the alternative) days; and the daily bag and possession limits may not exceed 15 and 30 (or 12 and 24 under the alternative) doves, respectively. Other applicable Federal regulations relating to migratory game birds shall also apply.

29. *Migratory Bird Hunting on Indian Reservations.* In the September 3, 1985, **Federal Register** (50 FR 35762) the Service implemented interim guidelines for migratory bird hunting regulations on Federal Indian reservations, Indian territory and ceded lands, and established special hunting regulations for certain tribes in the 1985–86 hunting season. The Service intends to employ the guidelines and establish special migratory game bird hunting regulations for interested Indian tribes in 1986–87; however, the comment period on the guidelines remains open. In the December 5, 1985, **Federal Register** (50 FR 49870), the Service published a notice requesting proposals from Indian tribes that wish to establish special 1986–87 migratory game bird hunting regulations. In a later **Federal Register** document the Service will publish for public review the pertinent details of proposals received from tribes.

Dated: March 7, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-6174 Filed 3-20-86; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 23

Transfer of Nile Crocodile Population in Botswana to Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of amendment to appendix; request for comments.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and FLora (CITES) regulates trade in certain animal and plant species. Appendices I, II, and III to CITES list those species for which trade is controlled. Any nation that is a Party to CITES may propose amendments to Appendices I and II for consideration by the other Parties. The Republic of Botswana has proposed that the population of the Nile crocodile (*Crocodylus niloticus*) in the Republic of Botswana be transferred from Appendix I to Appendix II subject to an annual export quota of 2,000 specimens. This proposal is being considered under the postal procedure provided by CITES. The Republic of Botswana entered a reservation on the Nile crocodile when acceding to CITES because the Republic of Botswana did not believe the species to be endangered. The transfer of this population of the Nile crocodile, subject to export quotas, would allow limited trade in this species. The Republic of Botswana does not believe the Nile crocodile to be endangered in their country and believes quotas would permit proper utilization of this resource. The Fish and Wildlife (Service) requests information on this population and asks for comments on the proposal in order to transmit relevant information on the proposal to the CITES Scecretariat by April 12, 1986. The Service wil have until at least May 12, 1986, to register an objection, if any, to the proposed amendment, and thereby necessitate a vote on the proposed amendment.

DATES: Relevant information received by April 8, 1986, will be considered in formulating a reply to the CITES Secretariat. All information and comments received by April 21, 1986 will be considered in developing the final United States position on the proposed amendment.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority, Mail stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240. The full text of the proposed amendment and notification from the CITES Secretariat, as well as materials received will be available for public inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday in Room 537, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at address given above, or telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION:

Background

Postal procedures for amending the list of wildlife and plant species included in Appendices I and II to CITES are provided in Article XV of CITES. Under this article, any Party may propose an amendment for consideration between the meetings of the Parties. In response, any Party may transmit comments, information, and data to the CITES Secretariat within 60 days of the date when the Secretariat Communicated its recommendations on such proposal to the Parties. As soon as possible thereafter, the Secretariat will then communicate the replies received together with its own recommendations to the Parties. If the Secretariat receives no objection within 30 days of communicating these replies and recommendations, the proposal is adopted and enters into effect 90 days later. If any Party objects during the 30-day period, the proposal is submitted to a postal vote. The proposal then could be adopted by a two-thirds majority of those Parties casting an affirmative or negative vote, provided that at least one-half of all Parties cast a vote or indicate their abstention within 60 days.

The Republic of Botswana has submitted a proposal, for consideration under the postal procedure, to transfer the Botswana population of Nile crocodile (*Crocodile niloticus*) from Appendix I to Appendix II subject to an annual export quota of 2,000 specimens. The Secretariat sent the proposal together with its own recommendations to the Parties on February 12, 1986. This material was received by the Office of Scientific Authority on March 3, 1986. The closing date for receipt of comments and information by the Secretariat is April 13, 1986.

Information in the Proposal

The Republic of Botswana provided information, as summarized below, in support of its proposal. Both historically and at present, the Nile crocodile in the Republic of Botswana occurs in the few perenial rivers of the country including associated swamps and lakes, especially Lake Ngami and the Okavango Swamps which has a mean area of 10,000 km². Although no proper census has been undertaken mainly because of the difficulty in conducting a census in the *Phragmites/Papyrus* infested Okavango Swamps where the crocodiles are principally found, qualitative observations indicate that the population is not only healthy, but rapidly recovering from the effects of past exploitation (Graham, 1976; Medem, 1981; Slogrove, 1985 are referenced in the proposal).

Apart from drought, which causes some of the smaller rivers and streams to dry up, the crocodile's habitat is secure. Although there is talk of taking water from the Okavango Swamps for mining and domestic use, there is also a proposal to declare most of this swamp area as a wildlife management area. Regardless, some 3,800 km² of the Okavango Delta is included in a game reserve where no hunting or capture of any species is allowed, and at least 100 km of the Linyanti/Chobe river system falls within the Chobe National Park. Reportedly, the Nile crocodile is given complete protection along almost 1,000 km out of a total of 1,760 km of river length and lake shoreline along which the Nile crocodile occurs.

The Republic of Botswana legislation classifies the crocodile as a game animal and hunting licenses and capture permits are required. During the last 10 years, the allowed hunting quota has been 150 per annum. In addition, in recent years two crocodile farms have been assigned capture quotas amounting to a total of about 1,600 crocodiles and 12,000 eggs for a 3-year period. However, only 380 crocodile and about 700 eggs have been collected according to information in the proposal. The killing of an animal in cases where crocodile attack people and/or livestock is also legal.

The Republic of Botswana entered a reservation when it acceded to CITES because it did not believe that the crocodiles were endangered. However, estimates of the number of crocodiles taken or exported during previous periods are 7,600 (between 1957 and 1974); 10,000 (1957–1969); and 40,000 (1959–1969) as reported by Graham, 1976; Blomberg, 1976; and Medem, 1981, respectively (as referenced in the proposal). Because many thousands of crocodiles had been killed for their skins, the Republic of Botswana banned commercial hunting in 1975, and established an annual hunting quota of only 150 crocodiles. The Republic of Botswana says that it has developed effective legal machinery to control overharvest, and they believe that the population has recovered sufficently and can now be cropped. In spite of its reservation, the Republic of Botswana reports that restrictions by other CITES countries have closed markets for legally taken crocodiles.

The Republic of Botswana has indicated that if its proposed amendment is adopted by the Parties, the Republic of Botswana will immediately withdraw its reservation and will implement a marking system mutually acceptable with the CITES Secretariat so as to ensure proper enforcement of the quota system.

The Republic of Botswana contends that the transfer of the Nile crocodile population in the Republic of Botswana to Appendix II and establishment of an appropriate quota will not only ensure preservation of this population, but also will allow export of crocodiles killed to protect humans and livestock, and support crocodile farms, and therefore crocodiles will be seen as "paying for [their] own conservation."

Comments of the CITES Secretariat

The Secretariat provided the following comments and recommendation on this proposal. At the Fifth Meeting of the Conference of the Parties, Malawi presented a proposal which called for downlisting of the species subject to export quotas for some nine African countries. This amendment was accepted by the Parties [refer to 50 FR 48212]. Noting that the Republic of Botswana did not request a quota for the export of Nile crocodile specimens at the Fifth Meeting of the Parties (COP5), the Secretariat believes that a quota of 2,000 specimens would have been granted to the Republic of Botswana if one had been requested at COP5. Annual report quotas established for Nile crocodiles populations in other countries were set at 20 for Cameroon, 1,000 for the Congo, 150 for Kenya, 1,000 for Madagascar, 500 for Malawi, 1,000 for Mozambique, 5,000 for Sudan, 1,000 for the United Republic of Tanzania, and 2,000 for Zambia. [The Nile crocodile population in Zimbabwe had been transferred from Appendix I to Appendix II subject to ranching provisions at the Fourth Conference of the Parties.]

The Secretariat noted that the proposal indicated that ranching and captive breeding have started in the Republic of Botswana and that the quota would cover the products of these operations, and therefore the effects on the wild populations should be limited.

Further, the Secretariat reported that, although the questionnaire accompanying the proposal indicated that only 15 skins were exported per year, the CITES statistics indicted the export of 1,164 skins from 1979 to 1982, of which 1,158 were reportedly imported into the Federal Republic of Germany in 1979.

The Secretariat also noted that no indication of the population size is given, despite a request made by the Secretariat to the Republic of Botswana

for such information. Neverthless, the Secretariat provisionally supports the request and recommends the adoption of this proposed amendment, but will communicate its final recommendations after receipt of comments and information received from the Parties, including an indication of the population size.

Information Sought

The service requests any information that might be useful in developing a response to the Secretariat, and in developing the final United States position. Please transmit any such information and comments to the Service on or before the dates given above. The Service will develop a position on the proposal after additional information is available, including consideration of all comments received, any population estimate provided, and clarification of earlier harvest estimates. The final United States decision as to whether to support or oppose the proposal or abstain from voting is to be based on the best available biological and trade information, including comments received in response to this notice, and any further comments transmitted to us by the Secretariat.

This notice was prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et. seq.)

List of Subjects in 50 CFR Part 23

Endangered and threatened plants, endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Dated: March 19, 1986.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-6382 Filed 3-20-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

Atlantic Swordfish Fishery

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

ACTION: Notice of availability of a revised fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the South Atlantic Fishery Management Council (Council) has submitted revisions to the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP) for Secretarial review and is requesting comments from the public. The revisions to the FMP are intended to augment the management program for Atlantic swordfish and is in response to disapproval of §§ 611.61, 630.4, 630.5, 630.7, 630.21, 630.24, and 630.25.

DATE: Comments on the FMP revisions should be submitted on or before April 15, 1986.

ADDRESS: All comments should be sent to Jack T. Brawner, Regional Director, NMFS, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Clearly mark, "Comments on Atlantic Swordfish Plan revisions", on the envelope.

Copies of the FMP revisions are available upon request from the South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407-4699.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton (Regional Plan Coordinator), 813-893-3722.

SUPPLEMENTARY INFORMATION: Section 304(b)(3) of the Magnuson Fishery Conservation and Management Act, as amended, (16 U.S.C. 1801 *et. seq.*) provides a procedure whereby a Council may modify a partially disapproved FMP and submit it to the Secretary of Commerce (Secretary) for an accelerated review and approval or disapproval. This act also requires that the Secretary, upon receiving the revised plan, must immediately publish a notice that the revised plan is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the revised plan.

The revisions to the FMP propose measures for managing foreign fisheries that have an incidental catch of swordfish and domestic fisheries for swordfish in the Atlantic, Gulf of Mexico, and Caribbean. On May 2, 1985, the Environmental Protection Agency published a notice of availability of the final environmental impact statement for this plan (50 FR 18717).

Regulations proposed by the Council and based on this revised plan are scheduled to be published within 10 days.

(16 U.S.C. 1801 *et. seq.*)

Dated: March 18, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-6276 Filed 3-18-86; 4:26 pm]

BILLING CODE 3510-22-M

50 CFR Part 661

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of public hearings.

SUMMARY: The Pacific Fishery Management Council (Council) will hold public hearings concerning the 1986 ocean salmon fishing regulation options off the coasts of Washington, Oregon, and California.

DATE: Written comments concerning the Council's proposed ocean fishery management options for 1986 are invited through April 4, 1986. Individuals or organizations desiring to comment in person may do so at the public hearings. See **"SUPPLEMENTARY INFORMATION"** for dated, times, and locations of the hearings.

ADDRESSES: Written comments should be sent to the Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201. Copies of the 1986 salmon status report and the Council's regulation options are available at this address. An impact analysis of the Council's proposed option is being developed by the Salmon Plan Development Team and should be available just prior to and at the public hearings.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Greenley (Executive Director), 503-221-6352.

SUPPLEMENTARY INFORMATION: The Council will meet on April 7-11 at the Eureka Inn, Eureka, California, to consider the input from the public hearings and written comments received, and to hear additional comments from its advisors and the public. The Council will then develop its recommendations for the 1986 ocean salmon fishing season regulations for submission to the Secretary of Commerce.

The hearings will take place at the following locations:

April 1, 1986—7:00 p.m.

Sheraton-Renton Inn, Evergreen Ballroom A, 800 Ranier Avenue, South, Renton, WA 98055.

California Department of Fish & Game, First Floor Auditorium Resource Building, 1416 Ninth Street, Sacramento, CA 95814.

Thunderbird Motor Inn, North & South Umpqua Room, 1313 North Bayshore Drive, Coos Bay, OR 97420.

April 2, 1986—7:00 p.m.—Elks Hall, 453-11th Street, Astoria, OR 97103.

April 7, 1986—8:00 p.m.—Eureka Inn, Colonnade Room, Seventh & F Streets, Eureka, CA 95501.

Dated: March 17, 1986.

Ricard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-6251 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 55
Friday, March 21, 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 COMMERCE

International Trade Administration

Arizona State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85–138R. Applicant: Arizona State University, Tempe, AZ 85287. Instrument: X-Ray Powder Diffractometer, Model D/MAX–RB and Accessories. Manufacturer: Rigaku Corporation, Japan. Original notice of this resubmitted application was published in the **Federal Register** of May 3, 1985.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides a combination of high intensity and high resolution for studies of thin film deposits in substrates. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign intrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–6242 Filed 3–20–86; 8:45 am]

BILLING CODE 3510–DS–M

Columbia University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85–269. Applicant: Columbia University, New York, NY 10027. Instrument: Spectropolarimeter, Model J–500A. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended Use: See notice at 50 FR 34537.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument provides measurement of circular dichroism spectra and high frequency switching (50,000 times per second) between left- and right-circularly polarized light. The National Institutes of Health advises in its memorandum dated January 22, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–6243 Filed 3–20–86; 8:45 am]

BILLING CODE 3510–DS–M

Emory University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86–047. Applicant: Emory University, Atlanta, GA 30322. Instrument: Monolayer Surface Balance. Manufacturer: Mayer Feintechnik, West Germany. Intended Use: See notice at 50 FR 52821.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument is capable of determining pressure-area isotherms for fatty acids and other lipids. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

[FR Doc. 86–6244 Filed 3–20–86; 8:45 am]

BILLING CODE 3510–DS–M

Eunice Kennedy Shriver Center for Mental Retardation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85–242. Applicant: Eunice Kennedy Shriver Center for Mental Retardation, Inc., Waltham, MA 02254. Instrument: Gas Chromatograph Mass Spectrometer, Model MM70–250SE with Accessories. Manufacturer: VG Analytical Ltd., United Kingdom. Intended Use: See notice at 50 FR 32757.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a mass range of 1 to 6000 atomic mass units at an accelerating potential of 3000 volts and (2) LC/MS analysis capability using a moving belt interface with FAB ionization. The National Institutes of Health advises in its memorandum dated February 6, 1986 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6249 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

The Ohio State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of the 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14, and Constitution Avenue, NW., Washington, DC.

Docket No.: 85-229. Applicant: The Ohio State University, Columbus, OH 43210. Instrument; STEM-SE attachments with Ion Getter Pumps. Manufacturer: Carl Zeiss, West Germany. Intended Use; See notice at 50 FR 30217.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated February 6, 1986 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11.105 Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6241 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

The Research Foundation of the State University of New York; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-009. Instrument: The Research Foundation of the State University of New York, Albany, NY 12201. Instrument: Cubic Anvil System. Manufacturer: NRD Corporation, Japan. Intended Use: See notice at 50 FR 51445.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument can apply pressure to 130 kilobars at temperatures to 1100 degrees centigrade on a sample having a volume up to 10 cubic-millimeters and provides in situ x-ray powder diffraction capabilities. The National Bureau of Standards advises in its memorandum dated February 5, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6247 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-119

Southern Research Institute; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-046. Applicant: Southern Research Institute, Birmingham, AL 35355-5305. Instrument: High Resolution Mass Spectrometer, Model MM7070S with Accessories. Manufacturer: VG Instruments Inc., United Kingdom. Intended use: See notice at 50 FR 52820.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a guaranteed mass resolution of 40,000 (10% valley definition), a mass range of 2600 amu at 6 Kv, a maximum scan rate below m/z 600 of 0.1 seconds/decade and a sensitivity of 2.5×10^{11} amps for mass 369 in the fast atom bombardment mode. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6245 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York at Buffalo; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-287. Applicant: State University of New York at Buffalo, Buffalo, NY 14260. Instrument: Nanosecond Fluorescence Spectrometer System, Model 2000. Manufacturer: Photochemical Research Associates Inc., Canada. Intended use: See notice at 50 FR 41380.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument operates in the nanosecond to millisecond range, with a pulsed light mode providing time-correlated single photon counting. The National Institutes of Health and advises in its memorandum dated January 22, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6246 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

U.S. Army Institute of Dental Research; Decision on Application for Duty-Free Entry of Scentific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-213. Applicant: U.S. Army Institute of Dental Research, Washington, DC 20307-5300. Instrument: Mass Spectrometer, Model 8230B and Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: See notice at 50 FR 29243.

Comments: None received:

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) high resolution (50,000 with 10% valley), (2) scan speed of 0.1 seconds per decade, (3) MS/MS capability and (4) FAB source. The National Institutes of Health advises in its memorandum dated February 6, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6240 Filed 3-20-86; 8:45 am]

BILLING CODE 3910-DS-M

University of California; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-086. Applicant: University of California, Los Alamos, NM 87545. Instrument: Camera, X-Ray Streak. Manufacturer: Kentech Instruments Ltd., United Kingdom. Intended use: See notice at 51 FR 4648.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides time resolution for x-ray measurements of 20 picoseconds. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6250 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Pittsburgh; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-083. Applicant: University of Pittsburgh, Pittsburgh, PA 15260. Instrument: Far Infrared Polarizing Michelson Interferometer and Accessories. Manufacturer: Analytical Accessories Ltd., (SPECAC), United Kingdom. Intended use: See notice at 50 FR 51445.

Coments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a spectral range from $3cm^{-1}$ to $200\ cm^{-1}$ with a resolution of $0.1\ cm^{-1}$. The National Bureau of Standards advises in its memorandum dated January 30, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6248 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Rhode Island; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-271. Applicant: University of Rhode Island, Kingston, RI 02881. Instrument: Thermal Balance, Model 409. Manufacturer: Netzsch Geraetebau GmbH, West Germany. Intended use: See notice at 50 FR 36128.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can operate under vacuum conditions at temperatures up to 2400 degrees centigrade. The U.S. Customs Service advises in its memorandum dated February 12, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6238 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

Woods Hole Oceanographic Institution; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-220. Applicant: Woods Hole Oceanographic Institution, Woods Hole, MA 02543. Instrument: Mass Spectrometer, Model VG54 with Accessories. Manufacturer: VG Isotopes Ltd., United Kingdom. Intended use: See notice at 50 FR 28001.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can measure element/isotope ratios with a guaranteed external precision of 0.003 percent for strontium and neodymium and of 0.05 percent for lead. The National Bureau of Standards advises in its memorandum dated February 3, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-6239 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Emergency Striped Bass Research Study; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96-118).

DATE: The meeting will convene on Friday, April 18, 1986, at 10:00 a.m., and will adjourn at approximately 4:00 p.m. The meeting is open to the public.

ADDRESS: Room 7000 B, Department of the Interior Building, C Street between 18th and 19th Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, Office of Resource Investigations, National Marine Fisheries Service, Washington, DC 20235. Telephone: (202) 634-7466.

Dated: March 17, 1986.

Joseph W. Angelovic,

Deputy Assistant Administrator for Science and Technology.

[FR Doc. 86-6198 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Meeting

AGENCY: Commission on the Bicentennial of the Constitution.

ACTION: Notice of meeting.

SUMMARY: This Notice announces a forthcoming meeting of the Commission on the Bicentennial of the United States Constitution, to be held in Washington, DC, and chaired the Commission's Chairman, Chief Justice Warren E. Burger.

Date and time: Sunday, April 13, 1986 at 1:30 p.m.; Monday, April 14, 1986 at 9:00 a.m. and 12:15 p.m.

Place

On April 13, in the East Conference Room of the Supreme Court Building, at 1 First Street, NE., Washington, DC. On April 14, from 9:00 a.m. to 12:00 noon, in the West Conference Room of the Supreme Court Building; from 12:15 to 3:30 p.m., in the East Conference Room.

Status

On April 14, the morning meeting will be a public hearing in open session; on April 13 and 14, the afternoon meetings will be executive sessions, closed to the public.

Press

On Monday, April 14, from 8:15 to 8:45 a.m., a session with the press will be held in the Lawyers Lounge, second floor, of the Supreme Court Building. The open session public hearing on April 14 will also be open to print and broadcast media.

Agenda

Executive Sessions. Evaluations of proposed projects, examination of Commission budgets, appropriations and personnel structure, review of office space problems, personnel selection procedures, proposed legislation and regulations, status of negotiations on potential national commemorative programs.

Open Session: Progress reports on commemorative plans and programs, announcement of project recognition decisions, discussion of regional and national bicentennial projects, and reception of testimony from witnesses presenting proposals and programs for the bicentennial of the Constitution.

Statements

The Commission is interested in hearing from all persons and organizations with proposed plans, projects or programs which would enhance the bicentennial commemoration of the U.S. Constitution, the Bill of Rights or the founding of the Federal Government. All such statements which can be prepared prior to the Commission meetings on April 13 and 14 should be filed with the Commission on or before April 4, 1986. All written statements so filed will be reviewed by the Commission and its staff.

Presentations

At the public hearing on April 14, available time will permit only a few oral presentations. The Commission will notify in advance those witnesses who have been asked to appear and will limit oral presentations to those selected.

FOR FURTHER INFORMATION CONTACT: Gene Mater, Special Assistant to the Director, 734 Jackson Place, NW., Washington, DC 20503, Tel: (202) USA-1787.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to give the Commission an opportunity to review the current status of operations and to report on its activities. It will also provide an opportunity for witnesses and persons filing statements to advise the Commission about proposed bicentennial plans and programs.

Dated: March 11, 1986.

Mark W. Cannon,

Staff Director.

[FR Doc. 86-6270 Filed 3-20-86; 8:45 am]

BILLING CODE 634-001-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limit for Certain Cotton Apparel Products Produced or Manufactured in Uruguay

March 18, 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 24, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textile and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Governments of the United States and Uruguay have agreed to further amend their Bilateral Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, to establish a specific limit of 47,700 dozen for women's, girls' and infants' cotton coats in Category 335, produced or manufactured in Uruguay and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. The United States Government has decided to control imports at the new limit. Accordingly, in the letter which follows this notice, the Chairman of CITA directs the Commissioner of Customs to establish this limit. The limit is being adjusted to reflect carryforward in the amount of 1,050 dozen, used during the previous agreement period. The adjusted limit will be 46,650 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 18, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, and the Arrangement Regarding the International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and Uruguay; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 24, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 335, produced or manufactured in Uruguay and exported during the twelve-month period which begin on January 1, 1986 and extends through December 31, 1986, in excess of 46,650 dozen.[1]

Textile products in Category 335 which have been exported to the United States prior to January 1, 1986 shall not be subject to this directive.

Textile products in Category 335 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

This limit is subject to adjustment in the future according to the provisions of the bilateral agreement of December 30, 1983 and January 23, 1984, which provide, in part, that: (1) The specific limit may be adjusted for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-6235 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to reflect any imports exported after December 31, 1985.

Announcing Import Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Brazil, Effective on April 1, 1986

March 18, 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 April 1, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 7 and 29, 1985, between the Governments of the United States and the Federative Republic of Brazil establishes an aggregate specific limit and, within the aggregate, individual specific limits for cotton, wool and man-made fiber textiles and textile products in Categories 300/301, 310/318, 313, 315, 317, 319, 334/335, 336, 337, 338/339, 347/348, 350, 352, 359/659, 361, 363, 369pt. (dish towels in T.S.U.S.A. numbers 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, and 366.2440), 445/446, 604, 614, 638/639, 647/648, 666, and 669pt. (polypropylene bags in T.S.U.S.A. number 385.5300), produced or manufactured in Brazil and exported during the agreement year which begins on April 1, 1986 and extends through March 31, 1987. The new agreement includes sublimits for corduroy coats and trousers in Categories 334/335 and 347/348, amounting to 20 percent of the

overall limit established for each of these two categories. The limit for Category 361 is adjusted downward by 27,000 numbers for carryforward used during the previous agreement period. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements, directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced or manufactured in Brazil and exported during the twelve-month period which begins on April 1, 1986 and extends through March 31, 1987, in excess of the designated restraint limits. This letter also directs that charges be made against the limit for Category 604 as a result of an administrative arrangement described in the directive to the Commissioner of Customs, published in the **Federal Register** on February 19, 1986 (51 FR 6024).

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 14, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 7 and 29, 1985 between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products in the following categories, produced or manufactured in Brazil and exported during the twelve-month period which begins on April 1, 1986 and extends through March 31, 1987, in excess of the following restraint limits:

Category	12-month restraint limits
300–369, 400–469, and 600–670.	269,000,000 square yard equivalents.
300/301	8,886,210 pounds.
310/318	3,180,000 square yards.
313	31,800,000 square yards.
315	14,310,000 square yards.
317	12,985,000 square yards.
319	10,600,000 square yards.
334/335	72,080 dozen of which not more than 14,416 dozen shall be in T.S.U.S.A. nos. 381.4810, 381.4850, 384.3705, 384.3720, 384.3735, 384.3753, 384.3769, 384.3770, 384.3772, 384.3774.
336	37,100 dozen.
337	103,880 dozen.
338/339	556,500 dozen.
347/348	477,000 dozen of which not more than 95,400 dozen shall be in T.S.U.S.A. nos. 381.0542, 381.6230, 381.6260, 384.0722, 384.0724, 384.0726, 384.0729, 384.4735, 384.4740, 384.4745.
350	63,600 dozen.
352	371,000 dozen.
359/659	5,830,000 square yards equivalent.
361	450,000 numbers.
363	14,310,000 numbers.
369pt.[1]	636,000 pounds.
445/446	64,640 dozen.
604	477,000 pounds.
614	5,300,000 square yards.
638/639	212,000 dozen.
647/648	477,000 dozen.
666	1,696,000 pounds.
669pt.[2]	2,120,000 pounds.

[1] In Category 369pt., only T.S.U.S.A. nos. 365.6615, 366.1720, 366.1740, 366.2020, 366.2040, 366.2420, 366.2440.
[2] In Category 669pt., only T.S.U.S.A. no. 385.5300.

In carrying out this directive, cotton, wool and man-made fiber textile products in the foregoing categories, produced or manufactured in Brazil, and exported to the United States on and after April 1, 1985 and extending through March 31, 1986, shall, to the extent of any unfilled balances, be charged against the restraint limits established for such goods during that twelve-month period. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the limits set forth in this directive. In Category 604, 112,161 pounds should be charged to the limit for the period which begins on April 1, 1986 and extends through March 31, 1987.

The limits set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 7 and August 29, 1985 between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that: (1) Specific limits may be exceeded by designated percentages; (2) specific limits may be increased by carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **FEDERAL REGISTER** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924.) December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533 (1)(a).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-6236 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DR-M

Cancellation of Staged Entry for Certain Cotton Textile Products Produced or Manufactured in Bangladesh

March 18, 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 28, 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 March 3, 1986 a notice was published in the **Federal Register** (51 FR 7312), which, among other things, established staged entry periods for imports of cotton textile products in Category 340 (men's and boys' woven cotton shirts), produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1985 and extends through January 31, 1986. It has been determined that the remaining staged entry period is no longer needed and it is 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 the Tariff Schedules of the United States Annotated (1986)

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 18, 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 and Man-Made Fiber Textile Agreement, effected by exchange of notes dated February 19 and 24, 1986, between the Governments of the United States and the People's Republic of Bangledesh, I request that, effective on March 28, 1986, you cancel the remaining staged entry period established in the directive of February 26, 1986 for cotton textile products in Category 340, produced or manufactured in Bangladesh.

The Committee for the Implementation of Textile Agreements had determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-6237 Filed 3-20-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Additions and Deletion

Correction

In FR Doc. 86-5651 beginning on page 8868 in the issue of Friday, March 14, 1986, make the following correction: On page 8869, in the first column, the second line from the bottom should read "139-7601".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc., Grade 1 Copper Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Commodity Exchange, Inc. ("Comex") has applied for designation as a contract market in Grade 1 copper. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before May 20, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the Comex Grade 1 copper futures contract.

FOR FURTHER INFORMATION CONTACT: Rick Shilts, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-7303.

Copies of the terms and conditions of the proposed Comex Grade 1 copper futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the Comex in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the Comex in support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581.

Issued in Washington, DC on March 17, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-6193 Filed 3-20-86; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The meeting of the Technical Study Group on Cigarette and Little Cigar Fire Safety originally scheduled for March 25, 1986, has been postponed until May 8 and 9, 1986. The purpose of the meeting is to consider reports on: (1) Testing conducted by the National Bureau of Standards to measure the ignition propensity of cigarettes; (2) gathering and analyzing data to support a cost-benefit study; and (3) testing of cigarettes which have been produced in accordance with various patents but which are not manufactured commercially.

DATE: The meeting will be on May 8 and 9, 1986, from 9:30 a.m. to 5:00 p.m.

ADDRESS: The meeting will be in Room 703-A of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Hylton, Office of Program Management, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 492-6554.

Dated: March 13, 1986.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 86-6202 Filed 3-20-86; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Restriction of Eligibility for Grant Award; Massachusetts Institute of Technology

AGENCY: Department of Energy.

ACTION: Notice of Restriction of Eligibility for Grant Award.

SUMMARY: In accordance with Part 600.7(b), eligibility for award of a grant

resulting from (PR No. 07–86ID12380.502) is restricted to the Massachusetts Institute of Technology.

Project Scope: The overall objective of this research is to define material compositions, critical fabrication process steps, and critical operating conditions that will permit economically viable inert anodes and cathodes to be made which will exhibit adequate performance characteristics in Hall cell aluminum reduction environments.

FOR FURTHER INFORMATION CONTACT: J.O. Lee, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402.

Issued at Idaho Falls, Idaho, on December 31, 1985.

J.F. Marmo,

Director, Contracts Management Division.

[FR Doc. 86–6303 Filed 3–20–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Final Consent Order With Suburban Propane Gas Corp.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Administrator of the Economic Regulatory Administration (ERA) has determined that a proposed consent order between the Department of Energy (DOE) and Suburban Propane Gas Corporation (Suburban) shall be made final as proposed. The Consent Order resolves the issues of Suburban's compliance for the period November 1973 through October 1978 with DOE's regulations regarding resales of propane, butane and natural gasoline. Suburban will pay to the DOE $1,800,000 for distribution pursuant to 10 CFR Part 205, Subpart V. Persons claiming to have been harmed by Suburban's alleged overcharges will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA). The decision to make the Suburban Consent Order final was made after a full review of written comments from the public.

FOR FURTHER INFORMATION CONTACT: Ben L. Lemos, Director, Office of Field Operations, Economic Regulatory Administration, U.S. Department of Energy, 1403 Slocum, Second Floor, Dallas, Texas 75207. Tel: (214) 767–4646.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 3, 1986, ERA published a Notice announcing a proposed Consent Order between DOE and Suburban which would resolve matters pertaining to Suburban's compliance with the regulations regarding resales of propane, butane and natural gasoline (51 FR 4218). The proposed Consent Order required Suburban to pay $1,800,000 for the settlement of alleged overcharges of $2,059,997 plus interest.

The February 3 Notice sets forth ERA's view that the settlement is favorable to the government and in the public interest. The Notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the settlement should be made final.

II. Comments Received

ERA received one timely written comment. The comment addressed only the ultimate disposition or distribution of the Suburban settlement funds. The adequacy of the settlement amount or the terms and conditions of the proposed Consent Order was not addressed. The commenters were: Attorneys General of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah and West Virginia.

III. Analysis of Comments

The February 3 Notice solicited written comments to enable the ERA to receive information from the public relevant to the decision as to whether the proposed Consent Order should be finalized as proposed, modified or rejected.

The comments received voiced no objection to the basis or adequacy of the settlement and were supportive in regard to the use of the special refund procedures of Subpart V. Indeed, the Attorneys General stated that the States should receive any funds remaining after distributions to identifiable injured parties.

ERA has determined that the distribution of the settlement funds should be the subject of a separate Subpart V proceeding conducted by OHA, to be initiated shortly after publication of this Notice. This is consistent with ERA's general policy that the special refund procedures of Subpart V are best suited for cases, such as this, in which ERA cannot readily identify the injured parties or their relative amount of economic harm.

Comments on the actual disbursement of money accordingly will not be addressed here, but will be referred to OHA for consideration in the Suburban Consent Order claims proceeding.

The review and analysis of the comments did not provide any information that would support the modification or rejection of the proposed Consent Order with Suburban. Accordingly, ERA concludes that the Consent Order is in the public interest and should be made final.

IV. Decision

By this Notice, and pursuant to 10 CFR 205.199J, the proposed Consent Order between Suburban and DOE executed on October 21, 1985, is made a final order of the Department of Energy, effective on the date of publication of this Notice in the **Federal Register.**

Issued in Dallas, Texas on the 6th day of March, 1986.

Ben L. Lemos,

Director, Office of Field Operations, Economic Regulatory Administration.

[FR Doc. 86–6302 Filed 3–20–86; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95–621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective April 1, 1986. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Department of Energy, Energy Information Administration, 1000 Independence Avenue, S.W., Room BE–034, Washington, D.C. 20585, Telephone: (202) 252–6077.

Section I.

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79–21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Per million BTU's
Alabama	2.24
Arizona [1]	2.49
Arkansas	2.60
California [1]	2.49
Colorado [2]	2.52
Connecticut [1]	2.50
Delaware [1]	2.72
Florida	2.48
Georgia	2.50
Idaho [2]	2.52
Illinois	2.34
Indiana [1]	2.42
Iowa [1]	2.30
Kansas [1]	2.30
Kentucky [1]	2.42
Louisiana [1]	2.74
Maine [1]	2.50
Maryland [1]	2.72
Massachusetts	2.42
Michigan [1]	2.42
Minnesota [1]	2.30
Mississippi [1]	2.52
Missouri	2.24
Montana [2]	2.52
Nebraska [1]	2.30
Nevada [1]	2.49
New Hampshire [1]	2.50
New Jersey [1]	2.72
New Mexico [1]	2.74
New York	2.72
North Carolina	2.51
North Dakota [1]	2.30
Ohio	2.33
Oklahoma [1]	2.74
Oregon	2.34
Pennsylvania	2.70
Rhode Island [1]	2.50
South Carolina [1]	2.52
South Dakota [1]	2.30
Tennessee	2.34
Texas	2.41
Utah [2]	2.52
Vermont [1]	2.50
Virginia [1]	2.52
Washington [1]	2.49
West Virginia	2.42
Wisconsin [1]	2.42
Wyoming [2]	2.52

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM–79–21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during January 1986 was $30.77 per barrel. The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which the incremental pricing threshold becomes effective. The prices found in *Platt's Oilgram Price Report* are given for each trading day in the form of high and low prices for No. 2 fuel oil in Metropolitan New York and Northern New Jersey. A lag adjustment factor was calculated using the average of the low posted price for these two areas for the ten trading days ending March 14, 1986, and dividing that price by the corresponding average price computed from prices published by Platt's for the month of January 1986. This lag adjustment factor was applied to the January price yielding $23.60 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective April 1, 1986, is $5.29 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81–27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on November 6, 1981, in Docket No. RM81–28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of November 1985, December 1985, and January 1986.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective March 1, 1986, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, November 1985, December 1985, and January 1986. Reported prices for sales in November 1985 were adjusted by the percent change in the nationwide volume-weighted average price from November 1985 to January 1986. Prices for December 1985 were similarly adjusted by the percent change in the nationwide volume-weighted average price from December 1985 to January 1986. The volume-weighted 3-month average of the adjusted November 1985 and December 1985, and the reported January 1986 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of November 1985, December 1985, and January 1986. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending March 14, 1986, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of January 1986. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B. (3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South CArolina
Tennessee
Virginia

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G

Colorado
Idaho
Montana
Utah
Wyoming

Region H

Arizona
California
Nevada
Oregon
Washington

Dated: March 19, 1986.

L.A. Pettis,

Acting Deputy Administrator, Energy Information Administration.

[FR Doc. 86-6378 Filed 3-20-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP86-348-000 et al.]

Natural Gas Certificate Filings; ANR Pipeline Co. et al.

1. ANR Pipeline Company

[Docket Nos. CP86-348-000, et al.]

March 18, 1986.

Take notice that on February 26, 1986, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP86-348-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Standard Gas Marketing Company (SGM), a marketing subsidiary of Sohio Petroleum Company, and, incident thereto, the construction and operation of delivery facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR proposes to provide transportation services for SGM pursuant to a transportation agreement between the parties dated November 19, 1985, as amended February 13, 1986, for a term of 5 years and year to year thereafter. Pursuant to the agreement, ANR proposes to transport up to 14,000 dt equivalent, and such other quantities as the parties may agree, of natural gas per day which SGM would sell and deliver through pipeline facilities to be constructed to connnect Potlatch Corporation, an industrial end-user, in Desha County, Arkansas. In order to accomplish delivery of the transported natural gas, ANR further proposes to construct and operate delivery facilities consisting of a hot tap, side valve and associated measurement facilities at the proposed point of interconnection with SGM's facilities in either Chicot County, Arkansas or Bolivar County, Mississippi. The estimated cost of these facilities is approximately $300,000.00, which would be reimbursed to ANR by SGM. ANR explains that it would transport SGM's gas from various

receipt points in offshore and onshore Texas, Oklahoma and Kansas.

For volumes transported from Oklahoma, onshore Texas and Kansas, ANR proposes to charge SGM (1) 36.8 cents per dt equivalent if the volumes are delivered in Chicot County, Arkansas or Bolivar County, Mississippi, or (2) if the volumes are delivered in Chicot County, Arkansas, 10.6 cents per dt equivalent for gas transported from ANR's West Cameron Block 167, or if the volumes are delivered in Bolivar County, Mississippi, 12.1 cents per dt equivalent. For deliveries of the offshore volumes at either delivery point ANR proposes to charge SGM an additional charge equal to the overrun rate charged by the High Island Offshore System for any gas transported through such system for the account of SGM. ANR would transport and deliver the volumes, as adjusted for fuel use and lost-and-unaccounted-for gas, to SGM at one of the proposed points of delivery, for the account of Potlatch.

Comment date: April 8, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket Nos. CP86–179–000, CP86–179–001]

March 17, 1986.

Take notice that on November 1, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86–179–000 an application, as amended February 28, 1986, in Docket No. CP86–179–001, pursuant to section 7 of the Natural Gas Act for a certficate of public convenience and necessity authorizing the transportation of up to 40 billion Btu equivalent of natural gas per day for Tenngasco Corporation (Tenngasco), acting as agent for United Illuminating Company (United Illuminating), and the addition of four delivery points for the proposed tranportation service and for permission and approval to abandon such transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to the terms of their transporation agreement, dated October 30, 1985, as amended February 7, 1986, Tennessee requests authorization to transport up to 40 billion Btu equivalent of gas per day, less gas for Tennessee's fuel uses, gas lost, and unaccounted-for and plant volume reduction (PVR) due to processing,[1] for Tenngasco, acting as agent for United Illuminating. Tennessee states that it has been informed that United Illuminating desires quantities of gas in excess of 40,000 Mcf per day. As a result of the Commission's directive to Tennessee issued on July 22, 1985, in Opinion No. 240, 32 FERC ¶61,086, Tennessee is stating the transportation quantity of gas on a thermal basis rather than a volumetric basis.

Tennessee requests authorization to add four delivery points for the proposed transportation service. Two of the additional delivery points are to Algonquin Gas Transmission Company (Algonquin Gas) at the interconnection between Tennessee and Algonquin Gas at Wallingford, Connecticut, and at the interconnection between Tennessee and Algonquin Gas at Mendon, Massachusetts. The other two additional delivery points are to Southern Connecticut Gas Company (Southern Connecticut) at the interconnection between Tennessee and Southern Connecticut at Westpoint, Connecticut, and at the interconnection between Tennessee and Southern Connecticut at Trumbull, Connecticut.

Tennessee states that is has been informed by Tenngasco, as agent for United Illuminating, that United Illuminating desires to receive gas supplies for a longer period of time than the period which was stated in the transportation agreement filed with Tennessee's initial application. Tennessee states that the proposed transportation service would expire on December 31, 1990, rather than December 31, 1988. Therefore, Tennessee requests abandonment authorization to be effective 11:59 p.m. CST, December 31, 1990, at which time transportation service rendered by Tennessee pursuant to the agreement would terminate.

In accordance with the agreement, Tennessee states that it would charge a rate for this transportation service, based upon Tennessee's Rate Schedule IT, as shown on its effective FERC Gas Tariff Sheet No. 22. It is indicated that the rates for transportation of PVR, if any, would also be based on Tennessee's Rate Schedule IT and the rate for transportation of liquids, if any, would be established pursuant to the provisions of the agreement.

The Commission published a Notice of Tennessee's application in the **Federal Register** on December 13, 1985 (50 F.R. 51910), in Docket No. CP86–179–000.

[1] PVR is defined to include fuel, shrinkage and other uses or losses of gas resulting from the processing of the gas.

Comment date: April 7, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86–343–000]

March 18, 1986.

Take notice that on February 24, 1986, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86–343–000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Transco to transport natural gas on behalf of XMCO, Inc. (XMCO), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco requests authorization herein to transport up to 20,000 Mcf of natural gas per day on behalf of XMCO, on an interruptible basis, pursuant to a transportation agreement between Transco and XMCO dated May 31, 1985, as amended October 30, 1985. It is averred that such quantities would be purchased by Florida Gas Transmission Company (Florida) for its system supply from XMCO in the Boykin Church field, Smith County, Mississippi, and would be received by Transco from Mississippi Fuel Company (Fuelco) at the existing points of interconnection between facilities of Transco and Fuelco in Clark and Jefferson Davis Counties, Mississippi. It is indicated that Transco would deliver such quantities at existing points of interconnection between the facilities of Transco and Florida in Vermilion and St. Helena Parishes, Louisiana. Transco states that the initial term of this transportation would be 10 years and would continue on yearly basis thereafter.

Transco further states that, initially, it would charge 6.90 cents per dt equivalent of gas for all such quantities transported to Florida for the account of XMCO, and would not retain initially, any of such quantities to compensate for compressor fuel and line loss make-up. Pending issuance of the requested certificate, self-implementing transportation commenced September 1, 1985 pursuant to Subpart G of Part 284 of the Commission's Regulations (Docket No. ST85–520), it is stated.

Transco submits that by filing subject application, it is not electing "non-discriminatory access" as such term is described and defined in §§ 284.8(b) and 284.9(b) of the Commission's Regulations.

Comment date: April 8, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP85-908-001]

March 18, 1986.

Take notice that on February 26, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP85-908-001 an amendment to its application filed in Docket No. CP85 908-000 pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing construction of facilities to connect two processing plants to its existing pipeline system, in Livingston and Calcasieu Parishes, Louisiana, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

The amendment reflects that United now proposes to install facilities to tap its pipeline at locations in Livingston and Calcasieu Parishes as originally proposed and additionally to install and operate 355 feet of lateral lines at the Livingston Parish location.

It is stated that in its application, United requested authorization to construct taps to connect proposed processing plants to be owned and operated by an affiliate, PetroUnited Products Inc. (PetroUnited). It is further stated that the parties have been unable to resolve certain issues regarding payback of plant volume reduction volumes by PetroUnited to United and that, therefore, the parties have mutually agreed to the withdrawal of PetroUnited from the project. United states that it would construct and operate both plants and the connecting facilities. United indicates that it is not requesting authorization to construct and operate the processing plants because it believes that they are exempt from jurisdiction under section 7(c) of the Natural Gas Act by reason of § 2.55(a) of the Commission's Regulations.

United estimates it would cost $149,935 to install the connecting facilities, which would be financed from funds on hand.

Comment date: April 8, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filled, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6258 Filed 3-20-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-18-000]

City of Tacoma, Washington v. The Washington Water Power Co. et al.; Order Setting Matter for Investigation and Hearing

Issued: March 17, 1986.

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

On December 28, 1984, Puget Sound Power & Light Company (Puget), on behalf of the members of the Pacific Northwest Coordination Agreement (PNCA or Agreement) filed a letter dated June 27, 1984, sent by the City of Tacoma, Washington (Tacoma) to PNCA members [1] stating that Tacoma sought to increase its rates for certain services provided under the PNCA, pursuant to section 14(j) of that agreement.

The PNCA provides for the coordinated operation of the electric systems of 16 utilities in order to make the maximum possible use of hydroelectric capacity in the Pacific Northwest. To this end, the Agreement provides for both the sale and exchange of hydroelectric and thermal capacity and energy and for the storage of water for hydroelectric generation. Section 14(j) provides that the parties may agree to amend the charges for the services provided in the PNCA and that, if they cannot agree, the parties subject to the Commission's jurisdiction shall submit the matter to the Commission for determination of charges to become effective thereafter.[2] Section 14(j) further provides that the charges shall become effective prospectively at the beginning of the contract year following the Commission's determination. Since several of the PNCA signatories did not agree to the proposed revisions, Puget, in accordance with the agreement, submitted the matter to the Commission for our resolution.[3]

Notice of Tacoma's complaint was published in the **Federal Register**, with comments due on or before February 25, 1985. Timely motions to intervene were filed by Snohomish, Seattle, Eugene, Chelan, Douglas County, Pend Oreille, and Grant County, (collectively referred to herein as Municipals), and by BPA. Seattle and Eugene joined Tacoma in requesting revised rates. The Municipals and BPA requested intervenor status.

On February 25, 1985, the IOUs filed an answer to Tacoma's complaint. The

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[1] The members of the PNCA are: The Washington Water Power Company (Water Power), the Montana Power Company (Montana), Pacific Power & Light Company (PP&L), Portland General Electric Company (PGE), Puget Sound Power & Light Company (Puget), Bonneville Power Administration (BPA), the Eugene Water & Electric Board (Eugene), the City of Seattle (Seattle), Washington, Grant County Public Utility District No. 2 (Grant County), Pend Oreille County Public Utility District No. 1 (Pend Oreille), Douglas County Public Utility District No. 1 (Douglas), Cowlitz County Public Utility District No. 1, Colockum Transmission Company, Inc., Chelan County Public Utility District No. 1 (Chelan), the City of Tacoma, and Snohomish County Utility District No. 1 (Snohomish).

[2] The five investor-owned utilities (IOUs) subject to the Commission's rate jurisdiction under the Federal Power Act (FPA) are Puget, PGE, PP&L, Water Power, and Montana. BPA is separately subject to Commission rate jurisdiction in certain respects under the Pacific Northwest Electric Power Planning and Conservation Act.

[3] The filing by Puget of Tacoma's letter is in the nature of a complaint by Tacoma regarding the present rates charged under the PNCA. The IOUs and Tacoma have requested that we treat Tacoma's letter as a complaint under section 206 of the FPA, and we have done so.

[4] 50 FR 4263 (1985).

answer alleged that Tacoma's request lacked sufficient legal or factual content upon which the IOUs could respond or comment. The IOUs further stated that the present rates under the PNCA are just and reasonable and, therefore, no increase in the rates is warranted. On that same date, the IOUs filed a motion requesting that the Commission direct Tacoma to amend its request setting forth, in detail, the basis in fact or law for each of the proposed rate changes.

On May 25, 1985, Tacoma filed a motion to amend and supplement the original complaint. On May 30, 1985, Tacoma filed an amended complaint. As a legal basis for its requested changes, Tacoma states that, unless there are reasonable increases in the charges under the PNCA, Tacoma will be subsidizing other members of the PNCA. Tacoma maintains that subsidization is prohibited by the constitution of the State of Washington. In addition, Tacoma states that, since the inception of the PNCA, charges have been determined by way of comparison with BPA's rates and that, in keeping with historical practice, its proposed rates are intended to track BPA's current rates.

Tacoma states that the rates for the two major services (interchange Energy imbalance and Interchange Capacity Imbalance) have been derived historically by reference to BPA's rates. Tacoma states, for example, that the charge for Interchange Energy under the original PNCA was equivalent to BPA's H–4 nonfirm rate and that there have been several increases in BPA's nonfirm rate since 1964 with corresponding increases in the Interchange Energy charges. Tacoma notes that BPA's current nonfirm energy charge is 22 mills/kWh. As to the charge for Interchange Capacity under the PNCA, Tacoma maintains that it has been set historically at 115% of BPA's firm capacity charge. Tacoma notes that BPA's latest proposed firm capacity charge is $1.12/kW/week, and that the Interchange Capacity charge under the PNCA is now no longer sufficient.

In support of its proposed charges for Interchange Energy Service, Holding Interchange Energy Service, and Transfers to Avoid Spill, Tacoma states that these services are similar to Stored Energy Service under the PNCA and that the charges should be raised to a level equivalent to the current charge for Stored Energy Service. The current charge for stored energy is 3 mills/kWh when returned during heavy load hours and 1 mill/kWh when returned during light load hours.

On July 1, 1985, the IOUs answered the amended complaint. According to the IOUs, Tacoma does not allege that the present rates are unjust or unreasonable under section 206 of the Federal Power Act, that the present rates are less than Tacoma's or any other party's cost of providing service, or that Tacoma's costs have increased since the present rates took effect. The IOUs contend that charges under Section 14 of the PNCA should be based on the costs of the services provided, while recognizing the benefits obtained by the parties to the agreement. They state that Tacoma, in essence, is proposing rates for hydro transactions based upon the city's perception of the market value of power, even though such market value is determined by the cost of thermal generating resources. The jurisdictional utilities also dispute Tacoma's specific allegations regarding the various charges presently collected for services performed under the PNCA. Finally, they deny that the present charges result in improper subsidization by Tacoma or violate the constitution of the State of Washington.

On July 16, 1985, BPA filed a motion for leave to file an answer out of time to Tacoma's amended complaint.[5] In its answer, BPA proposes its own changes to the rates addressed by Tacoma and to rates for several other services under the PNCA.

On July 31, 1985, Puget filed an answer opposing BPA's motion to answer out of time and, in the alternative, a motion for permission to answer BPA's new issues. According to Puget, BPA's motion should be denied because it failed to show extraordinary circumstances that would justify making an untimely filing. According to Puget, the Commission was not obligated to issue notice of Tacoma's amended complaint. Therefore, BPA's reason for its failure to timely answer the amended complaint is allegedly not sufficient to permit the untimely pleading. Puget also states that the relief requested by Tacoma in its amended complaint is identical to that requested in the original complaint and that BPA errs in suggesting otherwise. If the Commission grants BPA's motion, Puget requests that it and other respondents be permitted to respond BPA's pleading. In support, Puget alleges that BPA's answer goes beyond the scope of Tacoma's complaint and raises entirely new issues.[6]

[5] As grounds for its untimely pleading, BPA states that it mistakenly expected Tacoma's amended complaint to be noticed in the **Federal Register**.

[6] On August 9, 1985, the Commission's Secretary granted Puget's motion for leave to file an answer and gave all parties until August 20, 1985, to respond to BPA's answer.

On August 15, 1985, Grant County filed a response to BPA's pleading. According to Grant County, the Commission's Rules of Practice and Procedure bar BPA from using its answer to request Commission approval of new charges for services under the PNCA. According to Grant County, the PNCA also bars BPA from seeking the proposed changes because BPA did not follow the proper procedure, as set forth in Section 14(j) of the PNCA. On August 20, 1985, Chelan, Douglas, Eugene, and Seattle filed a joint answer to BPA's filing, adopting Grant County's position.

On August 20, 1985, the IOUs filed an answer to BPA's pleading and moved to strike those portions of BPA's answer in which it proposed new charges under the PNCA. The jurisdictional utilities also complain that BPA has failed to follow the procedures set forth in section 14(j) of the PNCA. In addition, they object to BPA's proposed rates on the ground that they are not cost-based.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed motions to intervene serve to make the Municipals and BPA parties to this proceeding. Pursuant to Rule 102 of the Commission's Rules of Practice and Procedure (18 CFR 385.102), the IOSs are, as respondents to Tacoma's complaint, automatically parties to this proceeding.

Tacoma, in its complaint, proposes to increase charges under the PNCA only for certain selected services. Under the present circumstances, we believe that such a proposal is too narrow. The PNCA deals with an unusual abundance of hydroelectric generation. The predominance of hydro generation requires a particularly close interdependency among utilities due to the need for extensive coordinated water storage and release in order to maximize the benefits and use of the regional water resources. In this comprehensive plan, the thermal systems also play an important role in allowing the predominantly hydro systems to operate reliably. These thermal systems provide a firm source of power to back up hydro resources and provide a market for surplus hydro power. Various parties to this proceeding recognize that the various charges are interrelated. BPA, in its response to Tacoma's amended complaint, proposes to increase charges for services under the PNCA in addition to those for which Tacoma proposes changes. The IOUs stated, in the letter originally transmitting Tacoma's

proposed charges, that if any charges are revised, all present charges listed in section 14 of the PNCA should be reviewed.

The present rates under the PNCA have been in effect since 1980 and may no longer be just and reasonable. In light of the period of time which has passed since the present rates became effective, the proposals by BPA and Tacoma for revision to some or all of these charges, and the particular features of the PNCA, we shall set for hearing, pursuant to section 206 of the Federal Power Act, the justness and reasonableness of all the rates currently charged under the PNCA by the IOUs.[7] Any modification to the IOUs' present rates shall become effective following a final determination by the Commission, pursuant to the terms of section 14(j) of the PNCA.

The Commission also notes that, while BPA and the municipals have contracted not to exceed the IOUs' rates under the PNCA, to the extent they may lawfully do so, neither BPA's nor the municipals' rates are subject to the rate setting standards or procedures of the Federal Power Act. The standards and procedures applicable to the municipals rates are found, if at all, in State legislation or regulations. The standards and procedures for establishing BPA's rates are found in section 7 of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act). The Commission is not empowered to initiate investigations of BPA's rates under that Act. The Commission does, however, have authority to review BPA's rates pursuant to section 7 of the Northwest Power Act, when those rates are submitted to the Commission by BPA pursuant to the procedures established in the Northwest Power Act. Thus, BPA's costs and revenues relating to PNCA services will be considered in the context of a BPA regional rate proceeding under section 7(a) of the Northwest Power Act. We note that BPA has not previously filed its PNCA rates as a separate rate schedule with the Commission or indicated whether any existing schedules accommodate the PNCA services. As BPA's rates are subject to Commission approval, BPA will be directed to file its current and future PNCA rates with the Commission so that they may be separately identified and reviewed in BPA regional rate proceedings. In addition, BPA should elaborate on its view of the interrelationship between the PNCA and the Northwest Power Act requirements as pertinent to the criteria for Commission review.

The Commission notes that the parties have a history of settling PNCA rate proceedings. We encourage efforts toward such a resolution here as well in the interest of expedition and mutuality.

The Commission Orders

(A) The IOUs' motion to strike certain portions of BPA's answer to Tacoma's amended complaint is denied.

(B) BPA's motion to file an answer to Tacoma's amended complaint is granted.

(C) BPA is hereby directed to submit the rate schedules and explanatory material discussed in the body of this order.

(D) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR Ch. 1), a public hearing shall be held concerning the justness and reasonableness of the IOUs' present rates for services under the PNCA.

(E) A presiding administrative law judge, to be designated by the Chief Administrative law judge, shall convene a prehearing conference, to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates and to rule upon all motions (except motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) Subdocket -000 of Docket No. EL85-18 is hereby terminated. Subdocket No. EL85-18-001 is hereby assigned to the evidentiary hearing ordered herein.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb.

Secretary.

[FR Doc. 86-6259 Filed 3-20-86; 8:45 am]

BILLING CODE 6717-01-M

[7] In light of our action and the opportunity that has been provided for other parties to respond to BPA's answer to Tacoma's amended complaint, we shall deny Puget's motion to strike portions of BPA's pleading. Whether or not BPA should have followed a different procedure for questioning other rates under the PNCA, the Commission is empowered to set all the PNCA rates for investigation on its own motion.

[Docket No. CI86-255-000]

Hadson Gas Systems, Inc.; Application for Blanket Certificate of Public Convenience and Necessity and for Order Permitting and Approving Pre-Granted Abandonment

March 18, 1986.

Take Notice that on March 11, 1986, Hadson Gas Systems, Inc. ("Hadson") applied for a blanket certificate of public convenience and necessity authorizing (1) Hadson to make sales of all duly certificated natural gas for resale in interstate commerce, (2) authorizing sales of natural gas by others to Hadson for resale in interstate commerce, (3) authorizing sales for resale of natural gas by others through Hadson acting as their agent, and (4) authorizing the pregranted abandonment of all sales for resale for which sales certificate authority is requested herein. This application is filed pursuant to sections 4 and 7 of the Natural Gas Act ("NGA") and Part 157 of Title 18 of the Code of Federal Regulations.

The certificate and abandonment authority sought herein, if granted, will enable Hadson to purchase from various producers and resell natural gas which remains subject to the NGA jurisdiction of the Federal Energy Regulatory Commission ("Commission") and will allow producers to sell such gas to Hadson. It will also allow Hadson to act as agent in sales by producers of natural gas which remains subject to the NGA. Hadson is not seeking abandonment of producer-pipeline commitments, nor any transportation authority. A more detailed description of the authority Hadson seeks is contained in its Application which is on file with the Commission and open for public inspection.

Hadson is willing to subject itself to the Commission's NGA jurisdiction to the extent, and only to the extent, of its participation in these jurisdictional transactions. Hadson requests that the Commission clarify and declare that Hadson will be subject to the Commission's NGA jurisdiction only to the extent necessary to effectuate the requested authority and only with respect to its participation in the transactions authorized.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 1, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR

385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6260 Filed 3-20-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-392-002]

Hunt Petroleum Corp.; Merger and Change of Name

March 18, 1986.

Take notice that on February 28, 1986, Hunt Petroleum Corporation (HPC) of 2800 Thanksgiving Tower, Dallas, Texas 75201, filed an application pursuant to § 154.92(d)(1) of the Commission's regulations requesting a redesignation of the certificates and rate schedules of Hunt Petroleum Corporation (HPC), Grand Isle Oil and Gas Company (GIOAGC), and Louisiana-Hunt Petroleum Corporation (LHPC) to Hunt Petroleum Corporation, effective December 31, 1985, all as more fully shown in Exhibit A and in the application on file with the Commission and open to public inspection.

Hunt Petroleum Corporation (HPC) and Grand Isle Oil and Gas Company (GIOAGC) merged with and into Louisiana-Hunt Petroleum Corporation (LPHC) on December 31, 1985. LPHC the surviving corporation, then changed its name to Hunt Petroleum Corporation as of the same date as the merger.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 1, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not seve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT A

Rate schedule holder	Rate schedule No.	Certificate No.	Purchaser
Louisiana-Hunt Petroleum Corp	1	CI84-392-000	Texas Eastern Transmission Corp.
Do	2	CI84-393-000	United Gas Pipe Line Co.
Do	3	CI84-394-000	Texas Gas Transmission Corp.
Do	4	CI84-395-000	Do.
Grand Isle Oil and Gas Co	1	CI78-572	ANR Pipeline Co.
Hunt Petroleum Corp	1	G11268	Tennessee Gas Pipeline Co.
Do	2	CI64-184	El Paso Natural Gas Co.
Do	3	CI65-631	Northern Natural Gas.
Do	4	CI72-240	ANR Pipeline Co.
Do	5	CI72-543	Do.
Do	8	CI74-532	Do.
Do	9	CI74-533	Do.
Do	10	CI75-66	Truckline Gas Co.
Do	11	CI77-354	ANR Pipeline Co.

[FR Doc. 86-6261 Filed 3-20-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI75-642-001 et al.]

LLOXY Holdings, Inc.; Petition To Amend Certificates of Public Convenience and Necessity and To Redesignate Rate Schedules

March 18, 1986.

Take notice that on February 20, 1986, LLOXY Holdings, Inc. (LLOXY), of 225 Baronne Street, New Orleans, Louisiana 70163, filed an application pursuant to §§ 154.91, *et seq.*, (and §§ 157.23, *et seq.*, of the Regulations [18 CFR 154.91, *et seq.*, and 157.23, *et seq.*, (1985)], requesting that the Commission amend the certificates of public convenience and necessity heretofore issued to Louisiana Land Offshore Exploration Company, Inc. (Louisiana Land) and the related rate schedules to reflect the merger of Louisiana Land into LLOXY effective November 1, 1984, all as more fully shown in Exhibit II and in the application on file with the Commission and open to public inspection.

In addition, LLOXY requests that the Commission proceedings in which Louisiana Land was heretofore a party-applicant, party-respondent, or intervenor reflect this name change.

Any change desiring to be heard or to make any protest with reference to said applications should on or before April 1, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

LIST OF CERTIFICATE PROCEEDINGS, RATE SCHEDULES AND COMMISSION PROCEEDINGS TO BE COVERED BY LLOXY HOLDINGS, INC.

Docket No.	Louisiana land offshore exploration company, Inc., rate schedule No.	LLOXY Holdings, Inc., proposed rate schedule No.	Purchaser	Location
CI75-642	2	2	Texas Eastern Transmission Corp	Eugene Island Area Block 349, Offshore Louisiana.
CI77-805	3	3	do	W. Cameron Area, Block 620, Offshore Louisiana.
CI77-806	4	4	do	W. Cameron Area, Block 606, Offshore Louisiana.
CI78-158	5	5	United Gas Pipe Line Co	High Island Area, Block A-323, Offshore Texas.
CI78-201	6	6	Transco Gas Supply Co	Vermilion Area, Block 331, Gulf of Mexico.
CI78-628	7	7	United Gas Pipe Line Co	High Island Area, Block A-480, Offshore Texas.
CI79-515	8	8	Transco Gas Supply System	W. Cameron Area, Block 540, Gulf of Mexico.
C79-670	9	9	Transcontinental Gas Pipe Line Corp	W. Cameron Area, Block 540, Gulf of Mexico.
CI80-21	10	10	Texas Eastern Transmission Corp	E. Cameron Area, Block 353, Offshore Louisiana.
CI80-147	11	11	Transcontinental Gas Pipe Line Corp	W. Cameron Area, Block 619, Offshore Louisiana.
CI80-465	12	12	United Gas Pipe Line Co	High Island Area, Block A-555, Offshore Texas.
CI81-102	13	13	Texas Eastern & Transmission Corp	Vermillion Area, Blocks 369 and 3bo, Offshore Louisiana.
CI81-366-000	14	14	United Gas Pipe Line Co	High Island Area, Block A-351, Offshore Texas.
CI83-244-000	15	15	Transco Gas Supply Co	High Island Area, Block A-568 Field, Gulf of Mexico.
CI84-118-000	16	16	ANR Pipeline Co	High Island Area, Blocks A-351 and A-368, Offshore Texas.
CI85-170-000	17	17	Tennessee Gas Pipeline Co	S. Marsh Island, Blocks 173-75, Offshore Louisiana.
			Other Proceedings	
CI86-43-000				

[FR Doc. 86-6262 Filed 3-20-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Proposed Decisions and Orders; Week of February 24 Through February 28, 1986

During the week of February 24 through February 28, 1986, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

Dated: March 14, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

OHR'S Fuel Wallingford Connecticut, KEE-0012

Ohr's Fuel filed an Application for Exception from the Form EIA-782B reporting requirement. The exception request, if granted, would relieve the firm from its obligation to file the monthly report. On February 25, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Phelps Petroleum Company, Burnside, Kentucky, HEE-0169

Phelps Petroleum Company filed an Application for Exception from the Form EIA-782B reporting requirement. The exception request, if granted, would relieve the firm from its obligation to file the monthly report. On February 25, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-6304 Filed 3-20-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2988-5]

Environmental Impact Statements; Availability of EPA Comments

Availability of EPA comments prepared March 3, 1986 through March 7, 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. DA-APH-A82105-00, Rating 3, Rangeland Grasshopper Cooperative Management Program, U.S. **SUMMARY:** EPA is concerned with the adequacy of the EIS due, first, to the absence of a serious explanation of a comprehensive Integrated Pest Management Approach including the use of the biological control agent Nosema locustae and, second, the inadequate characterization of the potential impacts from the chemical spraying alternative on humans and non-target wildlife.

ERP No. D-CDB-C89025-NY, Rating LO, Brooklyn Renaissance Plaza, Construction and Operation, Special Permit, UDAG, NY. **SUMMARY:** EPA anticipates that no significant environmental impacts would result from implementation of this project.

However, EPA suggested that additional information on air quality impacts be included in the final EIS.

ERP No. D–FHW–F40284–OH, Rating EC2, US 422 Relocation, I–271 to OH–44, 404 Permit, Right-of-Way Acquisition, OH. **SUMMARY:** EPA is concerned with potential noise, air, and wetlands/drinking water impacts. EPA recommended that additional analysis and mitigation measures be included in the final EIS.

ERP No. DS–JUS–A82113–00, Rating LO, Cannabis Eradication on Non-Federal and Indian Lands in the Contiguous U.S. and HI. **SUMMARY:** EPA offers no further comments on this action.

Final EISs

F–COE–E23005–AL, Huntsville Spring Branch and Indian Creek System, DDT Contamination Isolation, Olin's Remedial Action Plan, Permits (COE—404 and 10; TVA—26A, FWS—Refuge Use), Redstone Arsenal, Wheeler Reservoir, Tennessee, R., AL. **SUMMARY:** EPA finds that our concerns were satisfactorily addressed in the final EIS, and we have no objections to the project.

ERP No. F–HUD–G85177–OK, Shenandoah Planned Community Development, Mortgage Insurance, OK. **SUMMARY:** EPA finds the final EIS unresponsive to previous environmental concerns and information request regarding the inclusion and evaluation of the completed Superfund investigative study of the Compass Industries site prior to the filing of the final EIS. EPA recommended that a supplemental EIS be prepared. EPA asks that no decision be made on the approval of the FHA mortgage insurance application until NEPA and any required remedial clean-up activity is completed.

Dated: March 18, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86–6233 Filed 3–20–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2988–4]

Environmental Impact Statements, Availability, etc.: Agency Statements—Weekly Receipts

Responsible agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements filed March 10, 1986 Through March 14, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860091, Draft, AFS, CA, NV, Lake Tahoe Basin Management Unit National Forest, Land and Resource Management Plan, Due: June 27, 1986, Contact: Ralph Cisco (916) 544–6420.

EIS No. 860092, FSuppl, COE, HI, West Beach Resort Development, Construction of a Marina and Beach Lagoons, Permit, Hawaii County, Due: April 21, 1986, Contact: Michael Lee (808) 438–9258.

EIS No. 860093, Final, CDB, CA, San Bernardino Enterprise Zone Application, Designation and CDBG, Due: April 21, 1986, Contact: Valerie Ross (714) 383–5057.

EIS No. 860094, Draft, FHW, MT, Bozeman Arterials Developments, North 19th Avenue Construction, Durston Road to Oak Street, Oak Street Construction, North 19th Avenue to North 7th Avenue and Kagy Boulevard Construction, South 3rd Avenue to South 19th Avenue, Gallatin County, Due: May 5, 1986, Contact: William Dunbar (406) 449–5310.

EIS No. 860095, Final, AFS, AL, Alabama National Forest, Land and Resource Management Plan, Due: April 21, 1986, Contact: Joe Brown (205) 832–7630.

EIS No. 860096, Draft, AFS, WA, Okanogan National Forest, Land and Resource Management Plan, Due: July 15, 1986, Contact: William McLaughlin (509) 422–2704.

EIS No. 860097, Final, SCS, OK, North Deer Creek Watershed Multipurpose Plan, Oklahoma, Pottawatomie, and Cleveland Cos., Due: April 21, 1986, Contact: Roland Willis (405) 624–4360.

EIS No. 860098, Legislative, Joint Lead, DOI, USDA, Bureau of Land Management and Forest Service, Transfer of Jurisdiction over Certain Federal Lands and Minerals, Contact: Robert Burford (202) 343–9435.

EIS No. 860099, Draft, COE, IL, North-South Tollway Construction, I–55 to I1–53, Fill Material Discharge, Lily Cache Creek and Dupage River, Dupage and Will Cos., Due: May 5, 1986, Tom Slowinski (312) 353–6428.

EIS No. 860100, Draft, AFS, MT, Deerlodge National Forest, Individual Lodgepole Pine Trees Protection from Mountain Pine Beetle Attacks, Jefferson County, Due: May 5, 1986, Contact: Roger Siemens (406) 287–3223.

EIS No. 860101, Draft, BLM, NM, Carlsbad Resource Area, Resource Management Plan, Eddy, Lea, and Chaves Cos., Due: June 9, 1986, Contact: Charles Dahlen (505) 887–6544.

EIS No. 860102, Draft, OSM, TN, Rock Creek Watershed, Designation of Land Unsuitable for Surface Coal Mining Operations, Hamilton and Bledsoe Cos., Due: May 5, 1986, Contact: Willis Gainer (615) 673–4348.

EIS No. 860103, FSupply, COE, OR, WA, Bonneville Lock and Dam, Navigation Lock Construction, Project Change, Columbia-Snake River Navigation System, Due: April 21, 1986, Contact: Eric Braun (503) 221–6096.

EIS No. 860104, DSuppl, AFS, AK, 1986–1990 Alaska Pulp Long-Term Sale Area, Operating Plan and Designation, Additional Alternatives Tongass National Forest, Chatham and Stikine Areas, Due: May 9, 1986, Contact: K. W. Roberts (907) 747–6691.

Amended Notices

EIS No. 850513, Draft, AFS, CA, Sequoia National Forest, Land and Resource Management Plan, Due: April 28, 1986, Published FR 11–29–85—Review period extended.

EIS No. 860067, Draft, AFS, MT, ND, SD, Custer National Forest, Noxious Weed Treatment Program, Due: April 25, 1986, Published FR 3–7–86—Review period extended.

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 5, 1986, Published FR 3–14–86—Review period reestablished.

Dated: March 18, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86–6232 Filed 3–20–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–180690; FRL–2988–8]

Receipt of Application for an Emergency Exemption From Texas To Use Dichlorophenyltriazole; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA had received a specific exemption request from the Texas Department of Agriculture (hereafter referred to as "Applicant") to use the pesticide TILT, active ingredient 1-[[2-(2,4-dichlorophenyl)-4propyl-1,3-dioxolan-2-yl] methyl] -1*H*-1,2,4-triazole (dichlorophenyltriazole), plus its metabolites containing the dichlorobenzyl moiety (EPA Reg. No. 100–617; CAS 60 207–90–1) on rice to control sheath blight caused by *Rhizoctonia solani.*

The Applicant plans to treat 180,000 acres of rice mainly in the Upper Gulf

Coast Region of the State. It is EPA's policy to solicit public comment on applications involving active ingredients which have not been previously registered for a food use. Accordingly, EPA is soliciting comments before making the decision whether or not to grant this emergency exemption.

DATE: Comments must be received on or before April 7, 1986.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180690" 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 Street SW., Washington, DC 20460

In person, bring comments to: Room 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 that information as "Confidential Business Information." 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 Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By Mail: Jim Tompkins, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Room 716D, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1806).

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 Applicant has requested the Administrator to issue a specific exemption to permit the use of TILT, EPA Reg. No. 100-617, on rice to control sheath blight caused by *Rhizoctonia solani*.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. TILT is currently registered for use on grasses grown for seed.

The Applicant states that the incidence of rice sheath blight has increased since the late 1960s and has severely reduced rice yields in various locations. The Applicant predicts that the disease situation will continue and even worsen because of the following factors: (1) The susceptibility of all currently available long-grain rice varieties and particularly the newly adopted, high-yielding semi-dwarf types; (2) the incidence of aerial web blight in soybeans during the fall of 1985 (Aerial web blight of soybeans is caused by the same fungus that causes sheath blight in rice and soybeans are a major rotational crop for rice.); and (3) the registered use rates of benomyl do not control sheath blight sufficiently to achieve an economic return.

According to the Applicant, crop rotation, host resistance and deep tillage are alternatives to chemical control to minimize yield loss caused by sheath blight. All three alternative control methods plus chemical control are used to the extent possible, but have not resulted in acceptable control, particularly in plantings of the new semi-dwarf varieties. Available methods of control are not expected to provide economic control next season due to increased presence of the fungi and the wide-spread adoption of the semi-dwarf cultivars. Yields of the semi-dwarf cultivars were reduced nearly 2½ times the amount of traditional varieties by equivalent levels of sheath blight. However, a return to standard height varieties for purposes of reduced disease loss would result in a net production loss of 3 million hundredweight.

The Applicant plans to treat up to 180,000 acres using 10,000 gallons of product. Applications are proposed from May 1, through September 30, 1986. Applications will be made by certified aerial applicators. Applications will not be made within 41 days of harvest or to stubble, ratoon crop rice, or headed rice. Water drained from treated areas may not be used to irrigate other crops. The Applicant indicates that treatment of affected acreage with TILT in 1986 could save growers at least $10.1 million.

This notice does not constitute a decision by EPA on this application. Use of the pesticide TILT has been determined to be of public interest, and therefore, the Agency has decided that public notice and opportunity for public comment pursuant to 40 CFR 166.24 is called for as a part of the information adjudication for specific exemptions. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address given above.

The Agency will review and consider all comments received during the comment period in determining whether to issue this emergency exemption request.

Dated: March 14, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-6221 Filed 3-20-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00223; FRL-2990-8]

FIFRA Scientific Advisory Panel; Partially Closed Meeting of Subpanel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of a subpanel of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review an application submitted pursuant to section 5 of FIFRA by the Monsanto Company for an EPA experimental use permit (EUP) for a genetically engineered microbial pesticide. The meeting will be open to the public from 9 a.m. to 2 p.m. and closed to the public from 2 p.m. to 4 p.m.

DATE: Tuesday, April 22, 1986.

ADDRESS: The meeting will be held at: Hyatt-Regency Hotel-Crystal City, 2799 Jefferson Davis Highway, Arlington, VA. (703-486-1234).

FOR FURTHER INFORMATION CONTACT:

By mail: Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-769C), 401 M. St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 1121, Crystal Mall, Building No. 2, Arlington, VA, (703-557-7695).

SUPPLEMENTARY INFORMATION:

I. Notification of Meeting

The Federal Advisory Committee Act (FACA) (5 U.S.C. App. I (1982)) requires that timely notice of each meeting of an advisory committee be published in the **Federal Register**. The interim regulations of the General Services Administration (GSA) (41 CFR Parts 101 through 106)

implementing FACA generally require 15 days notice of the meeting. The subpanel is to meet in order to review an application submitted pursuant to section 5 of FIFRA by the Monsanto Company for an EUP for a genetrically engineered microbial pesticide. This application proposes small scale field testing in corn of *Pseudomonas fluorescens* isolate Ps 3732–3–7 or isolate 112–12, engineered to contain the delta endotoxin gene from *Bacillus thuringiensis* var. *kurstaki*. The purpose of the EUP is to assess the efficicy of the product on root associated lepidopteran insects following the planting of corn seeds which have been treated with the product prior to planting.

II. Reasons for Closed Meeting

Section 10(d) of FACA provides that an advisory committee meeting may be closed to the public "in accordance with subsection (c) of section 552b of title 5, United States Code." Subsection (c)(4) of 5 U.S.C. 552b provides that an advisory committee meeting may be closed to the public when it is determined that material to be considered at the meeting consists of trade secrets and commercial or financial information obtained from a person and privileged or confidential (hereafter "CBI"). The Agency has determined that the Monsanto submission contains information that is CBI. Therefore, insofar as the subpanel will review CBI in the April 22, 1986 meeting, provision must be made for a portion of the meeting of the subpanel to be conducted in executive session. A written determination that the meeting shall be closed from 2 p.m. to 4 p.m. was made by the Administrator on March 14, 1986, pursuant to section 10(d) of FACA for the following reasons:

1. The Monsanto submission contains CBI.

2. Making the submission public would disclose information that could do substantial harm to Monsanto's competitive position.

3. The Monsanto product is at an early stage of development, i.e., 1 to 3 years before the company would normally request a registration from EPA. Thus, Monsanto is anxious to protect its product for as long as possible, in order to prevent competitors from unfairly benefitting from its research and development efforts.

The Agency intends to make a verbatim transcript of the subpanel meeting, which will be available to the public from the portion of the open meeting. If, upon review of that portion of the transcript from the executive session, EPA should determine that any portions of the transcript do not contain exempt material, EPA will make those portions of the transcript also available to the public.

The agenda for this meeting is:

1. Review of an application by the Monsanto Company for an EUP for a genetically engineered microbal pesticide.

2. Consideration of EPA's scientific assessment and issues in response to the EUP.

Copies of documents pertaining to the above agenda items may be obtained by contacting:

By mail: Information Services Section, Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460.

Office location and telephone number: Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or phone listed under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are permitted to file such statements before the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the subpanel. There is no limit on written comments for consideration by the subpanel, but oral statements before the subpanel are limited to approximately 15 minutes. Persons wishing to make oral and/or written statements should notify the Executive Secretary and submit 10 copies of written comments and oral written testimony no late than April 11, 1986, in order to ensure appropriate consideration by the subpanel. Information submitted in any comment concerning this notice may be claimed confidential by marking any part of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. Those comments which do not contain CBI will be included in the public record. Comments submitted not marked CBI may be disclosed publicly by EPA without prior notice to the submitter.

Dated: March 18, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86–6392 Filed 3–20–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1573]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceedings

March 14, 1986.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions must be filed within 15 days after publication of this Public Notice in the **Federal Register**. Replies to oppositions must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2, 73 and 90 of the Commission's Rules to Allocate Additional Channels in the 470–512 MHz Band for Public Safety Services. (Gen Docket No. 84–902, RM–3975) Number of Petitions received: 1

Subject: Review of Technical and Operational Requirements: Part 74–D Broadcast Remote Pickup Service; and Part 74–H Low Power Auxiliary Stations. (MM Docket No. 85–126) Number of Petitions received: 2

Subject: Amendment of Part 15 of the Commission's Rules to Permit the Operation of Low Power Communication Devices in the 1.6–10 MHz Band. (Gen Docket No. 85–129, RM–4427) Number of Petitions received: 1

Subject: Implementation and Scope of the Uniform Settlements Policy for Parallel International Communications Routes. (CC Docket No. 85–204) Number of Petitions received: 6

Subject: Provisions of Access for 800 Service. (CC Docket No. 86–10, RM–5101) Number of Petitions received: 1

Erratum To Petition for Partial Reconsideration

Subject: Amendment of Part 97 of the Commission's Rules to Permit Automatic Control of Amateur Radio Stations. (PR Docket No. 85–105) Number of Petitions received: 1

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 86-6184 Filed 3-20-86; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-761-DR]

Major Disaster and Related Determinations; Montana

AGENCY: Federal Emergency Management Agency.
ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Montana (FEMA-761-DR), dated March 15, 1986, and related determinations.

DATED: March 15, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-3616.

Notice: Notice is hereby given that, in a letter of March 15, 1986, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Montana resulting from severe storms, ice jams, and flooding, beginning on or about February 24, 1986, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Montana.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration. Notice is hereby given that, pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. David P. Grier IV of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Montana to have been affected adversely by this declared major disaster and are designated eligible as follows: Deer Lodge, Glacier, Pondera, Sanders, Teton, and Toole Counties for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,
Director, Federal Emergency Management Agency.
[FR Doc. 86-6191 Filed 3-20-86; 8:45 am]
BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement Name Change

Agreement No.: 207-010884.

Title: Trans Freight Lines, Inc. Joint Service Agreement.

Synopsis: By letter dated March 11, 1986, the Commission was advised by the Attorney for Trans Freight Lines that (1) Trans Freight Lines expects to commence operations as a joint service under FMC Agreement No. 207-010884; (2) change its name from Trans Freight Lines, Inc. to Trans Freight Lines; and (3) will succeed to the business and interests under its respective agreements and tariffs effective March 17, 1986. The following agreements are involved:

No. 202-000093 North Europe—U.S. Pacific Freight Conference
No. 202-010270 Gulf-Europe Freight Association
No. 202-010636 U.S. Atlantic—North Europe Conference
No. 202-010637 North Europe—U.S. Atlantic Conference
No. 202-010656 North Europe—U.S. Gulf Freight Association
No. 217-010792 TFL/Lykes Bros. Space Charter Agreement
No. 202-010848 North Europe—Virgin Islands Rate Agreement
No. 203-010851 Advisory Commission Study Agreement
No. T-3991 South Carolina State Ports Authority/TFL Terminal Lease
No. T-4091 Galveston Wharves/TFL Terminal Lease
No. 224-010611 Massport-TFL Terminal Lease.

Dated: March 18, 1986.

By the Order of the Federal Maritime Commission
John Robert Ewers,
Secretary,
[FR Doc. 86-6275 Filed 3-20-86; 8:45 am]
BILLING CODE 6730-01-M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-003753-005.

Title: Port of Baltimore Terminal Agreement.

Parties:

Maryland Port Administration (MPA)
ITO Corporation of Baltimore (ITO)

Synopsis: The proposed amendment would extend ITO's current lease at MPA's South Locust Point Marine Terminal from its scheduled April 30, 1986 expiration date to January 31, 1987. The parties have requested a shortened review period.

Agreement No.: 202-010676-012.

Title: Mediterranean/U.S.A. Freight Conference.

Parties:

Achille Lauro
C.I.A. Venezolana de Navegacion
Compania Trasatlantica Espanola, S.A.
Costa Line
d'Amico Societa di Navigazione per Azioni
Farrell Lines, Inc.
Flota Mercante Grancolombiana S.A.
"Italia" di Navigazione, S.P.A.
Jugolinija
Jugooceanija
Lykes Lines
Med-America Express Service
Nedlloyd Lines
Nordana Line/Dannebrog Lines AS
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would modify the agreement to provide that any chartering of vessel space between the members will be done pursuant to the terms of a new Annex B which is incorporated by reference.

Agreement No.: 224–010900.

Title: San Francisco Port Commission Terminal Agreement.

Parties:

San Francisco Port Commission
Japan Line, Ltd.

Synopsis: The proposed agreement calls for the utilization of the Port of San Francisco by Japan Line as its published, regularly scheduled Northern California port of call. Japan Line jointly with Evergreen Marine Corp. guarantees a minimum annual thruput of loaded containers and in return will pay less than 100 percent of wharfage and dockage charges. The parties have requested a shortened review period.

Agreement No.: 024–010901.

Title: Port of Galveston Terminal Agreement.

Parties:

The Board of Trustees of the Galveston Wharves (Wharves)
Del Monte Fresh Fruit Company (Del Monte)

Synopsis: The proposed agreement would permit the Wharves to assign Del Monte preferential first call at Pier 18 on berth, shed space and upland marshaling areas. It would also provide Del Monte reduced tariff charges after minimum annual tonnage thresholds are achieved. The initial term of the agreement is five (5) years. The parties have requested a shortened review period.

Agreement No.: 224–010903.

Title: Agreement and Lease between the Maryland Port Administration and Atlantic Container Line, Ltd.

Parties:

Atlantic Container Line, Ltd. (ACL)
Maryland Port Administration (MPA)

Synopsis: The agreement and lease provides ACL with 18.49 acres at Dundalk Marine Terminal for three years. ACL will receive an annual tonnage discount based on the achievement of tonnage beyond a guaranteed level of cargo throughput on the terminal. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: March 18, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–6274 Filed 3–20–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Fidelity Bank, N.A., Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 86–4849), published at page 7852 of the issue for Thursday, March 6, 1986.

Comments on this application must be received not later than March 26, 1986.

Board of Governors of the Federal Reserve System, March 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–6192 Filed 3–20–86; 8:45 am]

BILLING CODE 6310–01–M

Mid Town Bancorp, Inc., et al.; Applications To Engage de Novo 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 *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 10, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Mid Town Bancorp Inc.*, Chicago Illinois; to provide *de novo* through its subsidiary, Mid Town Development Corporation, Chicago, Illinois, real estate development and rehabilitation loans, pursuant to § 225.25(b)(1)(iii) of Regulation Y.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Central Arizona Bancorp.*, Chandler, Arizona; to engage *de novo* through its subsidiary, Central Arizona Mortgage Corporation, Chandler, Arizona, in mortgage banking and commercial finance activities relating to residential and commercial real estate, pursuant to § 225.25(b)(1) (iii) and (iv) of Regulation Y.

Board of Governors of the Federal Reserve System, March 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–6187 Filed 3–20–86; 8:45 am]

BILLING CODE 6210–01–M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Mount Sterling National Holding Co. et al.

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 14, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mount Sterling National Holding Company*, Mount Sterling, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of The Mount Sterling National Bank, Mount Sterling, Kentucky.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bankers' Bancorp of Illinois*, Springfield, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Independent Bankers' Bank of Illinois, Springfield, Illinois.

2. *Wenona Bancorp, Inc.*, Wenona, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Wenona State Bank, Wenona, Illinois.

3. *East Side Bancorporation*, Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of East Side Bank and Trust Company, Chicago, Illinois.

C **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Guaranty Bancorp, Inc.*, Oklahoma City, Oklahoma; to become a bank holding company by acquiring 80.30 percent of the voting shares of Guaranty Bancshares, Inc., Oklahoma City, Oklahoma, and thereby acquire Guaranty Bank and Trust Company, Oklahoma City, Oklahoma.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Trinity Bancorp, Inc.*, Benbrook, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Trinity National Bank, Benbrook, Texas.

Board of Governors of the Federal Reserve System, March 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6188 Filed 3-20-86; 8:45 am]

BILLING CODE 6210-01-M

Peoples National Bancorp of America 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 commerce or to engage *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 ot 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 9, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Peoples National Bancorp of America*, Lawrenceburg, Indiana; to retain P.N.B. Insurance Agency, Inc., Lawrenceburg, Indiana, and thereby engage in general insurance agency activities in a place with a population not exceeding 5,000, pursuant to section 4(c)(8)(C)(i) of the Act.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation*, Los Angeles, California; to acquire Bankline, Inc., Phoenix, Arizona, and thereby engage in providing to others data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation or operating personnel), data bases or access to such services or facilities by any technological means, so long as: (i) The data to be processed or furnished are financial, banking, or economic, and the services are provided pursuant to a written agreement so describing and limiting the services; (ii) the facilities are designed, marketed, and operated for the processing and transmission of financial, banking, or economic data; and (iii) the hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering, all to the extent authorized by § 225.25(b)(7) of Regulation Y. Such applications needed to meet the data processing requirements of financial and banking institutions, including the processing of general ledgers, deposits and extensions of credit. The activities will be conducted from an office of Bankline located in Phoenix, Arizona, serving the United States and the District of Columbia. Comment on the application must be received not later than April 3, 1986.

Board of Governors of the Federal Reserve System, March 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6186 Filed 3-20-86; 8:45 am]

BILLING CODE 6201-01-M

United Jersey Banks; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has 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 § 22521(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *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.

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.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 14, 1986.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *United Jersey Banks*, Princeton, New Jersey; to engage in making or acquiring commercial, consumer and mortgage loans, pursuant to § 225.25(b)(1) of the Act.

Board of Governors of the Federal Reserve System, March 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6189 Filed 3-20-86; 8:45 am]

BILLING CODE 6210-01-M

United Southeastern Bancshares, 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 11, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President), 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *United Southeastern Bancshares, Inc.*, Athens, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Athens-Limestone Bank, Athens, Alabama.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Pinnacle Financial Services, Inc.*, St. Joseph, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of the The Peoples State Bank of St. Joseph, Saint Joseph, Michigan. Comments on this application must be received not later than April 9, 1986.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Capital Bank Corporation*, Frankfort, Kentucky; to acquire 100 percent of the voting shares of Farmers Bancshares of Georgetown, Inc., Georgetown, Kentucky, thereby indirectly acquiring The Farmers Bank and Trust Company, Georgetown, Kentucky.

2. *Medina Bancshares, Inc.*, Medina, Tennessee; to become a bank holding company acquiring 94.30 percent of the voting shares of Medina Banking Company, Medina, Tennessee.

3. *Old National Bancorp*, Evansville, Indiana; to acquire 100 percent of the voting shares of People's Bank & Trust Company, Mount Vernon, Indiana.

4. *Pioneer Bancshares, Inc. of Horatio, Arkansas*, Horatio, Arkansas; to become a bank holding company by acquiring 94.15 percent of the voting shares of Horatio State Bank, Horatio, Arkansas.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota.

1. *Franklin Bancorp, Inc.*, Minneapolis, Minnesota; to become a bank holding company by acquiring 98.75 percent of the voting shares of Franklin National Bank of Minneapolis, Minneapolis, Minnesota.

2. *Lake Elmo Bancorp, Inc.*, Lake Elmo, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Lake Elmo, Lake Elmo Minnesota.

3. *Peninsula Financial Corporation*, Ishpeming, Michigan; to become a bank holding company by acquiring The Peninsula Bank, Ishpeming, Michigan. Comments on this application must be received not later than April 14, 1986.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *WFB Company, Inc.*, Wauneta, Nebraska; top become a bank holding company by acquiring 98 percent of the voting shares of Wauneta Falls Bank, Wauneta, Nebraska.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *North Houston Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of North Houston Bank, Houston, Texas. Comments on this application must be received not later than April 10, 1986.

Board of Governors of the Federal Reserve System, March 17, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6190 Filed 3-20-86; 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 14, 1986.

Social Security Administration

(Call 301-594-5706 for copies of packages)

Subject: Letter to Employer Requesting Information About Wages Earned by Beneficiary—Extension—(0960-0034)

Respondents: Businesses or other for-profit institutions; Small businesses or organizations

Subject: Transitional Employment Training Demonstration Data—Extension—(0960–0387)
Respondents: Individuals or households; State or local governments; Non-profit institutions; Small businesses or organizations
Subject: Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—Extension—(0960–0002)
Respondents: Individuals or households
Subject: Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution—Revision—(0960–0293)
Respondents: Businesses or other for-profit institutions; Small businesses or organizations
Subject: Certificate of Support—Extension—(0960–0001)
Respondents: Individuals or households
OMB Desk Officer: Judy A. McIntosh.

Office of Human Development Services

(Call 202–472–4415 for copies of packages)

Subject: National Study of the Incidence and Prevalence of Child Abuse and Neglect—Reinstatement—
Respondents: State or local governments
OMB Desk Officer: Judy A. McIntosh.

Public Health Service

(Call 202–245–2100 for copies of packages)

Health Resources Services Administration

Subject: Reporting Requirements for Reviews by Health Systems Agencies and State Health Planning and Development Agencies under State Certificate of Need Programs—Reinstatement—(0915–0070)
Respondents: State of local governments; Businesses or for-profit institutions; Non-profit institutions; Small businesses or organizations
OMB Desk Officer: Bruce Artim.

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number 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 17, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86–6219 Filed 3–20–86; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organization, Functions and Delegations of Authority

Part A, Office of the Secretary, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services is amended to reflect the changes in responsibilities for the security functions. Specifically, Chapter AF, Office of the Inspector General (as last amended at 50 FR 45491, October 31, 1985); Chapter AH, Office of the Assistant Secretary for Personnel Administration (as last amended at 50 FR 20850, May 20, 1985); and Chapter AMS, Office of Facilities and Management Services (as last amended at 50 FR 45488, October 31, 1985) are amended. These changes transfer personal security services to the Immediate Office of the Secretary, employee and facility protection services to the Office of Facilities and Management Services, and personnel-related security services to the Office of the Assistant Secretary for Personnel Administration.

These changes are as follows:

1. Amend Chapter AF, Office of the Inspector General as follows:

a. Delete from section AF.20 Functions, paragraph E, The Office of Investigations, subparagraph (f). Reletter subparagraphs (g), (h), (i), (j), (k), and (l) as (f), (g), (h), (i), (j), and (k).

b. Delete from section AF.20, paragraph E, subparagraph (3)(c) items (iii) and (iv) and renumber items (v), (iv) and (vii) as (iii), (iv), and (v).

2. Amend Chapter AH, Office of the Assistant Secretary for Personnel Administration as follows:

a. Amend Section AH.20 Functions, subsection C, Office of Personnel Operations, subparagraph 2, Division of Executive Personnel and Career Development by: changing the word "Career" in the title to "Employee" and by adding the following at the end of the subparagraph: Establishes, implements, and directs programs for personnel and document security.

3. Amend Chapter AMS, Office of Facilities and Management Services as follows:

a. Add to section AMS.20 Functions, subsection E, Telecommunications a new item 9 to read:

9. Maintains employee and facility protection for buildings and employees in the Southwest Complex area.

Dated: March 13, 1986.

John J. O'Shaughnessy,

Assistant Secretary for Management and Budget.

[FR Doc. 86–6218 Filed 3–20–86; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organizations, Functions and Delegations of Authority

Part H, Public Health Service, Chapter HB, Health Resources and Services Administration and Part F, Health Care Financing Administration, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services are amended to reflect the transfer of responsibility for the Health Maintenance Organization Program from the Health Resources and Services Administration to the Health Care Financing Administration. Specifically, Chapter HB (as last amended at 50 FR 21357, May 23, 1985) and Chapter F, Health Care Financing Administration (as last amended at 51 FR 1042, January 9, 1986) are amended. This change is made in order to more closely coordinate the Health Maintenance Organization Program with the Medicare Program and improve the objectives of both programs to improve health care and the use of prepaid health care.

The changes are as follows:

1. Amend Chapter HB, Health Resources and Services Administration as follows:

(a) Delete from HB.20 the entire subsection beginning with "Office of the Associate Director for Health Maintenance Organizations (HBHE)" through, and including the entire functional statement for "Division of HMO Compliance (HBHE4)."

(b) Delete from HB.20, from the subsection beginning "Bureau of Health Maintenance Organizations and Resources Development" the term "Health Maintenance Organizations and" from the title and delete items (3), (4), (5), and (6) from the same subsection. Renumber items (7) through (13) as items (3) through (9).

2. Amend Chapter F, Health Care Financing Administration, Section F.20 Office of the Administrator by adding a new subsection C, titled Office of Health Maintenance Organizations. Transfer the entire deleted subsections identified in paragraph 1(a) of this Notice to this new subsection, deleting the title "Office of the Associate Director for Health Maintenance Organizations (HBHE)" and the following from the titles of the

various subordinate organizations: "(HBHE2), (HBHE3) and (HBHE4)."

3. Amend Chapter F, Health Care Financing Administrator, Section F. 30 Delegations of Authority by adding a new subsection W, to read as follows:

W. The authority under Title XIII of the Public Health Services Act (42 U.S.C. 300e et. seq.), as amended, concerning the Health Maintenance Organizations.

4. Amend Chapter F, Health Care Financing Administration, Section F. 40 Reservations of Authority by adding a new subsection 4. to read as follows:

4. Under Title XIII of the Public Health Service Act. The Secretary shall exercise the authority pertaining to reports to Congress.

5. Amend Chapter F. Health Care Financing Administration, Section F. 50 Limitations of Authority by deleting subparagraph 2.d., relettering 2.e. as 2.d, and deleting subparagraph 3.b. and relettering 3.c. as 3.b.

6. The May 1, 1978 Delegation of Authority to the Assistant Secretary for Health, delegating Title XIII, Health Maintenance Organizations, of the Public Health Service Act, as Amended; and section 1876(b)(2)(A) of the Social Security Act, as Amended; and the January 19, 1977 Delegation of Authority to the Assistant Secretary for Health delegating authority to Title XIII of the Public Health Services Act and Amendments to the Social Security Act (Pub. L. 94–460), section 202(a) Determination of Organizational Compliance to the Provision of section 1301 (b) and (c) are hereby superseded. The Administrator of the Health Care Financing Administration will exercise these authorities under previous delegations from the Secretary.

Dated: March 14, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–6220 Filed 3–20–86; 8:45 am]

BILLING CODE 4150–04–M

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the Executive Subcommittee of the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Thursday, April 3, 1986 from 9:00 a.m. to 1:00 p.m. in Room 405A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC. 20201.

The Executive Subcommittee will consider administrative matters related to operations of the National Committee on Vital and Health Statistics.

Further information regarding the Subcommittee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7050.

Dated: March 11, 1986.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 86–6287 Filed 3–20–86; 8:45 am]

BILLING CODE 4160–17–M

Cardiokymography for Diagnosing Coronary Artery Disease

The Public Health Services (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating a reassessment of what is known of the safety, clinical effectiveness, appropriateness, and use of cardiokymography. Specifically, we are interested in the clinical utility of cardiokymography as it is used in diagnosing coronary artery disease and its sensitivity and specificity when compared with other methods of cardiac screening and diganosis.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing within 90 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current, and planned research related to cardiokymography, a bibliography of published, controleld clinical trials and other well-designed clinical studies. Information related to the characteristics of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology is also being sought. Specifically, the interchangeability of cardiokymography with electrocardiography, and the need for adjunctive cardiokymography with electrocardiography is of interest.

Written material should be submitted to: Ernest Feigenbaum, M.D., Office of Health Technology Assessment, Park Building, Rm. 3–10, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–4990.

Dated: March 7, 1986.

Enrique D. Carter,

Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 86–6286 Filed 3–20–86; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Thursday, April 3, 1986, starting at 9:00 a.m. in the Meeting Room of Faneuil Hall, One Faneuil Place, Boston, MA 02201. Due to the number of speakers requesting time to address the Commission a second hearing room has been designated for Thursday, April 3, 1986, starting at 9:00 a.m., in the City Council Chambers, One City Hall Plaza, Boston, MA 02201.

Thisl will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

The meeting is open to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111—20th Street, NW., Washington, DC 20036–8547, (202) 634–7310.

Dated: March 17, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86–6257 Filed 3–20–86; 8:45 am]

BILLING CODE 4310–70–M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service clearance officer and the OMB Interior Desk Officer, Washington, DC 20503, telephone 202–395–7313.

Title: Request for Banding Data.

Abstract: The report is completed by licensed bird banders and provides banding data when a bird band recovery report on a specific band number is received and there is no matching band data on file. Such data is used by Federal, State, and Provincial personnel, conservation organizations, and scientific cooperators to aid in the study of population size, mortality and survival rates, longevity and migration patterns of birds. Band recovery information is also used in the preparation of the annual United States and Canadian Wildlife Service's hunting and shooting regulations.

Form Number: 3–860a
Frequency: On occasion
Description of Respondents: Individuals and households, and licensed bird banders
Annual Responses: 4,000
Annual Burden Hours: 133.

Acting Service Clearance Officer: James E. Pinkerton, telephone 202–653–7499, Room 859, Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240

Dated: March 5, 1986.

Walter O. Stieglitz,

Acting Associate Director—Wildlife Resources.

[FR Doc. 86–6204 Filed 3–20–86; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[W–94205]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W–94205 for lands in Niobrara County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–94205 effective May 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86–6178 Filed 3–20–86; 8:45 am]

BILLING CODE 4310–22–M

[Designation Order MT–025–8601; Supersedes Designation Order MT–060–002]

Montana Off-Road Vehicle Designation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Off-Road Vehicle Designation Decision.

Decision

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. Off-road vehicle use on the following described lands under administration of the Bureau of Land Management is limited to designated roads except for permitted and licensed use authorized by the authorized officer. Permits and licenses will be restricted to the person holding the grazing lease for the purpose of maintaining and constructing new livestock facilities and to Bureau of Land Management employees for the purpose of resource management. The 3,760 acre area affected by the designation is known as the Southwest End Allotment (Action area) located within the Billings Resource Area. This final designation is the result of land use decisions made in the 1984 Billings Resource Management Plan. This designation is published as final today. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals.

Limited Designations

A. Approximately 3,760 acres are designated as limited to designated roads or to permitted or licensed use. This acreage is described as:

T. 3 N., R. 25 E.,
Secs. 5, 8, 9, and 17: All.
T. 3 N., R. 25 E.,
Sec. 6, lots 1 and 2, S½NE¼;
Sec. 7, lots 1 and 2, E½, E½W½;
Sec. 20, N½N½;
Sec. 31, E½.

All motorized vehicle use is limited in this area to protect the fragile environment, cultural values, scenic values, vegetational values, and to prevent undue erosion.

This designation becomes effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impacts of this designation is available for inspection at the Billings Resource Area Office.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, BLM, P.O. Box 940, Miles City, Montana 59301, or Area Manager, Billings Resource Area, BLM, 810 East Main, Billings, Montana 59105.

Dated: March 12, 1986.

Robert A. Teegarden,

Acting District Manager.

[FR Doc. 86–6256 Filed 3–20–86; 8:45 am]

BILLING CODE 4310–DN–M

National Park Service

Information Collection Submitted for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Washington, DC 20503, telephone 202–395–7340.

Title: Park Visitation Census

Abstract: To effectively manage National Park Service areas, there is a need to collect information about the characteristics of park visitors. Park managers will use the data to plan maintenance schedules, design programs, access and other management strategies.
Bureau Form Number: 10–157
Frequency: On Occasion
Description of Respondents: Individuals
Annual Responses: 9,600
Annual Burden Hours: 800
Bureau Clearance Officer: Russell K. Olsen, 202–523–5133

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 85–6285 Filed 3–20–86; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Current Schedule of Reviews of Government Vesus Contract Operation of Commercial or Industrial Activities and Service Contracts

AGENCY: Agency for International Development, IDCA.

ACTION: Notification of current schedule of reviews.

SUMMARY: Pursuant to Office of Management and Budget (OMB) Circular A–76, notice is hereby given that the Agency for International Development (AID) intends to conduct reviews of the feasibility and/or cost of contract operation versus government operation of commercial and industrial activities listed below under Supplemental Information. Specific invitation for bids or request for proposals will be announced in the *Commerce Business Daily*. A contract or contracts may or may not result from each feasibility or cost-comparison study. Results of each study will be made available to responding bidders or offerors and other interested parties.

FOR FURTHER INFORMATION CONTACT: Fred Allen, 632–3378, John H. Elgin, 632–3378.

SUPPLEMENTARY INFORMATION: Studies to be made are identified in the following tabulation:

Name of activity	Location of activity	Review start date
ADP services	Washington, DC	In process.
Mail and file/motor pool warehousing.	Washington, DC	In process.
Voucher examination	Washington, DC	June 2, 1986.
Audiovisual products and services.	Washington, DC	May 1, 1986.

Dated: March 13, 1986.

R.T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 86–6056 Filed 3–20–86; 8:45 am]

BILLING CODE 6116–01–M

Agency for International Development

Joint Committee on Agricultural Research and Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the sixteenth meeting of the Joint Committee on Agricultural Research and Development (JCARD) of the Board for International Food and Agricultural Development (BIFAD) on April 1 and 2, 1986.

The purpose of the meeting is to receive reports and recommendations and to discuss the Proposal to extend the Peanut Collaborative Research Support Program (CRSP); to discuss the proposal to extend the Small Ruminent CRSP as well as to receive reports on and discuss AID's nutrition programs. A deliberation on the current role of JCARD will take place and JCARD will receive Panel reports on and discuss Agricultural Policy for AID. JCARD will assess the impact of proposed agricultural, rural development and nutrition budget. The Committee will review institution building plans in Africa and review BIFAD's role in monitoring and evaluating AID's Title XII Projects.

JCARD will meet from 1:15 p.m. to 5:00 p.m. on April 1 and from 8:30 a.m. to 12:15 p.m. on April 2, 1986. The meeting will be held in Room 1406 in the State Department. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. John Stovall, BIFAD Support Staff, is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Washington, DC 20523 or telephone him at (202) 647–7332.

Dated: March 18, 1986.

John Stovall,

AID Advisory Committee Representative, Joint Committee on Agricultural Research and Development, Board for International Food and Agricultural Development.

[FR Doc. 86–6196 Filed 3–20–86; 8:45 am]

BILLING CODE 6116–01–M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent company and address of principal office: A&M Building Systems, Inc., 2610 E. Mabry Drive, P.O. Box 1450, Clovis, New Mexico 88101.

2. Wholly-owned subsidiary which will participate in the operations, and state of incorporation: A&M Farm & Ranch, Inc., 2600 E. Mabry Drive, P.O. Box 1450, Clovis, New Mexico 88101 (Inc. in New Mexico).

B. 1. Parent corporation and address of principal office: Brown Pipe Company, 640–646 W. 19th Street, P.O. Drawer 1408, Jasper, Alabama 35501.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of Incorporation:

(i) Brown Pipe Company of Tennessee, Inc., a Tennessee corporation (will engage in operations but not hauling).

(ii) Heavy Haulers, Inc., an Alabama corporation (will be exclusive hauler for intercorporate group).

C. 1. The parent corporation is: Hauserman, Inc., 5711 Grant Avenue, Cleveland, Ohio 44105.

2. The wholly-owned subsidiaries which will participate in the operations and states of incorporation are:

SunarHauserman, Inc., Ohio,
SunarHauserman, Ltd. Waterloo, Ontario, Canada

D. 1. Parent corporation and address of principal office: K mart Corporation, 3100 West Big Beaver Road, Troy, Michigan 48084.

2. Wholly-owned subsidiaries which will participate in the operations and their states of incorporation:

Bishop Buffets, Inc.—Iowa
Furr's Cafeterias, Inc.—Texas
K mart Apparel corp.—New York

E. 1. Parent corporation and address of principal office: PetroSource

Corporation, 185 South State Street, Suite 900, Salt Lake City, Utah 84111.

2. Wholly owned subsidiaries which will participate in the operations, and States of incorporation:

a. Petro Source, Inc., a Utah corporation.

b. Petro Source Oil Company, a Utah corporation.

c. Petro Source Energy, a Utah corporation.

d. Petro Source Hydrocarbon Services, a Utah corporation.

e. Petro Source Company, a Utah corporation.

f. Petro Source Resources, a Utah corporation.

g. Petrosource Transportation, a Utah corporation.

h. Petro Source Products Company, a Utah corporation.

i. Petro Source Refining Corporation, a Utah corporation.

j. Texon Corporation, a Utah corporation.

James H. Bayne,

Secretary.

[FR Doc. 85-6228 Filed 3-20-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30789]

Indiana Rail Road Co.; Exemption; Acquisition and Operation

Indiana Rail Company has filed a notice of exemption to acquire and operate the Illinois Central Gulf Railroad Company's line between Indianapolis and Sullivan, IN, and a branch from Bloomington to Victor, IN. Any comments must be filed with the Commission and served on Carl M. Miller, 407 Broadway, P.O. Box 346, New Haven, IN 46774.

The notice is filed under 49 CFR 1150.31. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: March 14, 1986.

By the Commission, Director Jane F. Mackall, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-6328 Filed 3-20-86; 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-16951]

Philadelphia, Bethlehem & New England Railroad Co. & Bethlehem Steel Corp., Control; Bethtran, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 11343(e), the Commission exempts from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, the acquisition of control by Bethlehem Steel Corporation and the Philadelphia, Bethlehem and New England Railroad Company of BETHTRAN, Inc. (BETHTRAN). BETHTRAN will become a motor common carrier through its proposed purchase of and merger with Carrier Express, Inc. (MC-181662).

DATE: This exemption will be effective on March 20, 1986.

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, Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided:

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons concurred in the result. Commissioner Lamboley concurred in the result with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-6230 Filed 3-20-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub 161)]

Seaboard System Railroad, Inc.; Abandonment in Russell, Macon, Bullock, and Montgomery Counties, AL; Findings

The Commission has found that the public convenience and necessity permit the Seaboard System Railroad, Inc., to abandon its 71.95-mile rail line between milepost SL-755.13 at Mahrt and milepost SL-827.08 at Eastmont, in Russell, Macon, Bullock and Montgomery Counties, AL.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered 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 bold face 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. 86-6229 Filed 3-20-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 10, 1986, Mallinckrodt, Inc., Department C.B., Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Etorphine hydrochloride (9059)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane (9254).	II
Bulk dextropropoxyphene (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extracts (9620)	II
Tincture of opium (9630)	II
Powdered opium (9639)	II
Granulated opium (9640)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than April 21, 1986.

Dated: March 14, 1986.

Alfred A. Russell,

Acting Deputy Assistant Administrator.

[FR Doc. 86-6234 Filed 3-20-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

The Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: April 8, 1986, 9:30 a.m., Rm. S4215, A&B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Fernand Lavallee, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6565.

Signed at Washington, DC, this 12 day of March, 1986.

Robert W. Searby,

Deputy Under Secretary International Affairs.

[FR Doc. 85-6305 Filed 3-20-86; 8:45 am]

BILLING CODE 4510-28-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a party of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determinations

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:

Kentucky	KY86-7 (Jan. 3, 1986)	pp. 289-292
New Jersey	NJ86-3 (Jan. 3, 1986)	p. 605 pp. 619-620
New York	NY86-9 (Jan. 3, 1986)	p. 723
New York	NY86-10 (Jan. 3, 1986)	pp. 725-730
Rhode Island	RI86-1 (Jan. 3, 1986)	p. 967
West Virginia	WV86-3 (Jan. 3, 1986)	pp. 1141-1150
Listing by location (index)		p. xxxix

Volume II:		
Arkansas	AR86-5 (Jan. 3, 1986)	pp. 15-17
Iowa	IA86-3 (Jan. 3, 1986)	p. 35
Iowa	IA86-5 (Jan. 3, 1986)	pp. 45-47
Illinois	IL86-1 (Jan. 3, 1986)	pp. 63-67, p. 77
Illinois	IL86-2 (Jan. 3, 1986)	pp. 88-91
Illinois	IL86-5 (Jan. 3, 1986)	p. 116
Illinois	IL86-7 (Jan. 3, 1986)	p. 127
Illinois	IL86-8 (Jan. 3, 1986)	pp. 131-132
Illinois	IL86-9 (Jan. 3, 1986)	p. 137
Illinois	IL86-11 (Jan. 3, 1986)	p. 146
Illinois	IL86-12 (Jan. 3, 1986)	p. 152
Illinois	IL86-13 (Jan. 3, 1986)	p. 162
Illinois	IL86-14 (Jan. 3, 1986)	pp. 172-173, p. 175
Illinois	IL86-15 (Jan. 3, 1986)	pp. 182-183
Illinois	IL86-16 (Jan. 3, 1986)	pp. 192-193, p. 195
Illinois	IL86-17 (Jan. 3, 1986)	p. 202
Kansas	KS86-9 (Jan. 3, 1986)	p. 343
Oklahoma	OK86-15 (Jan. 3, 1986)	p. 839b
Texas	TX86-9 (Jan. 3, 1986)	p. 868
Texas	TX86-10 (Jan. 3, 1986)	p. 871
Volume III:		
California	CA86-4 (Jan. 3, 1986)	pp. 66, 73 pp. 81, 83
Colorado	CO86-1 (Jan. 3, 1986)	pp. 97-105
Colorado	CO86-4 (Jan. 3, 1986)	pp. 373-374
Nevada	NV86-1 (Jan. 3, 1986)	pp. 215-218, pp. 223-224
Nevada	NV86-2 (Jan. 3, 1986)	p. 236

General Wage Determination Publication

General Wage determination 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 14th day of March 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-6032 Filed 3-20-86; 8:45 am]

BILLING CODE 4510-27-M

Pension and Welfare Benefits Administration

[Application Numbers D-5598 and D-5776]

Proposed Amendments to Prohibited Transaction Exemption (PTE) 81-6 Involving Lending of Securities by Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed amendments to PTE 81-6.

SUMMARY: This document contains a notice of pendency before the Department of Labor of proposed amendments to PTE 81-6. PTE 81-6 is a class exemption that permits the lending of securities by employee benefit plans to certain broker-dealers and banks which are parties in interest with respect to such plans. The proposed amendments, if adopted, would affect participants, beneficiaries and fiduciaries of plans engaging in the described transactions, broker-dealers and banks affected by the amendments, and certain corporate surety companies.

DATES: Written comments should be received by the Department on or before May 21, 1986.

EFFECTIVE DATE: If adopted, these proposed amendments would be effective as of January 23, 1981, the effective date of PTE 81-6.

ADDRESSES: All written comments (preferably at least three copies) should be sent to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N-5669, Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Lending of Securities. The applications pertaining to the exemptive relief proposed herein (Application D-5598 and D-5776) and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 523-8882. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of proposed amendments to PTE 81-6 (46 FR 7527, January 23, 1981). PTE 81-6 provides an exemption from the prohibited transaction restrictions of section 406(a)(1) (A) through (D) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code (the Code) by reason of section 4975(c)(1) (A) through (D) of the Code.

PTE 81-6 permits an employee benefit plan to lend securities to a broker-dealer registered under the Securities Exchange Act of 1934 (the 1934 Act) or to a bank, provided certain conditions are met. These conditions include a requirement that the lending plan must receive from the borrower collateral consisting of cash, securities issued or guaranteed by the United States Government or its agencies, or irrevocable bank letters of credit. In the absence of an exemption, securities lending transactions would be prohibited under circumstances where the borrowing broker-dealer or bank is a party in interest or disqualified person with respect to the plan under section 3(14) of ERISA or section 4975(e)(2) of the Code.

Manufacturers Hanover Trust Company (Manufacturers Hanover) requested the first proposed amendment in an application dated June 29, 1984 (Application No. D-5598). The amendment would add certain broker-dealers which are exempted from registration under the 1934 Act to the categories of securities borrowers with whom plans may engage in transactions

in reliance on the class exemption.

The second proposed amendment was requested by Merrill Lynch, Pierce, Fenner & Smith (Merrill Lynch) in an application dated September 26, 1984 (Application No. D–5776). The amendment would expand the types of permissible collateral under the exemption to include qualifying irrevocable surety bonds.

According to the applicants, all the conditions already contained in PTE 81–6, with the exception of those modified by this proposal, would continue to be met under the proposed amendments. These conditions include a requirement that neither the borrower nor any affiliate has any discretionary authority or control regarding the investment of plan assets involved in the transaction or provides investment advice with respect to those assets. In addition, the plan must receive collateral having a market value of at least 100 percent of that of the borrowed securities, and the level of the collateral must be maintained at 100 percent or higher. Any lending of securities in reliance on the exemption must be made under a written agreement, and each loan must be terminable by the plan at any time.

The Department is proposing the amendments to PTE 81–6 pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code [1] and in accordance with ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Information collection requirements contained in PTE 81–6 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 OMB #1210–0065 approved for use through May 31, 1987.

A. Broker-Dealers Exempt from Registration Under the 1934 Act

Manufacturers Hanover acts as trustee for a number of employee benefit plans and other, non-ERISA accounts and also operates a centralized securities lending program. Under this program, securities are loaned at the discretion of Manufacturers Hanover from a pool of available securities to banks and broker-dealers making specific requests for certain loans. Because of the centralized nature of the program, it is difficult to determine in advance whether a broker or dealer is a party in interest in regard to a particular plan.

The proposed amendment would expand the scope of PTE 81–6 to permit Manufacturers Hanover and other market participants to lend securities to broker-dealers who are exempt from registration under section 15(a)(1) of the 1934 Act because they trade principally in Federal Government and Agency securities exempt from registration under section 3(a)(12) of the 1934 Act. The applicant states that the approximately 30 such broker-dealers are generally subject to the other provisions of the 1934 Act, including section 10 thereof which prohibits the use of manipulative or deceptive devices in connection with the purchase or sale of securities.

Approximately twelve of the broker-dealers so exempted from registration are primary reporting dealers in Government securities who report their security positions and other data to the Federal Reserve System on a daily basis.[2] In addition, a number of the exempted broker-dealers are secondary dealers in Government securities who also report their security positions and other data to the Federal Reserve System. Finally, several of the exempted broker-dealers are subsidiaries of larger registered broker-dealers, which are publicly held corporations that must furnish certain information relating to financial responsibility to the Securities and Exchange Commission.

In a letter dated May 28, 1985, the American Bankers Association (the ABA) stated that its members are often approached by potential borrowers which are Government securities dealer subsidiaries of major registered broker-dealers. The ABA indicated that banks, acting as fiduciaries of employee benefit plans, are reluctant to lend securities to such dealers because they are not registered broker-dealers under the 1934 Act. The ABA further indicated that banks would like to make securities loans to such dealers subject to the safeguards of PTE 81–6.

B. Certain Surety Bonds Used as Acceptable Collateral

Paragraph 2 of PTE 81–6 requires that, when a plan lends securities to a party in interest, the borrower must provide collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies, irrevocable bank letters of credit issued by a person other than the borrower or an affiliate thereof, or a combination of these forms. The plan receives from the borrower collateral either by physical delivery or by book entry in a securities depository which has a market value equal to at least 100 percent of the market value of the loaned securities. Further, under paragraph 6 of the exemption, the collateral must be maintained at no less than 100 percent at all times during the term of a securities loan.

The proposed amendment would expand the kinds of collateral eligible under the exemption to include irrevocable surety bonds issued by insurance companies engaged in the business of issuing such bonds in support of obligations of third persons. The bonds could be issued only by corporate surety companies that are acceptable sureties on Federal bonds under authority granted by the Secretary of the Treasury pursuant to section 6 through 13 of Title 6, United States Code. These companies are authorized to issue surety bonds in the fulfillment of the bonding requirements set forth in section 412 of ERISA.[3] A list of surety companies acceptable on Federal bonds is maintained by the Department of the Treasury and is published annually in Treasury Circular 570.

According to the applicant, a surety bond, like a bank letter of credit, is the functional equivalent of a guaranty. A surety bond evidences the independent obligation of the surety which assures payment to the beneficiary of the bond. The obligation survives any default by, or bankruptcy of, the underlying obligor. Moreover, as in the case of banks, the permissible business and investment activities of sureties are closely regulated by law and the procedures which govern the issuance of surety bonds are designed to ensure that the beneficiaries of the bonds are paid in a timely manner.

The applicant contends that the

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of this type to the Secretary of Labor.

In the discussion of the exemption, references to sections 406, 408 and 3(14) of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[2] See the preamble to a proposed amendment to class exemption 81–8 (involving short-term investments) for a discussion of reporting dealers (49 FR 27379, July 3, 1984). The amendment was finalized on April 9, 1985 (50 FR 14043).

[3] Section 412(a) of ERISA requires that, with certain exceptions, every fiduciary of an employee benefit plan and every person who handles funds or other property of the plan must be bonded as provided in section 412.

availability of surety bonds as acceptable collateral under PTE 81–6 will enhance the ability of plans to enter into securities lending transactions. The cost incurred by borrowers in providing the types of collateral currently permitted under the exemption are at times restrictive. The expense of obtaining surety bond coverage will often be less than the cost of providing the same level of an alternative form of collateral. Under the proposal, the borrowing broker-dealer or bank will enter into arrangements with one or more sureties under which the surety will agree to issue surety bonds in favor of the lending plan. At the time of each loan, the borrower will deliver to the plan cash, Government or Agency securities, irrevocable bank letters of credit, irrevocable surety bonds, or any combination thereof.

Merrill Lynch represents that a surety bond issued in favor of a plan under the proposed irrevocable amendment will have the following characteristics. The bond will evidence the irrevocable and unconditional obligation of the surety to make payments to the plan. Further, it will evidence the independent obligation of the surety to the plan, separate and distinct from the primary obligation of the borrower to the plan under the loan agreement. The bond will be payable upon presentation of the bond by the plan to the surety, with no more than a reasonable period of notice required for payment. It will be payable in immediately available funds, without counterclaim, setoff, deduction, defense, abatement, suspension or deferment of any kind. Each surety bond also will provide that, in the event of termination of a loan and failure of the borrower to promptly return the borrowed securities, the plan will be entitled to draw under the bond to the extent of the amount thereof in a manner comparable to that specified in paragraph 8 of PTE 81–6. Paragraph 8 provides, in part, that, if a loan is terminated and the borrower fails to return the borrowed securities or equivalent within a certain time, the plan may purchase securities identical to those borrowed and apply the collateral to the payment of the purchase price.

Based on the foregoing representations and the additional protections already embodied in PTE 81–6, it appears to the Department that sufficient safeguards are present for the protection of plan assets involved in the transactions. Therefore, the Department has decided to propose the amendments requested by the applicants.

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 ERISA does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; 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 ERISA, 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; and

(3) The proposed amendments, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and 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.

Written Comments

All interested persons are invited to submit written comments on the proposed amendments to the address and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed amendments. Comments received will be available for public inspection with the referenced applications at the above address.

Proposed Amendments

Under section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with ERISA Procedure 75–1, the Department proposes to amend PTE 81–6 as set forth below.

1. The first sentence of the exemption is amended to read:

"Effective January 23, 1981 the restrictions of section 406(a)(1) (A) through (D) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the lending of securities that are assets of an employee benefit plan to a broker-dealer registered under the Securities Exchange Act of 1934 (the 1934 Act) or exempted from registration under section 15(a)(1) of the 1934 Act as a dealer in exempted Government securities (as defined in section 3(a)(12) of the 1934 Act) or to a bank, if:"

2. Paragraph 2 of the exemption is amended to read:

"The plan receives from the borrower (either by physical delivery or by book entry in a securities depository) by the close of the lending fiduciary's business on the day in which the securities lent are delivered to the borrower, collateral consisting of cash, securities issued or guaranteed by the United States Government or its agencies, irrevocable bank letters of credit issued by a person other than the borrower or an affiliate thereof, or irrevocable surety bonds issued by a corporate surety company other than the borrower or an affiliate thereof which is authorized to issue the bonds referred to in section 412(a) of the Act, or any combination thereof, having, as of the close of business on the preceding business day, a market value or, in the case of letters of credit or surety bonds, a stated amount, equal to not less than 100 percent of the then market value of the securities lent;"

Signed at Washington, DC, this 17th day of March 1986.

Dennis M. Kass,

Assistant Secretary for Pension and Welfare Benefits, U.S. Department of Labor.

[FR Doc. 86–6077 Filed 3–20–86; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Archaeology/ Physical Anthropology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology/ Physical Anthropology.

Date and time: April 7 and 8, 1986 and April 21 and 22, 1986, 9:00 a.m.—5:00 p.m. each day.

Place: Univ. of New Mexico faculty club, Albuquerque, NM (4/7&8), Clarion Hotel, 1500 Canel St., New Orleans, LA (4/21–4/23).

Type of meeting: Closed.

Contact person: Dr. John Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550: (202) 357–7804.

Purpose of meeting: To provide advice and recommendations concerning support for archaeology and physical anthropology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: March 18, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–6288 Filed 3–20–86; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Biological Instrumentation; Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Instrumentation.

Date and time: Tuesday, April 8, 1986 from 5:00 p.m. to 9:00 p.m. Wednesday, April 9, 1986 from 8:30 a.m. to 6:00 p.m. and Thursday, April 10, 1986 from 8:30 a.m. to 5:00 p.m.

Place: Asilomar Conference Center, Pacific Grove, California, 93950.

Type of meeting: Closed.

Contact person: John C. Wooley, Program Director, Biological Instrumentation, Room 325E, Telephone: 202/357–7652.

Purpose of advisory panel: To provide advice and recommendations concerning support for research instrumentation.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: March 18, 1986.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–6289 Filed 3–20–86; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Ecology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.

Date and time: April 9, 1986—12:00 noon to 5:00 p.m. April 10 and 11, 1986—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. Patrick W. Flanagan, Program Director, Ecology (202) 357–9734, Room 1140, National Science Foundation, Washington, DC 20550.

Purpose of panel: To provide advice and recommendations concerning support for research in ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Dated: March 18, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–6290 Filed 3–20–86; 8:45 am]

BILLING CODE 7555–01–M

Materials Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Materials Research Advisory Committee

Place: Rooms 540, National Science Foundation, 1800 "G" Street, NW., Washington, DC 20550

Date: Thursday April 10 and Friday 11, 1986

Time: 8:30 a.m.–5:00 p.m., both days

Type of meeting: Part Open (Thursday a.m., Friday) Part Closed (Thursday p.m.)

Contact person: Dr. Lewis H. Nosanow, Director, Division of Materials Research, Room 408, National Science Foundation, Washington, DC, 20550, Telephone: (202) 357–9794

Summary minutes: May be obtained from the Contact Person, Dr. Lewis H. Nosanow, at the above stated address.

Purpose of subcommittee: To provide advice and recommendations concerning support of materials research.

Agenda

Thursday Morning, April 10, 1986 (Open)

8:30 a.m. Organizational matters; adoption of minutes

9:00 a.m. Status Report on Division activities

10:30 a.m. Briefing on Budget for FY 1986 and FY 1987

12:00 noon Working Lunch

Thursday Afternoon, April 11, 1986 (closed)

1:00 p.m. Review and discussion of CMS Section Oversight and Report.

5:00 p.m. Adjourn

Friday, April 11, 1986 (Open)

8:30 a.m. Organizational matters; election of chairman for FY'87

9:00 a.m. DMR Long Range Plans

11:00 a.m. Meeting with NSF Director

12:00 noon Working Lunch

1:00 p.m. Discussion of role and participation of women, minorities and handicapped in materials research

2:00 p.m. Continuation of LRP and Budget Discussion

3:00 p.m. Plans for future MRAC activities

5:00 p.m. Adjourn

Reasons for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information,

financial data such as salaries, and personal information concerning individuals associated with the proposals.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Dated: March 18, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–6291 Filed 3–20–86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L., 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.

Date and time: April 9–11, 1986, 8:30 a.m.—5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 1243, Washington, DC.

Type of meeting: Part Open—Open April 9, 9:00 a.m.—11:00 a.m. Closed April 9, 11:00 a.m.—5:00 p.m. Closed April 10 and 11, 8:30 a.m.—5:00 p.m.

Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357–7949.

Summary minutes: May be obtained from the contact person as listed.

Purpose of subpanel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: Open—April 9, 9:00 a.m.—11:00 a.m. General discussion of trends and opportunities in Psychobiology.

Closed—to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Dated: March 18, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–6292 Filed 3–20–86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Davis-Besse (Restart); Meeting

The ACRS Subcommittee on Davis-Besse (Restart) will hold a meeting on April 9, 1986, Room 1167, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 9, 1986—1:30 P.M. Until the Conclusion of Business

The Subcommittee will continue its review of the Davis-Besse restart.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact one of the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: March 17, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–6282 Filed 3–20–86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on April 9, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, April 9, 1986—8:30 a.m. Until 12:30 p.m.

The Subcommittee will review recent operating events.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr.

Herman Alderman (telephone 202/634–1414) between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: March 17, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–6283 Filed 3–20–86; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Record Keeping Requirements; 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. Types of submission: revision.

2. The title of the information collection: 10 CFR 50.63. Station Blackout.

3. How often the collection is required: One time.

4. Who will be required or asked to report: Nuclear power plant licensees and applicants for operating licenses.

5. An estimate of the number of responses: 125.

6. An estimate of the total number of hours needed to complete the requirement or request: 15,000 hours.

7. An indication of whether section 3504(h), Pub. L. 96–511 applies: No.

8. Abstract: NRC is requesting a clearance for proposed rule 10 CFR 50.63, Station Blackout which requires licensees and applicants for operating licensees to submit information to support the length of time nuclear power plants can withstand a total loss of all alternating current power.

ADDRESSES: Copies of the transmittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT:

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395–7340.

NRC Clearance officer's R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 17th day of March 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–6265 Filed 3–20–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–413]

Duke Power Co., et al; Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–35, issued to Duke Power Company, et al, (the licensee), for operation of the Catawba Nuclear Station, Unit 1 located in York County, South Carolina.

The proposed amendment would extend, on a one-time basis, by a maximum of five months until the first refueling outage (currently scheduled on September 28, 1986) those 18-month Technical Specification (TS) surveillances associated with the Engineering Safety Features (ESF) which can only be conducted with Unit 1 in Cold Shutdown or Refueling. Normally, since such refueling outages occur about every 18-months, extension beyond the 18-month surveillance interval required by the Technical Specifications for the ESF testing is usually not necessary. However, due to the extended length of Unit 1 startup program and cycle 1, the licensee must either request an extension or be forced to shutdown prior to the first refueling outage.

The proposed amendment is in accordance with the licensee's request dated February 12, 1986, as supplemented by letters dated March 3, 4, and 11, 1986. The changes would be accomplished by adding a footnote usually stating that this surveillance need not be performed until prior to entering Hot Shutdown, Hot Standby or Startup, as applicable, following the Unit 1 first refueling outage. The footnote would be added to the Surveillance Requirements included in the following categories:

1. ESF Actuation on Safety Injection

This category includes Surveillance Requirements 4.1.2.2c; 4.3.1.1, Table 4.3–1, Item 17; 4.3.2.1; 4.3.2.2; 4.5.1.1.1d.; 4.5.2e.; 4.5.3.1; 4.7.3b.1); 4.7.3b.2); 4.7.4b.1); 4.7.4b.2); 4.7.7d.2) and 4.8.1.1.2g.10)

2. Portions of Diesel Generator Testing

This category includes Suveillance Requirements 4.8.1.1.2g.7) and 4.8.1.1.2g.8)

3. Phase A and B Containment Isolation

This category includes Surveillance Requirements 4.6.1.8d.2); 4.6.3.2a.; 4.7.3b.1); 4.6.2c.; 4.6.3.2b.; 4.6.6.2; 4.7.3b.1) and 4.7.4b.1)

4. ESF Actuation on Loss-of-Offsite Power

This category includes Surveillance Requirements 4.7.4b.2); 4.8.1.1.2g.4); 4.8.1.1.2g.6)a); 4.8.1.1.2g.6)b) and 4.8.1.1.2g.9)

The postponement of Surveillance Requirement 4.6.6.2 for the Containment Valve Injection Water System also requires a one-time exemption from the 24 month maximum surveillance interval required by 10 CFR 50, Appendix J, Section III.C.2.(b) regarding Type C local leak rate tests. This exemption to Appendix J is currently under consideration by the NRC staff.

In accordance with the previous Surveillance Requirements integrated tests are conducted to verify the overall ESF capability. The licensee's application considers that the extension requested is justified based on the fact that other periodic surveillances required by the Technical Specifications on individual components such as diesel generators, pumps, valves, fans and circuits will continue to be performed as required. These periodic surveillances ensure that individual components will remain operable.

Before issuance of the proposed license amendment the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The following provides an analysis using the standards of 10 CFR 50.92.

(1) This proposed amendment would not significantly increase the probability or consequences of an accident previously evaluated. The probability of

previously evaluated accidents is not affected since the proposed changes will only affect ESF components, thus normal plant operation will not be affected. The consequences of a previously evaluated accident will not be significantly increased since the affected ESF components and circuitry will be tested as required by other applicable Technical Specification Surveillance Requirements. This amendment request would only affect the ESF actuation of ESF components by extending the required surveillance by five months. This increase is not viewed as significant when coupled with the other surveillances conducted on the individual components and circuitry.

(2) This proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated since the design and operation of the plant will not be affected.

(3) This proposed amendment would not cause a significant reduction in a margin of safety. The extension of time in which to do the required surveillance would be five additional months beyond that allowed by the Technical Specifications. Coupled with the fact that individual component and circuit tests are conducted on a regular basis as provided in other Technical Specifications, there is not significant reduction in a margin of safety. An increase in safety is gained by the avoidance of an additional cooldown and heatup cycle on the Reactor Coolant System.

Based on the above discussion, the staff proposed to determine that this amdendment, which provides an extension of the 18-month surveillance interval for the testing associated with the ESF, does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S.Nuclear Regulatory Commission, Washington, DC. 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Monday through Friday. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

By April 21, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interests may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding; The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects(s) of the subject matter of the proceding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the perition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitation in the order granting leave to intervene, and have the opportunity to participate in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination of the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following messaged

addressed to D.S. Hood: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. William L. Porter, Duke Power Company, P.O. Box 33189, Charlotte, North Carolina, 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 12, 1986, and its supplements dated March 3, 4, and 11, 1986 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the York County Library, 138 East Black Street, Rock Hill, South Carolina, 29730.

Dated at Bethesda, Maryland, this 18th day of March 1986.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Acting Director, PWR Project Directorate #4, Division of PWR Licensing–A, NRR.

[FR Doc. 86–6267 Filed 3–20–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–344]

Portland General Electric Co.; Denial of Amendment To Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for an amendment to Facility Operating License No. NPF–1, issued to the Portland General Electric Company (the licensee), for operation of the Trojan Nuclear Plant (the facility), located in Columbia County, Oregon.

The amendment, as proposed by the licensee, would have modified the Trojan Technical Specifications, Section 4.5.3.1, concerning the surveillance requirements for the Emergency Core Cooling System (ECCS) when the reactor is in the Hot Shutdown Operating Mode. The licensee's application for the amendment was dated March 12, 1985. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on October 9, 1985 (50 FR 41255). All of the requested changes were granted except the requests related to the definition of Containment Integrity (Specification 1.8), which the licensee requested be withdrawn by letter dated August 22, 1985, and the requests related to Section 4.5.3.1.

Notice of the issuance of Amendment No. 114 will be published in the Commission's next regular **Federal Register** notice.

The request to modify Section 4.5.3.1 concerning the surveillance requirements for the ECCS when the reactor is in the Hot Shutdown Operating Mode was denied.

At present Section 4.5.3.1 states "The ECCS subsystem shall be demonstrated Operable per the applicable Surveillance Requirements of 4.5.2". The request proposes to revise this specification to explicitly state which surveilliance requirements (of 4.5.2) are applicable in this Mode. This request was found unacceptable because the licensee has not demonstated a significant need for this proposed revision, and that it could confuse, rather than clarify, present requirements.

The licensee was notified of the Commission's denial of this request by letter dated.

By April 21, 1986, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Attention: Docketing and Service Branch, or maybe delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date.

A copy of any petitions should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to James W. Durham, Sr., Vice President, General Counsel and Secretary, Portland General Electric Company, 121 SW. Salmon Street, Portland, Oregon 97204.

For further details with respect to this action, see (1) the application for amendment dated March 12, 1985, and (2) the Commission's letter to Portland General Electric Company dated March 12, 1986, and the enclosed Safety Evaluation which are available for public inspection at the Commission Public Document Room, 1717 H Street NW., Washington, DC, and at the Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing–A.

Dated at Bethesda, Maryland, this 12th day of March 1986.

For the Nuclear Regulatory Commission.

Jan A. Norris,

Acting Director, PWR Project Directorate No. 3, Division of PWR Licensing–A.

[FR Doc. 85–6269 Filed 3–20–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–395]

South Carolina Electric & Gas Co., South Carolina Public Service Authority; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–12, issued to South Carolina Electric & Gas Company and South Carolina Public Service Authority (the licensee), for operation of the Virgil C. Summer Nuclear Station, Unit 1, located in Fairfield County, South Carolina.

The amendment would revise Technical Specification 3/4.4.5, "Steam Generators" and its bases. The revision would allow steam generator tube imperfections to be addressed by the Westinghouse P–STAR evaluation method as an alternative to the current requirement for tube plugging. Under the P–STAR evaluation method, if tube imperfections located within the tubesheet are below the distance P–STAR (the top 1.25" of the tubesheet), and the tube with imperfections has an intact tube directly above it (one row higher in number, same column), then the tube need not be plugged. The licensee's application for amendment was dated January 16, 1986.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By April 21, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the

proceeding must file a written petition for leave to intervene. If a request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and License Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Lester S. Rubenstein (petitioner's name and telephone number); (date petition was mailed); (plant name); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Randolph R. Mahan, South Carolina Electric & Gas Company, P.O. Box 764, Columbia, South Carolina 29218, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 16, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Dated at Bethesda, Maryland this 14th 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. 86–6266 Filed 3–20–86; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23015; File No. SR–AMEX–86–9]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc., Relating to Matching by Traders

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 10, 1986, the American 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 American Stock Exchange, Inc. ("AMEX" or "Exchange") proposes to clarify its policy regarding the matching of orders by options traders affiliated with the same member organization.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange policy concerning matching is intended to prevent a single firm or a joint account from obtaining a larger portion of a match by "packing the crowd". The Exchange proposes to clarify the policy regarding when options traders who are affiliated with the same member or member organization may match orders in the trading crowd. The proposed policy is set forth in an information circular which will be distributed to the Amex membership.

In brief, the proposed Circular reconfirms that traders who are in joint account, or who are associated with the same member organization may not match orders. A limited exception to this policy will be made, however, if such traders who are associated with the same member firm have demonstrated that they are not affiliated with one another. If traders are associated with the same member organization but are not affiliated with one another, they would be permitted to match *subject to a limitation:* If two or more such traders are on parity in a trading crowd, they would be entitled to that proportion of the trade which they could obtain if there were only two such affiliated traders. The Exchange will make determinations upon request as to whether such traders are in fact affiliated with one another, using the control test set forth in Exchange Rule 904, which governs aggregation of accounts in the context of position limits.[1]

For example, assume 150 contracts are to be traded and four traders who are associated with the same member firm but are deemed non-affiliates of one another are in a trading crowd with one unrelated trader, and each is bidding for 50 contracts. If all five are on parity, the unrelated trader will receive 50 contracts and the four other traders will share the remaining 100 contracts, each receiving 25 contracts. That is, the four traders affiliated with the same firm will be entitled to only two matches.

The proposed change is consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange by clarifying a policy which is intended to ensure fairness in the execution of orders in the trading crowd. Therefore, the proposed rule change is 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 AMEX believes that the proposed rule change will not impose a burden on competition.

[1] Exchange Rule 904 sets forth criteria under which accounts will be presumed to be under common control. *See* SEC Release No. 34-22695, dated December 9, 1985, approving SR-AMEX-85-33.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange's Trading Practices and Procedures Sub-Committee has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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. 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 11, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 13, 1986.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-6210 Filed 3-20-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23018; File No. SR-CBOE-85-51]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving Proposed Rule Change

On December 31, 1985, 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 under the Act,[2] a proposed rule change to allow CBOE to introduce, in "unusual market conditions," series of individual stock options up to two strike prices intervals above and below the current price of the underlying security. CBOE's rules currently allow CBOE to introduce series of individual stock options only one strike price interval above and below the current market price of the underlying security. Under the proposal, if series were available for a particular option class with strike prices of 95, 100 and 105, and the price of the underlying stock rises to 105 (or falls to 95) under unusual market conditions, the CBOE could introduce new series with strike prices of 110 and 115 (or 90 and 85).[3]

Under exiting CBOE rules, CBOE could only introduce series with a strike price of 110 (or 90) in these circumstances.

CBOE expains that the criteria the Exchange will consider in determining whether unusual market conditions exist for the purposes of this proposal include intra-day and short-term day-to-day price movements of the underlying securities, requests for additional strike prices by customers and market makers, the potential burden on market makers

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985).

[3] CBOE has classes of options in which it may use different strike price intervals. Thus, stocks trading under $25 per share, may have intervals of two and one-half ponts, or greater, and stocks trading above $50 per share may have intervals of five points. CBOE indicates that the two strike price intervals above the market allowed by the filing refers to intervals in use for that class at the time. Telephone conversaton between Fredric M. Krieger, Associate General Counsel, CBOE, and Alden Adkins, Attorney, Division of Market Regulation, SEC, on March 14, 1986. SEC. For example, if five point intervals are in use for a class, the filing allows CBOE to add strike prices ten points (two five point intervals) above the current market; if 10 point intervals are in use, the filing allows CBOE to add strike prices 20 points (two ten-points intervals) above the current market. While CBOE can change intervals for a class, *e.g.*, from five to ten points, it cannot in essence use two different intervals simultaneously. For example, the proposal does not alllow the addition of strike prices 20 points away from the market in a class that at that time has five-point intervals.

of maintaining additional strike prices, and the availability in other expiration months of additional strike prices in the same options.[4] The Exchange indicates that it is expected that the Exchange will add prices where "in general volatility has increased," where the stock recently has moved from one strike price through the next strike price, where intra-day price movements "have or are expected to exceed" a strike price interval, or where the value of the closest out-of-the-money option is "in excess of a reasonably low price . . . for effective hedging of positions."[5] CBOE also states that "greater deference" will be given to adding a second out-of-the-money strike price to options on stocks trading in excess of $50.00, because the intervals for such options "were historically 10 points."[6]

The proposed rule change was noticed in Securities Exchange Act Release No. 22789 (January 13, 1986), 51 FR 2615 (January 17, 1986). No comments were received on the proposed rule change.

CBOE states that the proposed rule change is motivated by "recently volatile stock market activity," which can cause stock priced to "move precipitously through existing strike prices." [7] According to CBOE, when stock prices move rapidly, the price of out-of-the-money options increases to take into account this increased volatility.[8] Under the proposal, when a stock exhibits unusual volatility CBOE could add strike prices two intervals above (or below) the current market price of the underlying stock, thus providing a lower priced out-of-the-money option (the series two intervals above the current market) than CBOE can currently provide (series one interval above the current market).

Moreover, CBOE indicates that there is a two-day lag time between the time of announcement of a new strike price and the time it is available for trading. CBOE believes that the proposal will allow CBOE, in unusual market conditions, in essence to anticipate rapid, dramatic price movements by listing series two intervals above (or below) the market. Should the movement materialize, there will be at-the-money series available that might not be available under CBOE's current rules.[9]

The Commission previously has indicated that proposals to allow an increase in the number of series available in an option class need to strike a balance between accommodating the demand of market participants or the need for investment flexibility and causing excessive dilution of liquidity in an increased number of open options series.[10] The Commission believes the CBOE proposal satisfies this test.

First, in light of CBOE's inability to add new strike prices in less than two days, CBOE's proposal may be the only practical means of ensuring the relatively constant availability of at-the-money or near-the-money monthly series of stock options when price volatility increases significantly. Second, the Commission notes that CBOE's proposal permits at most a fairly small absolute increase in the number of stock option series that may be outstanding at one time. As described, CBOE's proposal permits the introduction at any ont time of only one series more than allowed under CBOE's current rules. Third, CBOE's proposal limits the introduction of this additional series to "unusual market conditions" [11] and only allows, but does not require, that the new series be introduced even then.[12]

In sum, the Commission finds that CBOE's proposal should not result in a substantial increase in the number of individual stock options series outstanding, and may ensure the more consistent availability of at-the-money or near-the-money series in volatile markets. For these reasons, the Commission finds that the potential benefits of this proposal in accommodating market participants' investment needs and objectives outweigh the possible adverse effects on market liquidity and dispersion of interest the proposal might cause. Accordingly, 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 of the Act [13] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[14] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-6211 Filed 3-20-86; 8:45 am]

BILLING CODE 8010-01-M

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[4] Letter from Fredric M. Krieger, Associate General Counsel, CBOE, to Eneida Rosa, Branch Chief, Division of Market Regulation, SEC, dated March 4, 1986.

[5] *Id.*

[6] *Id.* As noted above, CBOE has indicated that it would not use the proposed change to add, for example, strike prices two 10 point intervals above the market to a class using five point intervals. Note 3, *supra.*

[7] File No. SR-CBOE-85-51, at 3.

[8] *Id*

[9] *Id.* Should the anticipated price movement not materialize, CBOE could delist the new series if no trading has occurred in those series or if no open interest remains in the series. *See* CBOE Rule 5.4.05.

[10] Securities Exchange Act Release No. 21644 (January 9, 1985) 50 FR 2360 approving proposal by the American Stock Exchange, Inc. to introduce series of index options two strike prices above (or below) the current market value of the index, and up to three intervals above (or below) the current index value in usual market conditions.

[11] The Commission is satisfied that the criteria CBOE will consider in determining whether unusual market conditions exist for purposes of this rule, see text accompanying notes 4–6, *supra*, are appropriate. Moreover, the Commission expects the CBOE to maintain a log of those instances in which it determines to invoke this authority.

[12] Finally, as described above, should CBOE list a new series in anticipation of a large price movement that does not materialize, CBOE would be able to delist that series prior to any actual trades occurring in that series Note 9, *supra.*

[13] 15 U.S.C. 78f(1982).

[14] 15 U.S.C. 78s(b)(1)(1982).

[15] 17 CFR 200.30-3(a)(12)(1985).i21Dated: March 14, 1986.

[Release No. IC-14993; File No. 812-5830]

Application and Opportunity for Hearing; The Prudential Variable Contract Account-II

March 17, 1986.

Notice is hereby given that The Prudential Variable Contract Account-11 ("Applicant" or "VCA-11"), a separate account of the Prudential Insurance Company of America ("Prudential"), Prudential Plaza, Newark, New Jersey 07101, filed an application on April 20, 1984, and an amendment thereto on January 22, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of section 2(a) (41) of the Act and Rules 2a-4 and 22c-1 promulgated thereunder, to the extent necessary to permit it to use the amortized cost valuation method for the purpose of valuing the short-term debt obligations held in its portfolio. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act for the complete text of those provisions that are relevant to the application.

The application states that Applicant is registered under the Act as an open-end, diversified management investment company. Prudential is Applicant's investment manager. Applicant states that it was organized for the purpose of

funding certain group variable contracts (the "Contracts") issued by Prudential. Applicant's operations are conducted under the general supervision of a Committee (which, for purposes of the Act, is the functional equivalent of a board of directors). The Contracts are issued in connection with pension and profit-sharing plans which qualify for favorable treatment under various provisions of the Internal Revenue Code of 1954. Generally, participants in the Contracts may transfer amounts held under the Contracts between Applicant and either Prudential Variable Account-10 ("VCA–10"), another separate account invested primarily in equity securities, or a fixed-dollar contract.

Applicant further states that its investment objective is to seek as high a level of current income as is consistent with the preservation of capital and liquidity. Applicant seeks this objective by investing in money market instruments payable in United States dollars. To date, Applicant's assets have been invested solely in money market instruments with a remaining maturity of 60 days or less, and it has used the amortized cost method of valuation to value those securities. Under the amortized cost method of valuation, securities are originally valued at the cost at which they were purchased, and their value is adjusted daily to account for amortization of any premium or for accretion of any discount.

Applicant states that it intends to purchase United States dollar denominated money market instruments with a remaining maturity of one year or less. Applicant proposes to use the amortized cost valuation method for the purpose of valuing these instruments.

According to Applicant, the primary concern that the Commission has expressed about use of the amortized cost valuation method has been that this method of valulation may, in times of sharp increases or decreases in interest rates, result in dilultion of shareholders' interests in investment companies. Applicant states that in order to protect against such dilution, prior exemptions granted by the Commission and Rule 2a–7 under the Act to permit money market funds to use amortized cost valuation contain a series of conditions designed to assure that use of amortized cost valuation will not result in excessive dilution or other unfair results to shareholders. Applicant further states that, in connection with the valuation of its short-term debt securities, it is willing to consent to the imposition of what are in substance the same conditions as those generally imposed by the Commission in prior exemptive orders and Rule 2a–7 under the Act, except for the condition requiring a stable net asset value per share.

According to Applicant, it cannot maintain a stable price per share, one of the conditions contained in the prior exemptive orders and Rule 2a–7, since a participant's VCA–11 accumulation account is expressed in units, the value of which change daily to reflect VCA–11's investment income and any change in the value of securities VCA–11 holds. Applicant states that, under several previous applications, the applicants proposed, and the exemptive orders required, the maintenance of a "shadow accounting" system under which the applicant would establish a unit value of $1.00 to be used solely for purposes of monitoring compliance with the exemptive order. The account in question would then credit on a daily basis additional "shadow units" valued at $1.00 each to participants to reflect the investment income of the account.

Applicant submits that there is no necessary relationship between use of the amortized cost valuation method and the maintenance of a stable price for each share of an investment company. Applicant asserts that inclusion of this condition in prior exemptive orders and Rule 2a–7 came about because money market funds that sought exemptions to permit them to use amortized cost valuation did so to facilitate their ability to maintain a stable price per share for the convenience of their shareholders. Applicant further asserts that the establishment of a "shadow accounting" system does not provide any greater protection to participants in accounts using that system against the dilution of their interests than do the conditions of this application. Applicant submits that the "undervaluation" or "overvaluation" of interests that would be permissible under the conditions set forth below are the same as would be allowed under the "shadow accounting" system. Applicant states that it seeks to use amortized cost valuation for short-term debt obligations held in VCA–11 in order to achieve significant savings in administrative costs, particularly those resulting from the elimination of the necessity to attempt to obtain daily estimates of the market value of the short-term debt obligations contained in VCA–11's portfolio.

Applicant submits that use of amortized cost valuation in connection with its operations is especially unlikely to result in any dilution or other unfair results to shareholders because it is not a money market fund, but rather a particular type of investment vehicle for variable contracts. Applicant asserts that participants in the Contracts will tend to have a longer range investment perspective than shareholders in money market funds, since withdrawals from the contracts may involve the payment of deferred sales charges and adverse federal income tax consequences. Applicant further submits that if transfers to or from VCA–11 do occur when interest rates shift, the conditions sit forth below will provide investors in VCA–11 with the same protection against dilution of their interests as is provided by the conditions in Rule 2a–7, notwithstanding the absence of a stable net asset value.

Applicant therefore requests exemption from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 promulgated thereunder to the extent necessary to permit it to use the amortized cost valuation method for the purpose of valuing the short-term debt obligations it holds. Applicant states it is willing to consent to the entry of an order by the Commission conditioning the grant of its exemptive request upon the following conditions:

(1) In supervising the operations of Applicant and delegating special responsibilities involving portfolio management to its investment adviser, the VCA–11 Committee undertakes (as a particular responsibility within the overall duty of care owed to participants in VCA–11) to establish reasonably designed procedures, taking into account current market conditions and Applicant's investment objective, to minimize the deviation between Applicant's value per unit, as determined through use of the amortized cost method of valuation, and its value per unit, as determined through use of available market quotations.

(2) Included within the procuedures to be adopted by the VCA–11 Committee shall be the following:

(a) Review by the VCA–11 Committee, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of Applicant's net asset value per unit, as determined by using available market quotations, from its amortized cost value per unit, and the maintenance of records of such review. To fulfill this condition, Applicant will use actual quotations or estimates of market value reflecting current market conditions chosen by the VCA–11 Committee in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from

yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation from the amortized cost value per unit exceeeds one-half of one percent (0.5%), a requirement that the VCA–11 Committee will promptly consider what action, if any, should be initiated.

(c) If the VCA–11 Committee believes the extent of any deviation from Applicant's amortized cost value per unit may result in material dilution or other unfair results to participants in Applicant, it will take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten Applicant's average portfolio maturity; or using a net asset value per unit as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of minimizing the deviation between its amortized cost value per unit and its value per unit as determined by using available market quotations, provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year (except that securities held subject to repurchase agreements having a term of one year or less from the date of delivery may have maturity dates in excess of one year from the date of delivery of the repurchase agreement) or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. If the disposition of a portfolio instrument should result in a dollar weighted average portfolio maturity in excess of 120 days, Applicant's available cash will be invested in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable. The maturity of portfolio securities held by Applicant shall be calculated as set forth in Rule 2a–7 under the Act.

(4) Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in subparagraph (1) above, and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the VCA–11 Committee's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the VCA–11 Committee's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under section 31(a) of the Act.

(5) Applicant's portfolio investments will be limited, including repurchase agreements, to those United States dollar-denominated instruments which the VCA–11 Committee determines present minimal credit risks, and which are of high quality. For this purpose, "high quality" instruments shall mean those instruments which are rated by any major rating agency within its two highest rating categories or, in the case of any instrument that is not rated, of comparable quality as determined by the VCA–11 Committee.

(6) If any action is taken pursuant to paragraph 2(c) above, VCA–11 will report such action on Form N–SAR covering the period in which the action was taken and, pursuant to Instruction 77N of Form N–SAR, will attach a statement to the form describing with specificity the nature and circumstances of such action.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 11, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–6208 Filed 3–20–86; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2231; Amdt. #2]

California; Declaration of Disaster Area

The above-numbered Declaration (51 FR 7514), as amended (51 FR 8610), is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated February 27, 1986, to include Calaveras, El Dorado, Mendocino, Placer, Plumas, and San Joaquin Counties and the adjacent Counties of Alpine, Amador, Butte, Colusa, Lassen, Sierra, Sutter, Tehama, Tuolumne, and Yolo in the State of California because of damage from severe storms, landslides, mudslides and flooding beginning on or about February 12, 1986. All other information remains the same; i.e., the termination date for filing applications for physical damage is the close of business on April 24, 1986, and for economic injury until the close of business on September 2, 1986.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: February 28, 1986.

Gerry J. Fico, Jr.,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86–6272 Filed 3–20–86; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2233]

Washington; Declaration of Disaster Loan Area

Cowlitz County in the State of Washington constitutes a disaster area because of a violent rainstorm, flooding and mudslides which occurred February 23–24, 1986. Applications for loans for physical damage may be filed until the close of business on May 12, 1986, and for economic injury until the close of business on September 2, 1986, at the address listed below: Disaster Area 4 Office, Small Business Administration, 77 Cadillac Drive, Suite 158, Sacramento, California 95825, or other locally announced locations.

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000

	Percent
Businesses (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 223306 for physical damage and for economic injury the number is 639000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: March 11, 1986.

James C. Sanders,

Administrator.

[FR Doc. 86-6273 Filed 3-20-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airport Noise; Receipt of Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps submitted by Baton Rouge Metropolitan Airport (BTR) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Baton Rouge Metropolitan Airport under Part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before September 3, 1986.

EFFECTIVE DATE: The effective date of the FAA's determination on the Noise Exposure Maps and of the start of its review of the associated noise compatibility program is March 7, 1986. The public comments period ends May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Donald C. Harris, Federal Aviation Administration, Southwest Region, Airports Division, ASW-611C, P.O. Box 1689, Fort Worth, Texas 76101. Telephone: (817) 877-2609 or FTS 734-2609

Comments on the proposed Noise Compatibility Program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Baton Rouge Metropolitan Airport are in compliance with applicable requirements of Part 150, effective March 7, 1986. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before September 3, 1986. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depict noncompatible land uses as the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulation Part 150 promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposed for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

Baton Rouge Metropolitan Airport submitted to the FAA on July 31, 1985, Noise Exposure Maps, descriptions and other documentation which were produced during a 1984 update of an Airport Noise Control and Land Use Compatibility (ANCLUC) study previously accepted by FAA in October 1982. It was requested that the FAA review this material as the Noise Exposure Maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the Noise Exposure Maps and related descriptions submitted by Baton Rouge Metropolitan Airport. The specific maps under consideration in the submission are: the Noise Exposure Map and the tabular report of land use impact for 1984 conditions; and the Noise Exposure Map and tabular report of land use impact for 1989. The FAA has determined that these maps for Baton Rouge Metropolitan Airport are in compliance with applicable requirements. This determination is effective on March 7, 1986. FAA's determination on an airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program, or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or on interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Baton Rouge Metropolitan Airport, also effective on March 7, 1986. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on September 3, 1986.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of

reducing existing noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW., Room 617, Washington, DC 20591;

Federal Aviation Administration, Southwest Region Office, Airports Division, ASW-600, P.O. Box 1689, Fort Worth, TX 76101;

Greater Baton Rouge Airport District, Suite 212, Ryan Terminal Building, Baton Rouge, LA 70807.

Questions may be directed to the individual named above under the heading, "For Further Information Contact."

Issued in Forth Worth, Texas, on March 7, 1986.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 86-6177 Filed 3-20-86; 8:45 am]

BILLING CODE 4910-13-M

Definitions of Small Entity and Significant Economic Impact for Making Determinations Required by the Regulatory Flexibility Act of 1980

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Invitation for public comment on proposed additional definitions of small entity and Significant Economic Impact for making determinations required by the Regulatory Flexibility Act of 1980.

Background and Purpose

Under the Regulatory Flexibility Act of 1980 (RFA), Federal agencies considering and promulgating regulations relating to small businesses generally utilize small business size criteria developed pursuant to the Small Business Act. Because FAA's regulations are specific to particular products or services, these industries require standards that apply to specialized products and services defined more precisely than 4-digit Standard Industrial Classification (SIC) categories. But the SBA's final rule on small business size standards (49 FR 5024), is limited to 4-digit SIC codes. Therefore, the SBA size standards are not appropriate to the FAA's needs. In this case the agency is permitted, after consultation with the SBA Office of Advocacy, to establish small business definitions which are more appropriate to the activities of the FAA. Such standards regarding size of firm and value of significant impact have been adopted by the FAA.

FAA's standards for "size" and "significant" economic impact are stated in FAA Order 2100.14 for SIC codes and/or product lines which FAA regulations affect:

Aircraft and aircraft parts manufacturers (3721);

Aircraft engine and engine parts manufacturers (3724);

Manufacturers of aircraft parts and auxiliary equipment not elsewhere classified (3728);

Operators of aircraft for hire (4511);

Airports (4582);

Aircraft repair facilities (4582, 7629, 7699);

Pilot schools (8299); and

Not-for-profit aviation organizations.

In the absence of a small entity "size" definition in the FAA order, FAA officials use the Small Business Administration's (SBA) definition in Title 13 of the Code of Federal Regulations, and if lacking a specific "significant" cost threshold, they use the lowest significant cost threshold listed in Order 2100.14.

FAA is now proposing to amend its definitions of small entity and significant economic impact by incorporating into FAA Order 2100.14, "Regulatory Flexibility Criteria and Guidance," threshold values for twenty-nine (29) entity types not currently specified in the order.

This is the third notice to appear in the **Federal Register** describing FAA's efforts to specify its size and significant economic impact standards for making Regulatory Flexibility Act determinations. Previous notices were: (1)Public Notice, July 29, 1982, 47 FR 32825; (2) Public Notice, August 31, 1984, 49 FR 34597.

FAA's first notice proposed definitions of small entity and significant economic impact for several aviation industries, and guidance for making determinations required by the RFA. That notice solicited public comment on the proposed definitions and guidance.

The second notice explained FAA's responses to the public comments and published FAA Order 2100.14, FAA's final guidance for the conduct of regulatory flexibility analyses and reviews. It also defined the criteria for rulemaking officials to determine if a proposed or existing rule has a significant economic impact on a substantial number of small entities.

For Further Information Contact

James R. Olavarria, Regulatory Analysis Branch, APO-210, Systems Analysis Division, Office of Aviation Policy and Plans, Federal Aviation Administration, Department of Transportation, Federal Office Building 10-A, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-426-3070. Additional copies of this notice may be obtained from the same address.

Invitation for Public Comments

Interested persons are invited to submit written comments on these standards as they may desire. Communications should be mailed in duplicate to FAA, APO-210, 800 Independence Avenue SW., Washington, DC 20591. Comments should be received on or before May 5, 1986.

Method of Establishing Size Standards

New standards are now being proposed for twenty-nine entity types. To establish the proposed size thresholds, the FAA followed three steps.

Step 1 Analyze the size distribution of entities in each industry, based on employment. FAA considered the number of firms, the relative sizes of firms, clusters of similar size firms, and the extent to which entities distribute in particular size ranges. FAA arrived at an initial threshold estimation for small size by identifying the number of employees where a distinct boundary was observed between relatively small versus medium or large entity clusters.

Step 2 Analyze the relative concentration of employment among the entities in the industry, and examine the extent of industry dominance by large firms.

Within an industry, relative employment share tends to indicate relative market share. That is, a small percentage of industry wide employment indicates a small market share. Since regulatory costs most adversely affect small entities which have a relatively small market share over which to spread costs, FAA sought threshold levels that would identify small entities as those having both fewer employees and the smallest percentage of industry wide employment.

A concentrated market exists where a small percentage of entities accounts for a large percentage of total industry

employment. A relatively high threshold level is sought in concentrated industries because regulatory relief for all but the few very large market dominant entities encourages competition. In highly competitive industries lower thresholds are sought because regulatory costs most adversely affect the smallest entities at entry level.

Major conglomerates are clearly not small size entities, but in industry analyses, they tend to obscure the relative market positions of small and medium size entities. Therefore, the FAA computed total employment percentages for each entity type both including and excluding major conglomerates before arriving at a revised preliminary estimate of a threshold value. This dual analysis helped identify market leaders in each entity type and suggested, within the context of the stepwise analysis, where maximum economies of scale appear to be achieved.

Step 3 Consult with industry experts, particularly in the private sector, to validate the preliminary estimates. The consultations bolstered the confidence FAA has in the data and statistical analyses upon which the preliminary estimates were formulated. This step validated FAA's tentative estimations from the analyses regarding market concentration, market leadership, size in the growth cycle at which mature companies are able to compete most effectively, sizes at which certain types of entities most efficiently can absorb regulatory costs, and sizes at which entities achieve maximum economies of scale. The FAA used this additional validating information to confirm or adjust the preliminary estimated threshold values so they most accurately reflect true market conditions.

The following example of how the three steps were applied in the analysis of one entity type, aircraft seats (SIC 2531), illustrates the general method used to arrive at the proposed size threshold values for all twenty-nine entity types.

Example: *Step One* shows that the distribution of entities in the aircraft seats entity type contains two identifiable clusters of like size entities. (See Table 6, Percentage Distribution of Entity Types by Number of Employees: Aircraft Seats.) A cluster of entities that each employ from 1 person up to 90 people accounts for approximately 44 percent of the entities in the distribution, and a second cluster of entities, each with more than 500 employees accounts for over 28 percent of the entities in the distribution. The remaining entities are evenly distributed in the range between 90 and 500 employees. This clustering suggests an initial estimated threshold between 90 and 500 employees.

Step Two shows (also from Table 6) that over 99 percent of the employment in this entity type is concentrated among entities with over 1000 employees. Since most of these entities are large, diversified aerospace corporations, including all of their employment data in the analysis gives an unrealistic picture of actual market concentration. An analysis excluding this group shows that employment is still concentrated, with over 62 percent of remaining employment contained in entities employing at least 391 people. This step suggests that the market is highly concentrated among firms with more than 390 employees. Therefore, this step suggests a tentative estimated threshold near 390 employees.

Step Three, consultation with knowledgeable industry sources familiar with this entity type, indicated that this market is dominated by a few large entities. Further, the sources identified as market leaders, entities in the 450 to 1,000 employee range. Some smaller specialized firms also have established a market niche in modifications to smaller aircraft.

The Proposed Size Threshold based upon these three steps is 450 employees because there is no cluster of medium size businesses of like size with fewer than 500 employees; employment is concentrated in industries with more than 390 employees (an indication of concentration in market share); and knowledgeable industry sources identified market leaders, which are firms employing more than 450 employees.

Small Size Standards for Twenty-Nine Entity Types

Small entities are proposed to be those businesses which are independently owned and operated and not longer than the threshold level presented for each of the twenty-nine entity types in Table 1.

TABLE 1.—SIZE THRESHOLD VALUES

Standard industrial classification	Entity type	Size threshold
0721	Aerial Agricultural and Pest Control.	30
2399	Parachutes	500
	Aircraft Seat Belts, Execpt Leather.	1,000
	Aircraft Tiedown Strap Assemblies, Except Leather.	1,000
2531	Aircraft Seats	450
3011	Aircraft Tires and Inner Tubes	1,000
3069	Rubberized Survival Equipment	500
3537	Pallets and Containers	300
3585	Aircraft Environmental Control Equipment.	150
3592	Fuel Control Equipment, Including Carburetors.	750
	Aircraft Pistons and Piston Rings	50
	Aircraft Engine Valves	50
3599	Other Aircraft Valves, N.E.C.	1,000
3647	Aircraft Lighting Systems and Fixtures.	300
3662	Aircraft Communications Equipment.	750
	Aircraft Navagational Equipment	750
3691	Aircraft Batteries	1,000
3694	Engine Starting and Electrical Generating Equipment.	250
	Spark Plugs for Internal Combustion Engines.	1,000
	Voltage Regulators	1,000
3811	Aircraft Flight Instruments	250
3829	Aircraft Fuel System Instruments	1,000
	Aircraft Engine Instruments	200
	Aircraft Measuring Instruments, N.E.C.	450
	Air Traffic Control Equipment	1,000
7622	Aircraft Radio Equipment Repair	30
7319	Aerial Advertising, Including Skywriting.	10
8299	Aircraft Maintenance Technician Schools.	150
7999	Parachute Lofts	90

Explanation of Tables 2–30

Each table shows, for one entity type, the percentage distribution of total employment within the entity type according to predefined employment level intervals. Also shown is the percentage distribution of entities (firms) according to the same intervals. To show the tables in manageable size, only those intervals are shown in the tables in which at least one entity resides. That is, if no entity employs 61 to 90 persons, that interval "61–90" does not appear in the table because it is associated with zero percent employment and zero entities (firms).

Note that while the distributions shown in the tables are structured according to arbitrarily predefined intervals for uniform presentation of results, the proposed thresholds were formulated based upon the actual ordered data for individual firms, not the intervals shown. Therefore the explanation that accompanies each distribution may state an employment number that is more exact than the broad interval in the distribution shown in the table.

TABLE 2.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aerial agricultural and pest control		
Number of employees	Percent of total employment	Percent of entities
1 to 30	3.50	87.36
31 to 60	.87	3.83
61 to 90	.70	1.53
91 to 120	.92	1.53
121 to 150	.96	1.15
151 to 180	.35	.38

TABLE 2.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES—Continued

Aerial agricultural and pest control		
Number of employees	Percent of total employment	Percent of entities
211 to 240	.48	.38
271 to 300	1.35	.77
301 to 330	.71	.38
361 to 390	.83	.38
451 to 500	1.13	.38
501 to 1,000	3.47	.77
>1,000	84.74	1.15

Proposed Size Threshold: 30.

Explanation: Regulations and high capital requirements represent a barrier to entry for small entities. A substantial share of this market is captured by 87 percent of the entities. Each entity in the 87 percent employs 30 or fewer people, and they collectively account for over 22 percent of employment when entities with more than 1,000 employees are excluded.

TABLE 3.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Parachutes		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.80	40.00
31 to 60	3.20	20.00
181 to 210	16.00	20.00
501 to 1,000	80.00	20.00

Proposed size threshold: 500.

Explanation: The market consists of commercial aviation applications and military applications. Most of the larger manufacturers serve the military market and as such are not included in the analysis since the FAA does not certificate them. The market is dominated by a few large entities with more than 500 employees each.

TABLE 4.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft seat belts, except leather		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	22.86
91 to 120	.04	11.43
121 to 150	.01	2.86
271 to 300	.03	2.86
451 to 500	.05	2.86
501 to 1,000	.10	2.86
>1,000	99.76	54.28

Proposed Size Threshold: 1,000.

Explanation: Entities which manufacture seat belts are included among airline companies, airframe assemblers, automotive parts manufacturers, medium sized safety equipment manufacturers and small specialized businesses which perform aircraft modifications. Large automotive parts manufacturers and several major airframe manufacturers are industry leaders. Over 54 percent of the entities, including all of the industry leaders have more than 1,000 employees. Market share is concentrated among entities with more than 1,000 employees.

TABLE 5.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft tiedown strap assemblies, except leather		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.06	50.00
121 to 150	.50	25.00
>1,000	99.44	25.00

Proposed Size Threshold: 1,000.

Explanation: No discernable national market exists; this product is manufactured on an in-house basis by entities requiring this product. Entities with fewer than 1,000 employees account for less than 1 percent of the total industry employment.

TABLE 6.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft Seats		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	20.00
31 to 60	.03	15.56
61 to 90	.03	8.89
91 to 120	.01	2.22
151 to 180	.02	2.22
181 to 210	.02	2.22
211 to 240	.05	4.44
241 to 270	.03	2.22
271 to 300	.09	6.67
391 to 420	.04	2.22
451 to 500	.11	4.44
501 to 1,000	.33	8.89
>1,000	99.22	20.00

Proposed Size Threshold: 450.

Explanation: The industry is very vertically integrated, particularly among manufacturers of commercial aircraft, as many of the airframe manufacturers make their own seats. Specialized seat manufacturers outfit some commuter aircraft, but this is an extremely small market. Employment is concentrated among the market leaders, which have more than 450 employees.

TABLE 7.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft tires and inner tubes		
Number of employees	Percent of total employment	Percent of entities
>1,000	100.00	100.00

Proposed Size Threshold: 1,000.

Explanation: A very small number of entities employ less than 1,000, while the market is dominated by a few large rubber companies. Virtually all of industry employment is in entities with more than 1,000 employees. There is a high degree of market concentration with economies of scale achieved at sizes larger than 1,000 employees.

TABLE 8.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Rubberized survival equipment		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.16	19.35
31 to 60	.69	25.81
61 to 90	.56	12.90
181 to 210	.71	6.45
211 to 240	.39	3.23
241 to 270	.44	3.23
501 to 1,000	4.77	12.90
>1,000	92.28	16.13

Proposed Size Threshold: 500.

Explanation: This market is dominated by large, diversified entities. All identified market leaders have more than 950 employees, although there may be some medium sized entities with between 500 and 950 employees. Over 97 percent of the industry employment is concentrated among entities with over 500 employees.

TABLE 9.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Pallets and containers		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.13	21.88
31 to 60	.37	15.63
61 to 90	.23	6.25
91 to 120	.20	3.13
151 to 180	.25	3.13
181 to 210	.33	3.13
241 to 270	.41	3.13
271 to 300	.49	3.13
501 to 1000	7.80	18.75
>1,000	89.78	21.88

Proposed Size Threshold: 300.

Explanation: This industry supplies cargo handling equipment to the commercial aviation industry. The market is quite substantial and includes participation entities of all sizes. The market is competitive. Smaller entities hold their own against larger competitors, with all market leaders employing more than 500 persons. Economies of scale are minimal in this entity type. Entities with more than 300 employees account for over 97 percent of the industry employment, while there is a clearly identifiable group of entities with fewer than 300 employees.

TABLE 10.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft environmental control equipment

Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	11.76
31 to 60	.10	17.65
61 to 90	.19	17.65
91 to 120	.09	5.88
121 to 150	.12	5.88
241 to 270	.20	5.88
501 to 1000	1.27	11.76
>1,000	98.01	23.53

Proposed Size Threshold: 150.

Explanation: Most aircraft heating and cooling equipment is manufactured by airframe manufacturers as part of their own aircraft. However, some entities produce package units or make modifications to small aircraft in order to enhance environmental control features. These non-airframe, heating and cooling equipment manufacturers often employ small numbers. Entities with more than 150 employees account for over 98 percent of the industry employment. No entity among a clearly recognized group with 150 or fewer employees is considered dominant in the field.

TABLE 11.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Fuel control equipment, including carburetors

Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	13.79
31 to 60	.01	6.90
61 to 90	.03	10.34
91 to 120	.01	3.45
121 to 150	.02	3.45
181 to 210	.05	6.90
271 to 300	.03	3.45
361 to 390	.04	3.45
>1,000	99.80	48.28

Proposed Size Threshold: 750.

Explanation: Fuel control equipment includes carburetors and fuel injection systems for reciprocating engines and fuel mixture regulators for jet engines. The latter are such an integral part of the engine that there are very few component manufacturers other than the engine original equipment manufacturers. Market participation in the former is more distributed and competitive. Entities with more than 750 employees account for over 99 percent of industry employment. Data on medium sized entities indicates that market share falls off for companies with fewer than 1,000 employees. Economies of scale for non-original equipment manufacturers are thought to be achieved near 750 employees.

TABLE 12.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft pisions and piston rings

Number of employees	Percent of total employment	Percent of entities
1 to 30	.37	60.00
31 to 60	.24	10.00
61 to 90	.32	10.00
>1,000	99.08	20.00

Proposed Size Threshold: 50.

Explanation: Aircraft equipped with reciprocating engines are primarily small aircraft and rotorcraft. These engines are relatively small and the piston and piston ring technology used is similar to that used in automotive and light truck applications. Therefore many of the same entities participate in both the automotive and aerospace markets. As a result there is extreme diversity of firm sizes and a highly competitive market in this entity type. Many small component manufacturers with 50 or fewer employees compete against large engine original equipment manufacturers. Approximately 70 percent of the identified entities employ 50 or fewer persons.

TABLE 13.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft engine valves

Number of employees	Percent of total employment	Percent of entities
1 to 30	45.65	83.33
31 to 60	54.35	16.67

Proposed Size Threshold: 50.

Explanation: This entity type is similar in market characteristics to manufacturers of aircraft pistons and piston rings, described above, and contains many of the same entities. All of the entities identified, not including original equipment manufacturers, have 50 or fewer employees.

TABLE 14.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Other aircraft engine valves not elsewhere classified

Number of employees	Percent of total employment	Percent of entities
1 to 30	.00	8.16
31 to 60	.02	10.20
61 to 90	.03	8.16
91 to 120	.02	4.08
121 to 150	.06	8.16
151 to 180	.02	2.04
181 to 210	.04	4.08
331 to 360	.03	2.04
361 to 390	.04	2.04
421 to 450	.09	4.08
501 to 1,000	.18	4.08
>1,000	99.48	42.86

Proposed Size Threshold: 1,000.

Explanation: This entity type manufactures a variety of pneumatic and hydraulic valves used primarily in mechanical control functions on aircraft. There is one group of very large diversified manufacturers and another group of small specialized component manufacturers. The principal market for the latter group is in component modifications. The larger entities dominate the market. Entities with more than 1,000 employees account for more than 42 percent of the entities and 99 percent of the employment.

TABLE 15.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft lighting fixtures and systems

Number of employees	Percent of total employment	Percent of entities
1 to 30	.06	30.77
31 to 60	.05	7.69
61 to 90	.05	3.85
91 to 120	.06	3.85
121 to 150	.09	3.85
151 to 180	.09	3.85
181 to 210	.11	3.85
271 to 300	.17	3.85
501 to 1,000	.66	7.69
>1,000	98.66	30.77

Proposed Size Threshold: 300.

Explanation: This entity type includes manufacturers of both interior and exterior lighting systems. A few specialized entities and airframe original equipment manufacturers dominate this specialized market. Several entities with employment over 300 are among the market leaders, while many of the smaller size entities are primarily engaged in minor product modifications rather than original equipment manufacture. Entities employing more that 300 persons account for over 99 percent of industry employment.

TABLE 16.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft communications equipment		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	16.36
31 to 60	.04	10.91
61 to 90	.02	3.64
91 to 120	.03	3.64
121 to 150	.04	3.64
181 to 210	.05	3.64
211 to 240	.06	3.64
271 to 300	.04	1.82
301 to 330	.04	1.82
341 to 420	.06	1.82
501 to 1,000	.56	9.09
>1,000	99.04	40.00
Proposed Size Threshold: 750.		

Explanation: This entity type is a segment of the broader avionics industry. It includes some of the leading electronics, aerospace, and computer manufacturers in the United States as well as high technology communications firms. While the market is not especially concentrated, most participants are large, diversified corporations. The trend toward market concentration by large size entities has accelerated in recent years as larger aerospace firms have acquired some of the leading medium-size entities. Economies of scale are achieved at relatively large sizes because of high capital requirements for market entry, the requirement for a strong and widespread reputation for technical excellence, and the high cost of regulatory compliance. Entities with employment over 750 account or more than 40 percent of the entities and more than 99 percent of the industry employment. Those with employment under 750 have had difficulty remaining competitive as independently owned and operated entities.

TABLE 17.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft navigational equipment		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	12.33
31 to 60	.01	8.22
61 to 90	.01	5.48
91 to 120	.00	1.37
121 to 150	.03	6.85
181 to 210	.03	4.11
211 to 240	.03	4.11
241 to 270	.02	2.74
271 to 300	.02	2.74
361 to 390	.02	1.37
451 to 500	.02	1.37
501 to 1000	.15	6.85
>1000	99.64	42.47
Proposed Size Threshold: 750.		

Explanation: This entity type is a segment of the broader avionics industry. It includes some of the leading electronics, aerospace, and computer manufacturers in the United States. While the market is not very concentrated, most entities are large, diversified corporations. The trend toward market concentration by large size entities has accelerated in recent years as larger aerospace firms have acquired some of the leading medium-size entities. Economies of scale are achieved at relatively large sizes because of high capital requirements for market entry, the requirement for a strong and widespread reputation for technical excellence, and the high cost of regulatory compliance. There are some small, single product line entities, but they often have difficulty establishing the necessary reputation and eventually sell their patent rights to larger companies. Entities with employment over 750 account for more than 42 percent of the entities and more than 99 percent of the industry employment. Entities employing under 750 have had difficulty being competitive as independently owned and operated entities.

TABLE 18.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft batteries		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	20.00
151 to 180	.05	20.00
>1,000	99.94	60.00
Proposed Size Threshold: 1,000.		

Explanation: In this limited market, a small number of firms manufacture aircraft storage batteries. Market share is concentrated among large diversified corporations, while a few small entities tend to compete successfully by dealing in specialized applications. Entities with employment over 1,000 account for 60 percent of the entities and over 99 percent of industry employment.

TABLE 19.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Engine starting and electrical generating equipment		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.02	27.27
31 to 60	.01	4.55
61 to 90	.03	9.09
91 to 120	.02	4.55
121 to 150	.03	4.55
241 to 270	.10	9.09
421 to 450	.09	4.55
501 to 1,000	.28	9.09
> 1,000	99.43	27.27
Proposed Size Threshold: 250.		

Explanation: This entity type includes manufacturers of starting motors, ignition coils, generators, alternators and related products. As with most engine rlated equipment, engine original equipment manufacturers make up a large segment of the industry. The market is relatively competitive since much smaller entities have been able to compete successfully with the conglomerates which are industry leaders. A group of similar size entities employing 250 of fewer have a disproportionately low marker share based on employment share.

TABLE 20.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Spark plugs for internal combustion engines		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.03	25.000
121 to 150	.88	25.00
>1,000	99.09	50.00
Proposed Size Threshold: 1,000.		

Explanation: The aviation market is very limited because the product is used only for small aircraft. As with other types of reciprocating engine equipment, the technology base is the same as that used in automotive applications. The market is extemely concentrated and dominated by two firms, each with over 1,000 employees. A few smaller firms are active with very small market share.

TABLE 21.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Voltage regulators		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.04	75.00
>1,000	99.96	25.00
Proposed Size Threshold: 1,000.		

Explanation: Large engine original equipment manufacturers dominate this highly concentrated market.

TABLE 22.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft flight instruments		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	19.74
31 to 60	.02	7.89
61 to 90	.02	6.58
121 to 150	.04	6.58
151 to 180	.01	1.32
181 to 210	.03	3.95
211 to 240	.02	2.63
241 to 270	.03	2.63
271 to 300	.02	1.32
361, to 390	.02	1.32

TABLE 22.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES—Continued

Aircraft flight instruments		
Number of employees	Percent of total employment	Percent of entities
391 to 420	.02	1.32
501 to 1,000	.21	6.58
>1,000	99.55	38.16
Proposed Size Threshold: 250.		

Explanation: While most producers manufacture both instruments (avionics) and non-electronic instruments (airspeed indicators, altimeters, cabin pressure guages, and others), the tendency among large diversified companies has been toward concentration in the avionics market. The larger non-electronic flight instrument market is substantially more competitive. Smaller companies have achieved economies of scale in the production of a single product line. Additionally, smaller entities have been able to make small cosmetic changes in standard instruments through the FAA administered Parts Manufacturer Approval (PMA) and Supplemental Type Certificate procedures. This ability has allowed smaller entities to compete without incurring significant research or product development costs. Entities with employment over 1,000 account for more than 38 percent of entities and more than 99 percent of employment. Successful medium size companies have achieved economies of scale in the range of 250 to 400 employees, and there is a concentration of employment share for medium size entities among those with more than 250 employees.

TABLE 23.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft Fuel System Instruments		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.02	12.50
31 to 60	.02	3.13
61 to 90	.05	6.25
91 to 120	.03	3.13
121 to 150	.09	9.37
151 to 180	.05	3.13
211 to 240	.07	3.13
241 to 270	.07	3.13
271 to 300	.17	6.25
361 to 390	.11	3.13
391 to 420	.12	3.13
>1,000	99.17	43.75
Proposed Size Threshold: 1,000.		

Explanation: This entity type includes manufacturers of fuel flow measuring instruments, fuel level indicators, fuel system controls, and related electronic instruments The manufacturers are characteristic of avionics manufacturers. The market is not very concentrated, but leading firms tend to be relatively large manufacturers of a wide range of scientific and industrial instrumentation. Since the need for a strong national reputation, high capital requirements and regulations are obstacles to smaller non-diversified entities, few small entities are in this entity type. Entities in this industry with fewer than 1000 employees have had difficulty remaining competitive as independently owned and operated businesses. Entities with more than 1000 employees account for over 43 percent of the entities and over 93 percent of industry employment.

TABLE 24.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft engine instruments		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	27.59
31 to 60	.01	3.45
61 to 90	.05	10.34
91 to 120	.02	3.45
181 to 210	.04	3.45
211 to 240	.04	3.45
271 to 300	.05	3.45
361 to 390	.07	3.45
501 to 1,000	.11	3.45
>1,000	99.59	37.93
Proposed Size Threshold: 200.		

Explanation: These manufacturers of engine controls, tachometers, EGT controls, intake and exhaust temperature probes, etc. produce both electronic instruments and hydraulic and pneumatic devices. The electronics manufacturers are similar to those in the avionics industry. Their market is concentrated. The manufacturers of hydraulic and pneumatic devices are in a very competitive market because product differentiation is difficult and price competition is an important factor. Smaller entities have achieved economies of scale in the production of single product lines.

TABLE 25.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft measuring instruments not elsewhere classified		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.04	26.67
31 to 60	.05	6.67
61 to 90	.03	3.33
121 to 150	.21	10.00
151 to 180	.08	3.33
181 to 210	.09	3.33
271 to 300	.13	3.33
451 to 500	.23	3.33
501 to 1,000	.30	3.33
>1,000	98.83	36.67
Proposed Size Threshold: 450.		

Explanation: This industry manufactures a wide range of both electronic and non-electronic instrumentation. Its structural characteristics are similar to those entity types which manufacturer flight instruments, fuel system instruments and engine instruments; a mixed structure. Some industry segments are concentrated and others are competitive. Entities with more than 450 employees account for over 43 percent of the entities and 99 percent of industry employment, and entities employing between 450 to 1,000 persons account for over 46 percent of all employment by entities with no more than 1,000 employees.

TABLE 26.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Air traffic control equipment		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	5.26
61 to 90	.07	15.79
91 to 120	.03	5.26
121 to 150	.04	5.26
151 to 180	.05	5.26
181 to 210	.05	5.26
211 to 240	.07	5.26
501 to 1,000	.18	5.26
>1,000	99.51	47.37
Proposed Size Threshold: 1,000.		

Explanation: This entity type is a segment of the broader avionics industry. It includes some of the leading electronics, aerospace, and computer manufacturers in the United States as well as high technology communications firms. While the market is not especially concentrated, most participants are large, diversified corporations. The trend toward market concentration by large size entities has accelerated in recent years as larger aerospace firms have acquired some of the leading medium-size entities. Economies of scale are achieved at relatively large sizes because of high capital requirements for market entry, the requirement for a strong and widespread reputation for technical excellence, and the high cost of regulatory compliance. Entities with employment over 1,000 account for more than 47 percent of the entities and more than 99 percent of the industry employment. Those with employment under 1,000 have had difficulty remaining competitive as independently owned and operated entities.

TABLE 27.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aircraft radio equipment repair		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.13	64.09
31 to 60	.11	10.51
61 to 90	.09	5.40
91 to 120	.09	3.65
121 to 150	.08	2.62
151 to 180	.04	1.02
181 to 210	.06	1.31
211 to 240	.02	.44
241 to 270	.03	.58
271 to 300	.04	.58
301 to 330	.04	.58
331 to 360	.05	.58
361 to 390	.02	.29
391 to 420	.04	.44
421 to 450	.03	.29
451 to 500	.10	.88
501 to 1,000	.07	.58
>1,000	98.97	6.28

Proposed Size Threshold: 30.

Explanation: This entity type is two tiered, A tier of large size entities includes repair stations that are part of large corporations, government fleets or airline companies. The other tier includes repair stations which employ fewer than 450 persons and serve primarily the general aviation market. Approximately 45 percent of employment in this smaller tier is in entities employing fewer than 150 persons, including a preponderance of small "mom and pop" operations. Industry wide, approximately 64 percent of the entities each employ no more than 30 persons.

TABLE 28.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aerial advertising, including skywriting		
Number of employees	Percent of total employment	Percent of entities
1 to 30	9.30	95.45
>1,000	90.70	4.54

Proposed Size Threshold: 10.

Explanation: This very small and specialized entity type performs two kinds of aerial advertising—skywriting and banner towing. Skywriting is a vanishing art, with only a small number of entities still active. Banner towing is the major segment of aerial advertising. Most firms are very small and have few aircraft. Entities employing fewer than 10 persons account for over 60 percent of the entities and less than 30 percent of industry employment.

TABLE 29.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Aerial advertising, including skywriting		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.01	8.54
31 to 60	.07	12.20
61 to 90	.01	1.22
91 to 120	.05	3.66
151 to 180	.02	1.22
181 to 210	.06	2.44
211 to 240	.07	2.44
241 to 270	.11	3.66
271 to 300	.21	6.10
301 to 330	.05	1.22
331 to 360	.05	1.22
391 to 420	.12	2.44
451 to 500	.07	1.22
501 to 1,000	1.54	17.07
>1,000	97.57	35.37

Proposed Size Threshold: 150.

Explanation: There are five general categories of aircraft maintenance technician schools: State sponsored programs, university programs, community college programs, vocational-technical school programs, and private aerotechnical schools. Programs range in size from small "mom and pop" operations at small airports to large aerotechnical institutes. All leading aerotechnical programs employ at least 100 persons. Because a large segment of this entity type includes large universities, community colleges, and state governments which offer programs, even some of the large leading private maintenance technician programs would be at a competitive disadvantage in their ability to absorb regulatory costs, when compared to the larger diversified institutions.

TABLE 30.—PERCENTAGE DISTRIBUTION OF ENTITY TYPES BY NUMBER OF EMPLOYEES

Parachute lofts		
Number of employees	Percent of total employment	Percent of entities
1 to 30	.04	60.00
31 to 60	.02	4.00
61 to 90	.03	4.00
91 to 120	.04	4.00
121 to 150	.06	4.00
181 to 210	.15	8.00
> to 1,000	99.66	16.00

Proposed Size Threshold: 90.

Explanation: Parachute lofts are certificated by FAA under 14 CFR Part 149 to provide parachute rigging, repair, alteration, and maintenance services for civilian aircraft. Parachute manufacturers may also provide rigging services, but are not required to obtain a certificate under this same regulation. The U.S. military market is one of the largest for parachute rigging services. Entities serving only the military do not require FAA certification. The market is two tiered—the larger national market and the smaller local market. Nationally, the largest companies are defense contractors and/or equipment manufacturers. FAA certificates very few of these entities as parachute lofts, although some are certificated as parachute manufacturers. The local market exists to serve sport parachutists. The sport business tends to go to the most convenient local loft. Not counting the small number of very large entities with over 1000 employees, including U.S. government agencies, over 75 percent of the remaining employment is in entities employing 90 to 210 persons. Those entities employing fewer than 90 persons are generally independently owned and operated companies which compete primarily in the local sport market.

Effects of Proposed Size Threshold Values

Table 31 shows the estimated total number of entities of each type and the estimated number and percent of entities that FAA would consider small under the proposed standards. The data available to FAA on firms having fewer that 20 employees are especially poor. FAA invites any *independently owned and operated* firm with fewer than twenty employees which must comply with any existing FAA regulations or will have to comply with any proposed FAA regulation to submit its name and number of employees and type of business to the address listed under "INVITATION FOR PUBLIC COMMENTS" above for review.

TABLE 31.—EFFECTS OF PROPOSED SMALL ENTITY THRESHOLD VALUES

SIC	Entity type	Total number of entities	Number and percent of entities considered small under proposed definitions
0721	Aerial Agricultural and Pest Control	296	221(75%)
2399	Parachutes	12	3(25%)
	Aircraft Seat Belts, Except Leather	58	15(26%)
	Aircraft Tie Down Strap Assemblies, Except Leather	5	2(40%)
2531	Aircraft Seats	78	27(35%)
3011	Aircraft Tires and Inner Tubes	4	0(0%)
3069	Rubberized Survival Equipment	46	20(43%)
3537	Pallets and Containers	40	15(38%)
3585	Aircraft Environmental Control Equipment	20	9(45%)
3592	Fuel Control Equipment, Including Carburetors	36	14(39%)
	Aircraft Pistons and Piston Rings	12	6(50%)
	Aircraft Engine Valves	7	6(86%)
3599	Other Aircraft Valves, N.E.C.	53	24(45%)
3647	Aircraft Lighting Systems and Fixtures	38	13(34%)

TABLE 31.—EFFECTS OF PROPOSED SMALL ENTITY THRESHOLD VALUES—Continued

SIC	Entity type	Total number of entities	Number and percent of entities considered small under proposed definitions
3662	Aircraft Communications Equipment	80	26(32%)
	Aircraft Navigational Equipment	105	33(31%)
3691	Aircraft Batteries	5	2(40%)
3694	Engine Starting and Electrical Generating Equipment	24	11(46%)
	Spark Plugs for Internal Combustion Engines	4	1(25%)
	Voltage Regulators	4	3(75%)
3811	Aircraft Flight Instruments	102	32(31%)
3829	Aircraft Fuel System Instruments	44	16(36%)
	Aircraft Engine Instruments	41	11(27%)
	Aircraft Measuring Instruments, Not Elsewhere Classified	30	13(43%)
	Air Traffic Control Equipment	23	8(35%)
7622	Aircraft Radio Equipment Repair	765	420(55%)
7319	Aerial Advertising, Including Skywriting	23	14(61%)
8299	Aircraft Maintenance Technician Schools	92	19(21%)
7999	Parachute Lofts	27	17(63%)

Data Sources

The sources of data used in establishing the size standards include: The *Standards Industrial Classification Manual*, which is used as a guide in defining industries; Dun and Bradstreet, *Market Identifer (DMI) Files; FAA Index of Parts Manufacturer Approval (PMA)*, a compilation of all companies certified by the FAA to produce replacement parts or design modifications for installation on a particular aircraft; *FAA Index of Articles Certified Under the Technical Standard Order System (TSO)*, which contains a detailed listing of all aeronautical products subject to FAA Technical Standard Orders and the manufacturers which hold TSO approval; *FAA Advisory Circular AC#147–2W, Directory of FAA Certified Aviation Maintenance Technician Schools*, which lists all such schools under the authority of FAR, Part 147; *FAA; Advisory Circular AC#140–7D, FAA Certified Maintenance Agencies Directory*, which lists repair stations certified under FAR, Part 145 and parachute lofts certified under FAR, Part 149; *FAA Airmen and Aircraft Registry (AAR)*, a comprehensive, computerized listing of certified airmen and aircraft; *Aircraft Registration Master File (ARMF)*, which provides information on certificated aircraft and the uses to which aircraft are put; the FAA's own files of articles and correspondence; and information provided by trade associations.

Method of Establishing Cost Threshold Values

The FAA has used the same criteria to develop the proposed cost threshold values that it used previously (See FAA's first notice for detailed discussion) to develop the threshold values stated in FAA Order 2100.14. These are summarized below.

The threshold value for each entity type is equal to one percent of the annual cost of doing business for the 34th percentile small entity. FAA estimated the threshold value by identifying the 34th percentile small entity, calculating and verifying its annualized cost, and calculating the threshold value as 1 percent of the annualized cost.

To identify the 34th percentile small entity, FAA created lists of small entities rank ordered by size. Each list included all identified entities with employment equal to or less than the small entity size threshold. Subsidiary companies were not included because they are not independently owned and operated, a requisite condition in the definition of small entity, as set forth in the Regulatory Flexibility Act.

Next, annual costs of doing business were calculated using sales and profitability data:

$$\text{Cost} = \text{Sales} - (\text{Sales} \times \text{Profit Margin}).$$

Sales figures used to calculate annual costs of doing business were either actual reported sales or estimates statistically derived. To derive estimates for each entity type, FAA generated a curve by plotting expected sales by employment. The curve is the least squares regression fit of actual sales and employment data. Profit margins used in the calculation are median values for the four-digit SIC within which an entity type is classified.

In each entity type, FAA compared the actual sales data for the thirty-fourth percentile small entity with the fitted value on the curve. Where the actual value deviated significantly, indicating an anomolous case within the entity type, the fitted value was used to compute the cost. Otherwise the actual sales data were used.

The following example of how the method of establishing cost thresholds was applied to one entity type, aircraft seats (SIC 2531), illustrates the general method used to arrive at the proposed cost threshold values for all twenty-nine entity types.

Example: Based upon the size threshold value, this entity type has 27 small entitles. Therefor, the ninth smallest size entity is closest to the thirty-fourth percentile (33.3 percentile) and is the entity size on which the cost threshold is based. This entity employs 25 people.

Assessment of the available sales data for the entity type showed that a log-log regression estimate yielded a good fit of the sales and employment data. The equation of the fitted curve, plotting sales versus employees is:

$$\text{Sales} = 111{,}635\ (\text{employees})^{.80}$$

The correlation coefficient (R^2) equals .70. The value indicates that the fitted curve is a good benchmark for estimating expected sales versus employment values for this entity type. Sales data were not available to the FAA for the thirty-fourth percentile small entity, therefore the fitted value provides the best estimate. The fitted value is $1,466,062.

The annual cost of doing business was calculated using sales and profitability data. The profit margin for SIC 2531 equals .03.

$$\text{Cost} = \text{Sales} - (\text{Sales} \times \text{Profit Margin}). = \$1{,}466{,}062 - (\$1{,}466{,}062 \times .03) = \$1{,}422{,}080.$$

The cost threshold equals one percent of the annual cost:

$$\text{Cost Threshold} = \$1{,}422{,}080 \times .01 = \$14{,}220.$$

The specific application of the methodology to each entity type varied depending upon the availability and characteristics of the data. The detailed sources and explanations for the calculation of threshold values for all of the entity types are available for inspection at FAA Headquarters. For appointment to inspect sources, call Leonard Oberlander, Regulatory Analysis Branch, APO–210, (202) 426–3070.

Significant Economic Impact Standards

The figures in Table 32 approximately equal one percent of the total annual cost of the 34th percentile small entity in each entity type. The figures are in 1983 dollars. To convert them to current dollars, FAA proposes multiplying them by the ratio of the current implicit GNP price deflator to that for December 1983. (Implicit price deflators for GNP may be found in the *Survey of Current Business.*) Note that no threshold annualized cost levels have been presented for Aircraft Tires and Inner Tubes (SIC 3011) and Storage Batteries (SIC 3691). There is not a sufficient number of small entities for FAA to apply a significant cost threshold in either of these two industries.

TABLE 32.—Threshold Significant Regulatory Costs

[In December 1983 dollars]

Standard industrial classification	Entity type	Threshold annualized cost levels
0721	Aerial agricultural and pest control.	$1,600
2399	Parachutes	800
	Aircraft seat belts, except leather.	7,400
	Aircraft tie down strap assemblies, except leather.	4,700
2531	Aircraft seats	14,200
3011	Aircraft tires and inner tubes	
3069	Rubberized survival equipment	23,100
3537	Pallets and containers	10,800
3585	Aircraft environmental control equipment.	15,600
3592	Fuel control equipment, including carburetors.	16,900
	Aircraft pistons and piston rings.	2,800
	Aircraft engine valves	2,800
3599	Other aircraft valves, n.e.c	35,500
3647	Aircraft lighting systems and fixtures.	10,600
3662	Aircraft communications equipment.	9,900
	Aircraft navigational equipment	20,600
3691	Aircraft batteries	
3694	Engine starting and electrical generating equipment.	11,900
	Spark plugs for internal combustion engines.	2,900
	Voltage regulators	23,800
3811	Aircraft flight instruments	11,300
3829	Aircraft fuel system instruments	35,900
	Aircraft engine instruments	1,600
	Aircraft measuring instruments, n.e.c.	4,900
	Air traffic control equipment	36,400
7622	Aircraft radio equipment repair	1,200
7319	Aerial advertising, including skywriting.	4,700
8299	Aircraft maintenance technician schools.	22,400
7999	Parachute lofts	900

Issued at Washington, DC, on March 5, 1986.

Marvin L. Olson,

Acting Director, Office of Aviation Policy and Plans.

[FR Doc. 86-6180 Filed 3-20-86 8:45 am]

BILLING CODE 4910-13-M

Reestablishment of the Air Traffic Procedures Advisory Committee

Notice is given of the reestablishment of the Federal Aviation Administration (FAA) Air Traffic Procedures Advisory Committee. This advisory committee was established on the recommendation of a task group that was formed by the Secretary of Transportation on January 28, 1975. The task group's recommendation called for the establishment of a standing group to review all air traffic control procedures and practices. The Administrator of the FAA is the sponsor of the committee. The membership will include experts from the Government, the aviation industry, and those representing the viewpoints of other elements of the aviation community. Non-Federal members of the committee do not become Government employees. They serve without compensation and at their own expense. The committee will make recommendations for standardizing, clarifying, and upgrading present air traffic control procedures and practices and recommend new or revised procedures necessary to accommodate new air traffic control concepts.

Public Interest

The Secretary of Transportation has determined that the reestablishment and continued use of the committee is necessary in the public interest in connection with performance of duties imposed on the FAA by law. Meetings of the committee will be open to the public except as provided for in section 10(d) of the Advisory Committee Act.

Issued in Washington, DC, on March 17, 1986.

Walter H. Mitchell,

Executive Director, Air Traffic Procedures Advisory Committee.

[FR Doc. 86-6175 Filed 3-20-86; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 142—Air Traffic Control Radar Beacon System/Mode S (ATCRBS/Mode S) Airborne Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 142 on Air Traffic Control Radar Beacon System/Mode S (ATCRBS/Mode S) Airborne Equipment to be held on April 15-16, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW, Suite 500, Washington, DC commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of the Minutes of the Meeting Held on December 3-4, 1985; (3) Briefing on FAA Data Link Program; (4) Report of the Editorial Working Group; (5) Discuss Format of Committee Report; (6) Review Second Draft Report on Minimum Operational Performance Standards for Mode S Data Link; (7) Pilot Factors Working Group Report; (8) Develop Future Work Program; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 14, 1986.

S.B. Poritzky,

Designated Officer.

[FR Doc. 86-6179 Filed 3-20-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1985 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds; MIC Property and Casualty Insurance Corporation

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308 Title 31 of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1985 Revision, on page 27121 to reflect this addition:

MIC Property and Casualty Insurance Corporation. Business Address: 3044 West Grand Boulevard, Detroit, MI 48202. Underwriting Limitation [b]: *$2,193,000.* Surety Licenses [c]: All except AL, CA, DE, HI, IL, ME, MA, NH, NC, OR, RI, VT, WY. Incorporated In: Michigan. Federal Process Agents.[d]

Certificates of Authority expire on June 30 year year, unless revoked sooner. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226.

Dated: February 25, 1986.

W.E. Douglas,

Commisioner, Financial Management Service.

[FR Doc. 86-6181 Filed 3-20-86; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Income Taxes: Age 65 Exemptions and Zero Bracket Deductions; Eligibility Determinations and Social Security Administration Files

AGENCY: Internal Revenue Service, Treasury.

ACTION: Announcement.

SUMMARY: This document announces that the Internal Revenue Service will use Social Security Administration date of birth files to determine the eligibility for and the proper amount of additional exemptions claimed on Forms 1040 and 1040A by taxpayers and their spouses for being age 65 or over. These files will also be used to determine the eligibility and the proper zero bracket amount for taxpayers with unearned income who could be claimed as dependents on their parent's tax returns.

FOR FURTHER INFORMATION CONTACT: Ruby Alston, Program Analyst, Returns Processing and Accounting Division, Office of Assistant Commissioner (Returns and Information Processing), Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, 202–566–4089, not a toll-free call.

Announcement

The additional exemption for taxpayer or spouse age 65 or more specified in Internal Revenue Code section 151 is allowed as a deduction in computing taxable income. The deduction is available to eligible taxpayers age 65 or over at the end of the taxable year by filing Form 1040 or 1040A, U.S. Individual Income Tax Returns.

The zero bracket amount specified by Internal Revenue Code section 63 cannot be used by taxpayers with unearned income of $1,000 or more, who could be claimed as a dependent by another taxpayer.

To determine eligibility and amount of allowable age 65 exemptions and zero bracket deductions, the Internal Revenue Service will use Social Security Administration date of birth files to match against Forms 1040 and 1040A. If a taxpayer or spouse has improperly claimed the additional age exemption or the zero bracket deduction, he/she will be notified of a proposed tax adjustment to his/her tax return.

Fredric F. Perdue,

Director, Returns Processing and Accounting Division.

[FR Doc. 86–6263 Filed 3–20–86; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination; Amendment

On March 14, 1983, notice was published at page 10791 of the **Federal Register** (48 FR 10791) by the United States Information Agency pursuant to Pub. L. 89–259 relating to the exhibit "China: 7,000 Years of Discovery." A new exhibition site, at the Boston Museum of Science beginning on or about June 1, 1985, to on or about December 1, 1985, was added to the itinerary published in the original notice by amendment published in the **Federal Register** on May 23, 1985 (50 FR 21389).

An additional exhibition site has been added to the amended itinerary. The exhibit will be on display at the Southwest Museum of Science and Technology, Dallas, Texas, beginning on or about June 1, 1986 to on or about December 31, 1986.

Public notice of this amendment to the notice is ordered to be published in the **Federal Register.**

Dated: March 17, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86–6200 Filed 3–20–86; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 55
Friday, March 21, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COPYRIGHT ROYALTY TRIBUNAL

TIME AND DATE: 1:30 p.m., Tuesday, April 1, 1986.

PLACE: Room 458, 1111 20th Street, NW., Washington, DC 20036.

SUBJECT: Ascertainment of best accounting method for the distribution of the cable copyright fund. The question arises from the Tribunal decision to create the basic, 3.75% and syndex funds.

STATUS: Open.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, 1111 20th Street, NW., Suite 450, Washington, DC 20036.

Dated: March 18, 1986.

Edward W. Ray,

Chairman.

[FR Doc. 86-6357 Filed 3-19-86; 1:07 pm]

BILLING CODE 1410-09-M

2

COUNCIL ON ENVIRONMENTAL QUALITY

March 18, 1986.

TIME AND DATE: 10:00 a.m., Tuesday, April 1, 1986.

PLACE: Conference Room, First Floor, 722 Jackson Place, NW., Washington, DC.

MATTERS TO BE CONSIDERED:

1. The Department of Energy will brief the Council on the Nuclear Waste Policy Act, with particular emphasis on the environmental assessments requirements.
2. Other business.

A. Alan Hill,

Chairman.

[FR Doc. 86-6278 Filed 3-18-86; 4:10 PM]

BILLING CODE 3125-01-M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published March 20, 1986.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, DC.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202) 377-6677.

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Monday, March 24, 1986, at 11:00 a.m., has been changed to start at 4:00 p.m.

Dated: March 19, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-6337 Filed 3-19-86; 11:42 AM]

BILLING CODE 6720-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 18, 1986.

Change in Previously Announced Agenda

TIME AND DATE: Originally scheduled for March 20, 1986; now scheduled for 10:00 a.m., Wednesday, April 16, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission originally scheduled the following item for a meeting, but will now hear oral argument on the item:

1. Secretary of Labor on behalf of Michael Hogan and Robert Ventura v. Emerald Mines Corp., Docket No. PENN 83-141-D. (Issues include whether the administrative law judge erred in dismissing the discrimination complaint.)

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-6335 Filed 3-19-86; 11:33 am]

BILLING CODE 6735-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 18, 1986.

TIME AND DATE: 10:00 a.m., Wednesday, March 26, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Magma Copper Company, Docket No. WEST 83-17-M. (Issues include whether the administrative law judge erred in finding a violation of 30 CFR 57.19-128(a)(1982), a mandatory safety standard dealing with wire rope.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-6336 Filed 3-19-86; 11:33 am]

BILLING CODE 6735-01-M

6

LEGAL SERVICES CORPORATION

TIME AND DATE: The meeting will commence at 9:00 a.m., Saturday, March 29, 1986, and continue until all official business is completed.

PLACE: Capitol Holiday Inn, Columbia Room, 550 C Street, SW., Washington, DC 20024.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. 1986 Consolidated Operating Budget
3. Public Comment

CONTACT PERSON FOR MORE INFORMATION: Timothy H. Baker, Executive Office, (202) 863-1839.

Date issued: March 19, 1986.

Timothy H. Baker,

Secretary.

[FR Doc. 86-6380 Filed 3-19-86; 3:53 pm]

BILLING CODE 6820-35-M

7

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:00 p.m., Friday, March 28, 1986.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED: Case handling procedures.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington DC 20570, Telephone: (202) 254–9430.

Dated, Washington, DC., 19 March 1986.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 86–6338 Filed 3–19–86; 11:43 am]

BILLING CODE 7545–01–M

8

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of March 24, 1986.

A closed meeting will be held on Tuesday, March 25, 1986, at 2:30 p.m. An open meeting will be held on Thursday, March 27, 1986, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 25, 1986, at 2:30 p.m., will be:

Formal orders of investigation.

Settlement of administrative proceedings of an enforcement nature.

Amendment of order instituting administrative proceeding of an enforcement nature.

Institution of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Opinion.

The subject matter of the open meeting scheduled for Thursday, March 27, 1986, at 10:00 a.m., will be:

1. Consideration of whether to adopt an amendment to Rule 17Ac2–1, and revisions to Form TA–1, utilized for registration as a transfer agent; a new SEC Supplement to Form TA–1 to require information about persons associated with an independent, non-issuer transfer agent; and a new Rule 17Ac2–2 requiring transfer agents to complete new Form TA–2, an annual report regarding the nature and scope of a transfer agent's business activities. For further information, please contact Randy G. Goldberg at (202) 272–2365.

2. Consideration of whether to issue a release that would approve a proposed rule change of Depository Trust Company ("DTC") revising DTC's fee schedule for major DTC services. For further information, please contact Jerry Greiner at (202) 272–2066.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Patrick Dougherty at (202) 272–3077.

Dated: March 18, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–6383 Filed 3–19–86; 3:55 pm]

BILLING CODE 8010–01–M

federal register

Friday
March 21, 1986

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Financial Assistance for Research and Development Projects to Strenghten and Develop the U.S. Fishing Industry; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 60235-6035]

Financial Assistance for Research and Development Projects To Strengthen and Develop the U.S. Fishing Industry

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

ACTION: Notice of availability of financial assistance.

SUMMARY: For FY86, Saltonstall-Kennedy funds are available to assist persons in carrying out research and development projects which address any aspect of a U.S. fishery involving the U.S. fishing industry (recreational or commercial) including, but not limited to, harvesting, processing, marketing, and associated infra-structures. NMFS issues this notice describing the conditions under which applications will be accepted and how NMFS will determine which applications it will fund.

DATE: Applications should be sent to the applicable regional or Washington office of the National Marine Fisheries Service by May 27, 1986. (For addresses, see Section E.2.)

FOR FURTHER INFORMATION CONTACT: Phyllis S. Bentz, S-K Program Manager, National Marine Fisheries Service, Washington, DC 20235, Telephone: 202-634-7451.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Saltonstall-Kennedy (S-K) Act (15 U.S.C. 713c-2-713c-3) makes available to the Secretary of Commerce up to 30 percent of the gross receipts collected under the customs laws from duties on fishery products. The Secretary must use at least 60 percent of these funds each year to make available grants to assist persons in carrying out research and development projects which address any aspect of United States fisheries, including, but not limited to, harvesting, processing, and marketing. U.S. fisheries [1] include any fishery that is or may be engaged in by U.S. citizens or nationals or citizens of the Northern Mariana Islands. The phrase "fishing industry" includes both the commercial and recreational sectors of U.S. fisheries.

There is no guarantee that sufficient funds will be available to make awards for all approved projects. For FY 86, $8 million was appropriated for the S-K program. Approximately $1.08 million has been committed to fund the second year of FY 85 multi-year projects, and about $7 million may be used to fund new fisheries research and development projects, subject to availability.

II. Funding Priorities

Fisheries research, development, and utilization proposals should relate to one or more of the priority areas in the Regional and National sections. The NMFS will also consider other proposals (note exceptions which follow); however, funding will be available only if sufficient projects adequately addressing the specific priorities are not received.

Except for the Western Pacific, Puerto Rico, and the U.S. Virgin Islands, funding will *not* be provided for projects primarily involving the following activities: (1) Infrastructure planning and construction; (2) port and harbor development; (3) aquaculture research and development; (4) resource enhancement; (5) research evaluating the ability or extent to which fish are attracted to fish aggregating devices; and (6) extension activities such as newsletters or technology transfer unless identified as a necessary part of a specific project.

The NMFS has identified fisheries and priorities on a regional basis in conjunction with commercial and recreational fishing industry groups, other organizations, and governmental entities having an interest in the development and use of fisheries in the region.

Some priorities were found to relate to several, and in a few instances, all fisheries or regions and are listed as national priorities. In these cases, the application should address the relative extent to which multiple fisheries resources would be addressed.

The funding priorities conform to the NMFS S-K Long Range Plan, which identifies problems and opportunities for S-K funding.

Priorities for FY 86 funding within specific fisheries are listed below, along with a summary of activities funded in FY 85. In some cases the priorities indicate that proposals should build upon or take into account past or current work in the area. Lists of ongoing and past studies, and more detail where necessary, are available from the applicable regional or Washington office. (For addresses, see Section E.2.)

A. Northeast Region

1. *Squid, Mackerel and Butterfish:* Projects funded in FY 85 cover both domestic and export market development activities for mixed species such as squid, mackerel, butterfish, hakes, herring, ocean catfish, ocean pout, pollock, skates, and bluefish (both recreationally and commercially caught). Included are consumer education, training of food-service distributors, testing of innovative product forms utilizing undervalued species, and preparation of export information. Also funded was a study of the technical and economic factors related to freezer trawlers.

For FY 86, the NMFS seeks projects which will complement these activities or address other developmental impediments. Specifically, the NMFS will give priority for funding to projects that:

a. Examine means to locate and harvest fishery resources which have identifiable capacity for significant production.

b. Conduct in-plant demonstrations of new or innovative processing equipment to allow processors to evaluate opportunities to make greater use of nontraditional species of fish. Projects must assess the technical and economic feasibility of using the equipment.

c. Conduct economic feasibility analyses on harvesting and processing of non-traditional species.

d. Identify chemical indicators for decomposition in current and potential squid products.

e. Execute regional domestic and/or export marketing programs, including product development activities, in cooperation with States, media, industry and other interests.

f. Investigate the development of new mackerel products for domestic and/or foreign markets.

g. Examine means to increase recreational harvest of mackerel by party boats and headboats in the Mid-Atlantic area.

h. Test/demonstrate various separator trawls in the Northwest Atlantic fisheries to reduce by-catch of juveniles and non-target species.

2. *Atlantic Demersal Finfish:* A major effort to evaluate existing techniques and potentially new methods to process and use fish waste was funded in FY 85. Also funded were projects involving: the study of the economic feasibility of a vertically integrated surimi and analog

[1] For purposes of this notice, a fishery is defined as one or more stocks of fish, including tuna and shellfish, which are identified as a unit based on geographic, scientific, technical, recreational and economic characteristics, and any and all phases of fishing for such stocks. Examples of a fishery are Alaskan groundfish, Pacific whiting, New England whiting, Gulf of Mexico groundfish, etc.

plant, using whiting and red hake, located proximate to major markets; continuation of on-board training activities to expand quality handling techniques to vessels which cannot at this time realistically adopt the preferred bleeding and boxing system. Relating to this and other fisheries, a project was funded to evaluate a model for implementation of a State underwritten mutual insurance association for vessel insurance.

In FY 86, priority will be given to projects which:

a. Evaluate the technical and economic feasibility of shifting fishing effort to other species, such as hake, and resolve associated problems.

b. Evaluate existing techniques or develop new methods to process and use fish wastes and determine technical and economic feasibility of their application through in-plant demonstrations. Efforts should supplement, and not duplicate on-going fish waste studies, e.g. those of the Northeast Fish Waste Task Force and the New England Fisheries Development Foundation.

c. Conduct regional domestic and/or export marketing programs to develop new markets for Atlantic demersal finfish species, e.g. cod, haddock, yellowtail flounder, winter and summer flounder, grey sole, silver and red hake, wolffish, cusk, etc.

d. Evaluate and demonstrate economic returns at each level of processing and distribution associated with maintenance of high quality products.

e. Develop, modify, test, and/or evaluate harvesting methods that will enhance conservation measures.

3. *Coastal, Estuarine and Great Lakes Fisheries:* Projects funded in FY 85 focused on: developing new markets for underutilized species of freshwater fish and fish products in the Great Lakes area and other States having commercial fisheries dependent upon harvesting underutilized species of freshwater fish; a coordinated consumer education, domestic and export marketing program for the Mid-Atlantic Region; the expansion of a fishing vessel and processing plant quality project in the Northeast to the retail segment of the industry; and a clam waste processing project to model the use of natural processes to improve the quality of plant production wastes.

Priorities for FY 86 funding will focus on:

a. Expansion of domestic and/or foreign markets for underutilized fishery products. This may include new product development, test marketing, and promotion of non-food application of rough fish.

b. Demonstrate/implement marketing strategies developed for the charter boat/headboat industry, including integration into tourism.

c. Examine and demonstrate the potential for developing recreational fishing as a new industry in coastal communities.

B. Southeast Region

Both commercial and recreational projects should be concentrated on shifting current harvesting activity from fully or over utilized fisheries to alternate fisheries, or should contribute to solutions for the specific problem areas identified in the following sections. Proposals will have to contain appropriate economic analysis where the output's applicability and priority depend upon the product, process, or concept being economically viable.

1. *Latent Southeast Resources:* A major initiative funded during FY 85 focused on product and market concept development, exploratory fishing, handling, storage and transportation studies, and foreign and domestic market investigations. Also funded were projects: to produce a Southeastern Seafood Product Quality Code based on industry recommendations and supported by existing pertinent regulatory documentation; to develop guidelines for the emerging tuna fishery in the Southeast with emphasis on product quality and economic profile; and to assess the biological and commercial significance of bigeye scad fishery in the U.S. Virgin Islands. Activities were continued to develop and implement a comprehensive long range educational program to make underutilized species more desirable to marine recreational fishermen in the Southeast.

FY 86 proposals should contribute to the increased, continued harvest and sales of any species of finfish which is underutilized, including the herring like species. Specifically, proposals should:

a. Assess the commercial significance of stocks.

b. Develop, evaluate, and demonstrate new technology for the commercial harvest of midwater schooling species in deeper offshore waters.

c. Develop, evaluate, and demonstrate new technology for on-board or shoreside handling, grading, and storage systems which support commercial activity.

d. Develop new commercial products or processes which provide evidence of market and economic feasibility.

e. Develop indices of chemical metabolites/end products that form during harvesting, processing, or storage in small pelagic species which reflect changes in quality as perceived by sensory methods.

f. Investigate use of multiple species in surimi-based products.

g. Conduct market research and develop export or domestic markets for latent resources or freshwater catfish and crayfish.

h. Develop technology for sorting fish by species or size in the harvesting operations so as to avoid unwanted by-catch and the need for on-board sorting and grading. Proposals for research on specific species such as butterfish will be considered from qualified researchers, but demonstration projects without a substantial research and development component will not be considered.

i. Develop a profile of traditional marine recreational fishing in the Southeast to assist public and private sector organizations in stimulating economic development based on marine recreational fishing. This profile should synthesize and summarize existing information on fishing patterns, target species, demographic characteristics of anglers, trip expenditure information, and other pertinent data.

j. Evaluate access and infrastructure needs of the U.S. Virgin Islands and Puerto Rico to support increased marine recreational fishing activity.

k. Develop and implement strategies to integrate marine recreational fishing into tourism industry programs giving special emphasis to the needs of charter and headboat fishing businesses.

l. Develop and implement programs to increase the use of underutilized sportcaught species.

2. *Menhaden:* Projects were funded in FY 85 which continue research on the use of high pressure carbon dioxide to extract and refine fish oil, and which address the effect of fish oil on plasma lipids.

In FY 86 proposals should:

a. Address human food or other high value uses of menhaden. Areas of work should concentrate on the use of menhaden surimi or mince in product or process development (ongoing projects should result in menhaden surimi being available for use by successful applicants).

b. Provide for determining consumer acceptance and relative value.

c. Address potential domestic as well as export markets.

d. Conduct a study to characterize the amino acid profile of menhaden fish meal based on a statistically sound data base.

3. *Shrimp:* A project was funded in FY 85 to develop a method to determine net drained weight of block frozen shrimp which will be used to identify short weights and fraud in shrimp shipments. Also funded was a project relating to the entire Gulf and South Atlantic commercial fishing fleet to develop an industry vessel safety code, coupled with risk finance alternatives for vessel owners subscribing to the code.

In FY 86 funding priority will be given to proposals designed to stabilize the shrimp industry at its current economic value. Proposals can address quality issues including inspection of imports and an assessment of the relative value of different alternatives to bisulfites. Proposals must build upon or take into account past or current work in the areas. Proposals dealing with other problems threatening the continued viability of the shrimp industry will also be given consideration including risk management, the reduction of insurance costs, and the dissemination of information about and the adoption of Trawl Efficiency Devices (TED's) by the commercial shrimp industry. Proposals should supplement and not duplicate on-going risk management studies.

4. *Molluscan Shellfish:* Through the development of shellfish water quality standards, a project funded in FY 85 will recommend techniques to control incidences of viral illnesses and new management procedures to maintain the safeness of molluscan shellfish. Proposals must build upon or take into account past or current work in all of these areas.

In FY 86 priority will be given to proposals which:

a. Address the development of product forms/products which reduce public health concerns associated with raw products.

b. Develop better predictive indices of fecal contamination or pollutant loads for existing shellfish growing areas.

c. Develop and demonstrate better field procedures to detect and measure human pathogenic viruses, i.e., hepatitis A., Norwalk, and rotaviruses, in oysters, including the correlation of virus levels with bacterial indicators. Proposals should build on, and not duplicate any past work.

d. Develop new technology to address depuration or allied techniques to kill or eliminate enteric viruses. Proposals must build upon or take into account past or current work in all of these areas.

C. Southwest Region

The Southwest Region is comprised of two distinct geographic areas—the U.S. Pacific Islands and the California coast. The island fisheries differ significantly in many instances from the mainland fisheries. Accordingly, we have established a list of funding priorities for each of the geographic areas.

1. U.S. Pacific Islands

Projects funded in FY 85 will allow for infrastructure development in Guam, and also for analysis of possible processing facility development in a number of islands. Other projects funded will focus on enhanced fishery production from reseeding island reef areas with juvenile trochus and giant clams and development of effective artificial reef technologies for high energy environments. Also funded were experimental fishing projects which focus on albacore in waters Southwest of American Samoa, and on demonstration of effective pole and line fishing for tuna in the local waters of Kosrae.

In the U.S. Pacific Islands, priority consideration will be given in FY 86 to projects which contribute to the fishery development goals of Hawaii, Guam, American Samoa, the Commonwealth of the Northern Marina Island and the Trust Territories of the Pacific Islands. All proposals should be consistent with the cultural and social perspectives of the island people.

Projects related to fish aggregation devices (FADs) will not be funded during this cycle. The key problem affecting FADs throughout the Pacific is the short life expectancy caused by basic deficiencies in mooring design. Based upon the recommendations of a 1983 mooring design study sponsored by the South Pacific Commission, the NMFS has funded FAD projects in Yap and American Samoa. Until these projects are evaluated in the latter part of 1986, the use of S–K funds for FAD research will not be considered until FY 87.

Proposals which address problems in the following areas will be given priority for funding in FY 86:

a. *Industry Development:* Projects to continue development of shoreside fisheries facilities and seafood marketing outlets by providing business management expertise, quality control systems, and marketing assistance. Projects should have the ultimate goal of creating self-sustaining business enterprises or creating new marketing opportunities.

b. *Tuna:* Projects which investigate the potential production of sashimi grade tuna and improve pole-and-line bait fishing. Particular attention should be given to upgrade the handling and quality of tuna for sashimi markets.

c. *Other Pelagic Species:* Projects related to other oceanic pelagic species (e.g., mahimahi, wahoo, billfish, shark) should focus upon developing local and overseas market outlets. Particular attention should be focused on maintaining product quality (e.g., avoidance of histamine in mahimahi, urea in shark) through improved handling, processing, and storage methods.

d. *Bottomfish:* Projects to expand harvesting opportunities and develop marketing channels (local and export) for these species. Projects for bottomfish development in areas where the resources may be distressed and unable to withstand added fishing pressure will not be funded.

a. *Vessel Support Facilities:* Proposals for continued design, engineering and construction of fishing vessel support facilities. Proposals requesting construction funds much identify matching fund commitments equal to the level of requested Federal S–K funding. Proposals should demonstrate a need by local fishermen.

f. *Recreational Fisheries:* Projects which assess opportunities for development of chartered sport fishing ventures in Pacific Island areas. Such projects should consider potential tie-in with local tourism development. Services and facilities available and needed for sport fishing development should be identified.

g. *Artificial Reefs:* Projects which investigate the technical feasibility and cost effectiveness of developing or adapting artificial reef technology to tropical waters for recreational and commercial fishing.

2. California

a. *West Coast Groundfish/California:* In FY 85 the NMFS funded projects: to continue domestic marketing of Pacific whiting; to develop export markets for whiting and other groundfish species; to establish a prototype seafood retail training school; to develop an operating model to analyze changing economic conditions (landings, prices, etc.) in the fishing industry on the West Coast; and to develop a model to link marine recreational fishing tackle sales to changes in species abundance.

Pacific whiting and shortbelly rockfish continue to be the highest priority groundfish species for commercial development in FY 86. However, innovative projects that address the priorities identified below will be considered for any groundfish species. Specifically, priority for funding in FY 86 will be given to projects that:

(1) Demonstrate innovative fishing techniques which improve production, reduce marine mammal and bird mortality, and shift effort from fully utilized species.

(2) Investigate alternative product forms.

(3) Demonstrate quality assurance and control technologies.

(4) Investigate cost effective methods that improve handling, processing and/or waste disposal technologies. Proposals should supplement, and not duplicate, on-going fish waste studies, e.g., those of the Northeast Fish Waste Task Force and the New England Fisheries Development Foundation.

(5) Develop a forecast of California marine recreational fishing activity for 1990. The forecast should identify causes for changes and should be based on statewide information through 1985.

(6) Investigate and develop bone-softening processing technology for shortbelly rock fish and jack mackerel.

(7) Investigate and develop domestic and export markets for underutilized groundfish species.

b. *Albacore Tuna:* Projects funded in FY 85 address several facets of albacore marketing ranging from general applications in institutional markets to specific applications in Pacific coast retail trade. Priority for FY 86 funding will be given to projects which:

(1) Identify and/or introduce alternatives to canned tuna product forms.

(2) Demonstrate quality control measures that improve market acceptance of fresh and frozen products.

(3) Identify harvesting techniques and locations.

(4) Develop effective handling and new packaging methods for promoting increased home consumption of sport caught tuna.

c. *West Coast Coastal Pelagics:* No projects unique to this fishery were funded in FY 85. However, some of the groundfish projects also relate to West Coast coastal pelagics. Examples are the marine recreational fisheries economic model and the prototype seafood retail school.

In FY 86, priority will be given to projects that:

(1) Investigate technologies to develop new product forms.

(2) Develop new domestic and export markets for presently underutilized species.

(3) Evaluate sport catch consumption patterns and develop alternatives for greater utilization of sport caught species that are presently discarded.

D. Northwest Region

The Northwest fishing industry requires a development program which focuses on fully utilizing groundfish found in the Exclusive Economic Zone off Oregon, Washington and Alaska.

1. *West Coast Groundfish (Oregon, Washington and Alaska):* The NMFS funded projects in FY 85 that will: Develop a technique to optically detect parasites to easily segregate infested products which are subject to regulatory action; investigate and eliminate several factors causing a soft textural condition in sablefish; investigate the serious problems of texture and rapid spoilage that inhibit the use of Pacific whiting in traditional forms of product presentation; apply state-of-the-art and emerging technologies to wash fish flesh efficiently and effectively to produce a generic intermediate fish protein material for a wide range of uses; continue existing promotional activities for the Oregon and Washington charterboat industries which will focus on non-salmonid species; market charterboat services with the travel and tourism industries within these States; increase consumer awareness of pollock through a variety of promotional activities and implementation of a marketing strategy; and create fishing vessel safety instruction and videotapes based on a safety manual currently being drafted.

The FY 86 priorities expressed below will promote further development and continue to strengthen the base of the Region's industry.

a. Develop new product forms for groundfish resources which have economic potential and will increase domestic consumption of groundfish resources. Specific projects might include: development of uses for minced groundfish; development of specific products for use in Federal procurement programs (e.g., USDA School Lunch and Department of Defense Military Feeding Programs); and an examination of various packaging alternatives.

b. Develop improved processing and harvesting technologies which increase efficiency, productivity, and competitiveness of the region's groundfish industry. Specific projects might include: development and demonstration of methods to remove parasites from processed fish products, and evaluation of gear technologies to generate information to minimize the by-catch of traditional resources and maximize catch and quality of groundfish.

c. Continue to develop a safety training program for fishing vessels; develop video tapes for safety training; and develop a safety program for processing facilities.

d. Conduct export promotion activities including development of export market analyses, export promotional material, and export trade missions, seminars, and trade shows. These activities should focus on specific groundfish product forms.

e. Demonstrate an at-sea quality assurance system for trawler/processor vessels. The demonstration should reflect the risk associated with the process and product.

f. Identify and evaluate consumer preferences and biases for target species, angling methods, and supporting facilities in marine recreational fisheries. Continue development of an advanced marketing program coordinating industry efforts with the travel and tourism industry to increase the awareness of, opportunity, and participation in marine recreational fisheries for non-salmonid species. These target species may include lingcod, black rockfish, and true cod.

E. Alaska Region

Alaska Groundfish: Projects funded in FY 1985 address diversification of pollock product forms, improved pollock processing technologies and use of pollock as ingredients in other finished products; increase consumer awareness and use of Alaska pollock through retail advertising and promotional testing, and education of foodservice operators (especially school and healthcare); and continue efforts to teach fishermen in Alaska techniques for handling, storing, and distributing ocean whitefish through demonstrations and workshops.

Proposals which address impediments to full use of Alaska grounfish in the following areas will be given priority for funding in FY 1986:

1. Harvesting

a. Develop and conduct demonstrations of new technology that promote improved quality of fish delivered to processing facilities.

b. Develop new information on techniques and gear design for minimizing bycatch of certain fish and shellfish species in trawl fisheries.

c. Develop resource profiles of groundfish species not currently utilized by U.S. industry.

2. Processing Activities

a. Develop new product forms having technical and economic potential for increasing use of groundfish. Product development may include the use of minced fish or surimi.

b. Develop technology to increase efficiencies of fish processing lines.

c. Develop industry knowledge and understanding of opportunities for groundfish by-product utilization and marketing.

d. Develop studies on vacuum packaged seafoods, including shelf-life, microbiological evaluations and packaging.

3. Marketing Activities

a. Develop well-focused consumer and institutional marketing projects that increase awareness of Alaska groundfish products. All projects in this area must have measurable objectives.

b. Develop refinements of industrial marketing efforts promoting food industry utilization of Alaska pollock products.

4. Recreational Fisheries

Priority consideration will also be given to projects that assist in development of recreational fisheries. Proposals may include, but are not limited to assessing utilization of groundfish species by the charter boat industry, analysis of the potential increase in recreational fisheries for halibut, and the relationships of recreational charter business to major local and regional tourist industries.

F. National

Proposals which address topics that are not species specific, but apply to multiple fisheries involving multiple regions will be evaluated as "national" proposals by the NMFS Office of Utilization Research.

In FY 85, the NMFS funded national projects which addressed issues cross-cutting a number of fisheries and regions. Specifically, NMFS funded projects which: Address strategies to reduce fishing vessel insurance costs and improve vessel safety; develop and implement a standard system for seafood inclusion in the Universal Product Code; create public service announcements promoting seafood consumption; develop nutritional information and support materials; manage Seafood U.S.A. exhibitions at major international food shows; develop retail and foodservice video training programs; compare inspection programs for fish and fishery products in selected foreign countries and conduct an economic analysis on what appears to be the most viable option for the U.S. industry; develop a market research program for U.S. fishing tackle manufacturers; and continue implementation of artificial reef technology to develop marine recreational fishing opportunities.

In FY 86, priority wil be given to projects applicable to multiple fisheries and regions as indicated below.

1. Marine Recreational Fishing Industry

a. Prepare a report on economic activity associated with marine recreational fishing. A report was prepared in 1983, based upon 1980 information, making projections through 1985. The validity of the forecast should be ascertained; causes for changes in economic activity should be determined; and a forecast for 1990, based on information through 1985, should be established.

b. Analyze the types of fishing gear used in recreational fisheries, including the type and quantity of imports and competitiveness of U.S. tackle manufacturers.

2. Standards and Regulations

a. Develop international standards for frozen squid. These should be compatible with all species of squid available to U.S. harvesters, and support positions of the United States in the *Codex Alimentarius* in developing standards to protect consumers and facilitate trade.

b. Identify conditions and risks related to the processing/trade/consumption of various classes of fishery products (e.g., fresh fish, ready-to-eat shrimp, molluscan shellfish, canned fish) and assess current food regulations relative to risk assessments addressing: (a) Public health; and (b) quality maintenance/determination. Regulations include: 21 CFR Part 110 (Current Good Manufacturing Practice in Manufacturing, Processing, Packing or Holding Human Food); Federal Standard 369 (Sanitation Standards for Fish Plants); 21 CFR Part 123 (Frozen Raw Breaded Shrimp); 21 CFR Part 161 (Fish and Shellfish); 50 CFR Part 260 (Inspection and Certification); and 50 CFR Parts 261–267 (United States Standards for Grades).

3. New Product Forms

a. Identify the central quality and edibility characteristics of surimi-based end products. This should include proposing test methods for measuring these characteristics, and developing model end product specifications.

b. Determine the nutritional composition of natural products (e.g., king crab, snow crab, scallops, shrimp, lobster) for which analog products may likely be substituted; and the level and quantity of specific nutrients likely to be required to establish nutritional equivalency in surimi-based products. This should include analysis of products made from surimi containing 0% and 10% natural king crab, snow crab, scallops, shrimp and lobster.

c. Identify indices of decomposition and develop methods for use by industry and regulatory personnel in the field (non-laboratory) for evaluating decomposition in: (1) Surimi-based products, and (2) fresh fishery products.

d. Develop new fish-style products from surimi and/or minced fish.

e. Determine the technical feasibility of applying hyperfiltration technology to recover protein materials from wash water used in surimi processing, characterize the recovered materials and evaluate their potential uses.

f. Determine the feasibility of obtaining and measuring biomedically important compounds from seafood or seafood waste materials. Proposals should indicate how work will supplement and not duplicate on-going efforts, e.g. those of the Northeast Fish Waste Task Force and the New England Fisheries Development Foundation. Proposals should also build on the longstanding efforts of Sea Grant in this area.

4. Marketing

Develop materials focusing on current seafood and health nutrition developments. Development should be coordinated with industry and other promotional efforts in this area.

5. Education, Training and Information

Develop training materials focusing on seafood processing personnel involved in quality control and production. In particular, proposals should address, where possible, the production of educational materials in a videotape format. The focus of materials should be on hygienic and technological practices in handling, processing and storage; and evaluation of good manufacturing practices and final product quality.

6. Marine Insurance

Identify, examine, and apply new options and strategies to build upon current S–K fishing vessel safety and insurance projects. These should aim at reducing or managing fishing vessel risk and associated insurance costs.

7. Harvesting Investment Strategies

Organize a forum to identify and evaluate private sector approaches to link vessel investment strategies with fisheries resource availability.

III. How To Apply

A. Eligible Applicants

Applications for grants or cooperative agreements for fisheries development projects may be made, in accordance

with the procedures set forth in this notice by:

1. Any individual who is a citizen or national of the United States;

2. Any individual who is a citizen of the Northern Mariana Islands (NMI), being an individual who qualifies as such under Section 8 of the Schedule on Transitional Matters attached to the Constitution of the NMI;

3. Any corporation, partnership, association, or other entity, non-profit or otherwise, if such entity is a citizen of the United States within the meaning of Section 2 of the Shipping Act, 1916 as amended (46 U.S.C. 802).[2]

No individual or organization that is in arrears on any outstanding debt to the U.S. Department of Commerce will be considered for funding. Any first time applicant for Federal grant funds is subject to a preaward accounting survey prior to execution of the award. The NMFS encourages women and minority individuals and groups to submit applications. NOAA employees including full, part-time, and intermittent personnel, (or their immediate families) and NOAA offices or centers (note that this does not include Sea Grant institutional personnel) are not eligible to submit an application under this solicitation, or aid in the preparation of an application, except to provide necessary information or guidance about the fisheries development and utilization program and the priorities and procedures included in this solicitation.

B. Amount and Duration of Funding

For FY 86, the NMFS may have an estimated $7.0 million available to fund new fishery research and development projects. Although grants or cooperative agreements will generally be awarded for a period of one year, multi-year projects will be considered if certain criteria are met. However, multi-year projects are the exception and not the norm.

To qualify as a multi-year award, a project must, in addition to the criteria elaborated under "Administrative Requirements" and other applicable sections, meet the following criteria: (1) The technology to be developed must require more than a single year to research, develop and demonstrate; (2) The products or services to be developed require more than a single year to research, design and demonstrate and/or market; (3) Single year funding would otherwise result in *significant* discontinuity in project implementation; (4) Projects must indicate completed objectives, tasks, or products for the end of each funding cycle. The burden of proof for meeting these criteria rests with the applicant. No projects will be funded beyond three consecutive years. Once approved, multi-year projects will not compete for funding in subsequent years. For multi-year projects, funding beyond the first year will be contingent on the availability of new fiscal year program funds and the extent to which project objectives were met during the prior year.

In the FY 85 funding cycle, the NMFS funded eight multi-year proposals. These include major initiatives in the areas of development of a Universal Product Code for fisheries products; fishing vessel safety and insurance; seafood retail training; resolution of processing waste disposal problems; management of U.S. exhibits at foreign food shows; research on fish oils on plasma lipids; shellfish quality and marketing standards; and boat launching ramps on Guam.

Publication of this announcement does not obligate NMFS to award any specific grant or to obligate any part or the entire amount of funds available. Funding for successful applications generally will be provided by October 1986.

C. Cost-Sharing Requirements

The NMFS must provide at least 50 percent of the total cost of the project, but will provide no more than 80 percent of total project costs. The non-Federal share may include funds received from private sources or from State or local governments or the value of in-kind contributions. Federal funds may not be used to meet the non-Federal share of matching funds. In-kind contributions are noncash contributions provided by the applicant or non-Federal third parties. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to the project, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project.

The percentage of the total project costs provided from non-Federal sources, not to exceed 50 percent of the costs of the project, will be an important factor in the selection of projects to be funded. Exemption from cost-sharing requirements may be granted in unusual circumstances only to non-profit, public interest organizations which demonstrate no financial ability to meet cost-sharing requirements and to government institutions in American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, Puerto Rico and the U.S. Virgin Islands under the provisions of 48 U.S.C. 1469a. The total project costs and the percentage of cost-sharing required will be determined as described below.

1. Determining Total Project Costs

The total costs of a project consist of all costs incurred in the performance of project tasks, including the value of the in-kind contributions, to accomplish the objectives of the project during the period the project is conducted. A project begins on the effective date of a grant, cooperative agreement, or contract award between the applicant and an authorized representative of the United States Government and ends on the date specified in the award. Accordingly, the time expended and costs incurred in either the development of a project or the financial assistance application, or in any subsequent discussions or negotiations prior to award, are neither reimbursable nor recognizable as part of the recipient's cost share.

The NMFS will determine the appropriateness of all cost-sharing proposals, including the valuation of in-kind contributions, on the basis of guidance provided in Office of Management and Budget (OMB) Circulars. In general, the value of in-kind services or property used to fulfill the cost-sharing requirements will be the

[2] To qualify as a citizen of the United States within the meaning of this statute, citizens or nationals of the United States or citizens of the NMI must own not less than 75 percent of the interest in the entity or, in the case of a non-profit entity, exercise control of the entity that is determined by the Secretary to be equivalent to such ownership; and in the case of a corporation, the president or other chief executive officer and the chairman of the board of directors must be citizens of the United States, no more of its board of directors than a minority of the number necessary to constitute a quorum may be non-citizens; and the corporation itself must be organized under the laws of the United States, or of a State, including the District of Columbia, Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the NMI or any other Commonwealth, territory, or possession of the United States. Seventy-five percent of the interest in a corporation shall not be deemed to be owned by citizens or nationals of the United States or citizens of the NMI, if: (i) the title of 75 percent of its stock is not vested in such citizens or nationals of the United States or citizens of the NMI free from any trust or fiduciary obligation in favor of any person not a citizen or national of the United States or citizen of the NMI; (ii) 75 percent of the voting power in such corporation is not vested in citizens or nationals of the United States or citizens of the NMI; (iii) through any contract or understanding it is arranged that more than 25 percent of the voting power in such corporation may be exercised, directly or indirectly, in behalf of any person who is not a citizen or national of the United States or a citizen of the NMI; or (iv) by any means whatsoever, control of any interest in the corporation is conferred upon or permitted to be exercised by any person who is not a citizen or national of the United States.

fair market value of the services or property. Thus, the value is equivalent to the costs of obtaining such services or property if they had not been donated. Appropriate documentation must exist to support in-kind services or property used to fulfill cost-sharing requirements.

2. Determining the Level of Cost Sharing Required

The percentage of the total project costs that must be provided from non-Federal sources follows:

a. *20 percent:* For projects that would benefit the general public as well as the fishing industry but offer no unique advantage to specific industry sectors, the non-Federal cost share will be no less than 20 percent of the total project cost, and no greater than 50 percent. These projects would ordinarily involve research on the safety of fishery products or other activities for which members of the fishing industry would not necessarily receive direct benefits.

b. *30 percent:* For projects that contain economic risks which prevent an individual or group within the fishing industry from undertaking them without assistance, the non-Federal cost share will be no less than 30 percent of the total project cost. Most applications will be in this category.

c. *40 percent:* For projects which involve significant fishing industry participation, entail a limited risk, and in which the prospects for immediate future gain for the project are significant, the non-Federal cost share will be no less than 40 percent of the total project cost.

D. Format

Applications for project funding must be complete. They must identify the principal participants and include copies of any agreements between the participants and the applicant describing the specific tasks to be performed. Applications must identify the specific priorities to which they are responding. If an application is not in response to a priority, it should be so stated. Project applications should give a clear presentation of the proposed work, the methods for carrying out the project, its relevance to developing and strengthening the U.S. fishing industry and cost estimates as they relate to specific aspects of the project. Budgets will include a detailed breakdown by line item with appropriate justification. Applicants should not assume prior knowledge on the part of the NMFS as to the relative merits of the project described in the application. Applications must be submitted in the following format:

1. Cover Sheet

An applicant must use OMB Standard Form 424 as the cover sheet for each project within an application. Applicants may obtain copies of the form from the NMFS Regional Offices, NMFS Washington Office or Department of Commerce Regional Administrative Support Centers (RASC); addresses are listed under the "Application Submission and Deadline" section which follows.

2. Project-Summary

Each project within the application must contain a summary of not more than one page which provides the following information:

a. Project title.

b. Project status: (new or continuing)

c. Project duration: (beginning and ending dates)

d. Name, address, and telephone number of applicant.

e. Principal Investigator(s).

f. Specific priority(ies) to which project responds.

g. Project objective.

h. Summary of work to be performed. For continuing projects the applicant will briefly describe progress to date in addition to work proposed with the additional funds.

i. Total Federal funds requested (initial and total amount and percentage of total project costs).

j. Project costs to be provided from non-Federal Government sources (initial and total amount and percentage of total project costs).

k. Total project costs.

3. Project Description

Each project within the application must be completely and accurately described. Each project description may be up to fifteen pages in length. The NMFS will make all portions of the project description available to the public and members of the fishing industry for review and comment; therefore, NMFS will *not* guarantee the confidentiality of any information submitted as part of any project nor will NMFS accept for consideration any project requesting confidentiality of any part of the project. Each project must be described as follows:

a. *Identification of Problem(s):* For new projects, describe how existing conditions prevent the U.S. fishing industry from developing a fishery or using existing fisheries. In this description, identify (1) the fisheries involved, (2) the specific problem(s) that the fishing industry has encountered, (3) the sectors of the fishing industry that are affected, (4) the specific priorities to which the proposal responds, and, (5) how the problem(s) prevent the fishing industry from using the fishery resources. If the application is for the continuation of an existing S–K funded project, describe progress to date and explain why continued funding is necessary.

b. *Project Goals and Objectives:* State what the proposed project will accomplish and describe how this will eliminate or reduce the problem(s) described above. For multi-year projects, describe the ultimate objective of the project and how the individual tasks contribute to reaching the objective. Describe the time frame in which tasks would be conducted.

c. *Need for Government Financial Assistance:* Explain why members of the fishing industry cannot fund all the proposed work. List all other sources of funding which are or have been sought for the project.

d. *Participation by Persons or Groups Other Than the Applicant:* Describe (1) the level of participation by NMFS, Sea Grant, or other Government and non-Government entities, particularly members of the fishing industry, required in the project(s); and (2) the nature of such participation. In addition, list names and addresses of the members of the fishing industry consulted during the preparation of the project description.

e. *Federal, State, and Local Government Activities:* List any existing Federal, State, or local Government programs or activities, including State Coastal Zone Management Plans, this project would affect and describe the relationship between the project and these plans or activities. List names and addresses of persons providing this information.

f. *Project Outline:* This section requires the applicant to prepare a general narrative fully describing the work to be performed which will achieve the previously articulated goals and objectives. A chart which outlines major goals, supporting work activities, timeframe, and individuals responsible for various work activities must be included.

The narrative should include information which responds to the following questions:

(1) How will the project be structured?

(2) What major products, (e.g., research, services, or activities) will be produced and what is the specific nature of these products?

(3) What supporting work activities (be as specific as possible) will be undertaken to produce major products, services?

(4) Who will be responsible for carrying out various work activities? (Highlight work which will be subcontracted and provisions for competitive subcontracting).

(5) What methodology will be used to evaluate final products or services, and how will it be integrated into the project?

The milestone chart should graphically illustrate the major products, research, services and/or activities, supporting work activities and associated timeline; and the individual responsible for various work activities.

Because this information is critical to understanding and reviewing the application, NMFS encourages applicants to provide as much detail as possible. Applications lacking sufficient detail may be eliminated from further consideration.

g. *Project Management:* Describe how the project will be organized and managed. List all persons, directly employed by the applicant, who will be involved in the project, their qualifications, and their level of involvement in the project. If any tasks will be conducted through subcontracts, provide copies of any agreements between the applicant and the proposed subcontractors which describe the specific tasks they will perform. Since open and free competition is encouraged, contracts in excess of $10,000 are subject to competitive bids and documentation of the process. If a subcontractor is chosen prior to application submission, the competitive process used must be documented. If an award is made, all proposed sole source contracts in excess of $5,000 and all competitively bid contracts in excess of $10,000 are subject to prior approval by the Grants Officer. If no subcontractor has been chosen, indicate this.

h. *Project Impacts:* Describe the impact of the project in terms of anticipated increased landings, production, sales, exports, product quality, safety, or any other measurable factors. Describe the specific products or services that will be produced by this project. Describe how these products or services will be made available to the fishing industry.

i. *Evaluation of Project Impacts:* The procedures for evaluating the relative success or failure of a project in achieving its goals should be clearly delineated within each proposal. It is the responsibility of applicants to identify the best methodology for evaluating project effectiveness.

Evaluation procedures in each proposal should contain the following:

(1) The project objectives should be stated in a substantive, measurable way.

(2) Specific methods should be defined that will be used to evaluate (a) the success or failure of the project; and (b) how the project contributed to fisheries development.

(3) The benefits of the project should be clearly defined. Depending on the nature of the benefits, the evaluation methodology should be able to accurately assess the benefits. For example, if statistical procedures are to be used, their specific application and use in the project evaluation should be described.

(4) Where benefits might be termed "intangible," methods should be defined to measure results. For example, in the case of consumer education or market promotion programs, will post awareness surveys be conducted?

j. *Project costs:* Costs must be provided in a detailed budget. No cost sharing can come from another Federal source. Costs must be allocated to the Federal share and matching share provided by the applicant. Applicant's matching costs are to be divided into cash and in-kind contributions. A standard budget form is available from the offices listed in Section E. A separate budget must be submitted for each project within an application. For multi-year projects, funds will be provided as specified tasks are completed. Therefore, an applicant submitting a multi-year project must submit two budgets—one covering total project costs (including individual outyear costs) and one covering the initial funding request for the project. The initial funding request should cover funds required during the first 12-month period. NMFS will not consider fees or profits as allowable costs for grantees. To support its budget the applicant must describe briefly the basis for estimating the value of the matching funds derived from in-kind contributions. Costs for the following categories must be detailed in the budget.

(1) Personnel.

(a) Identify salaries by position and percentage of time of each individual dedicated to the project.

(b) Fringe Benefits. Indicate benefits associated with personnel working on the projects.

(2) Consultants and Contract Services. Identify all consultant and/or contractual service costs by specific task in relation to the project.

(3) Travel and Transportation.

(a) Identify major travel and transportation costs, number of people traveling and purpose of travel.

(b) Itemize costs, including approximate air fare, per diem rates, and/or any additional fees associated with the trip, such as conference fees, registration fees, etc.

(4) Equipment, Space or Rental Costs.

(a) Identify equipment purchases or rental costs with the intended use.

(b) Identify space rental costs with specific uses.

(5) Other Costs.

(a) Consumable office supplies. Include cost for pens, paper, typewriter ribbons, etc.

(b) Postage and Shipping. Include postage for correspondence, material produced under grant as well as air freight, truck or rail shipping of bulk materials to be used in conferences and workshops.

(c) Printing costs. Include costs associated with producing materials in conjunction with the project.

(d) Final Audit. Include costs of having a special audit of the project performed. This cost should not be included if an organizational audit will be used in place of a special audit for the project.

(e) Telephone and Telegraph. Identify estimated calls and monthly bills.

(f) Utilities. Identify costs of utilities and percentage of use in conjunction with performance of project.

(g) Additional costs. Indicate any additional costs associated with the project whcih are allowable under OMB circular A–122.

4. Project Consolidation

Applicants may submit two or more projects under one proposal but must identify project costs, including adminstrative costs, separately for each individual project. As a result, the amount of administrative funds provided will be based on the actual number of projects funded.

5. Supporting Documentation

This section should include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed. The applicant should present any information which would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project to fisheries development may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in a lower

ranking of the project. Reviewers will not necessarily examine all material provided as supporting documentation except where sufficient detail is lacking in the project description to properly evaluate the project. Therefore, information presented in this section should be clearly referenced in the project description, where appropriate.

E. Application Submission and Deadline

1. Deadline

The NMFS will accept applications for funding under this program between March 20, 1986 and May 27, 1986. An application will be accepted if the application is received by any of the offices listed below on or before May 27, 1986.

2. Submission of Applications to NMFS Reviewing Offices

Applicants must submit one signed original and two (2) copies of the complete application. *Applications are not to be bound in any manner.*

a. Applications relating to a specific fishery or a particular region should be submitted to the appropriate NMFS Regional Office as specified below:

Northeast Region (Maine, Massachusetts, Rhode Island, Connecticut, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Wisconsin, Michigan, Minnesota): Regional Director, National Marine Fisheries Service, P.O. Box 1109, Gloucester, MA 01930, Telephone No: (617) 281–3600

Southeast Region (North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, New Mexico, Oklahoma, Arkansas, Tennessee, Kentucky, Missouri, Kansas, Nebraska, Iowa, Puerto Rico, Virgin Islands): Regional Director, National Marine Fisheries Service, Duval Bldg., 9450 Koger Blvd., St. Petersburg, Florida 33702, Telephone No: (813) 893–3142

Southwest Region (California, Hawaii, Nevada, Arizona, American Samoa, Guam, Trust Territory of Pacific Islands, Northern Mariana Islands): Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, Telephone No: (213) 548–2575

Northwest Region (Washington, Oregon, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota): Regional Director, National Marine Fisheries Service, Bin C15700, 7600 Sand Point Way, NE., Seattle, Washington 98115, Telephone No: (206) 527–6150

Alaska Region (Alaska): Regional Director, National Marine Fisheries Service, P.O. Box 1668, 709 West Ninth Street, Juneau, AK 99802, Telephone No: (907) 586–7221

b. Applications addressing national priorities should be sent to: Director, Office of Utilization Research, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC 20235, Telephone: (202) 634–7111

c. Questions of an administrative nature should be referred to the offices listed below:

Northeast: NOAA RAS/EC32, Eastern Administrative Support Center, 253 Monticello Avenue, Norfolk, Virginia 23510

Southeast: NOAA RAS/CC31, Central Administrative Support Center, Federal Bldg. Room 1758, 601 East 12th Street, Kansas City, Missouri 64106

Northwest/Southwest/Alaska: NOAA RAS/WC33, Western Administrative Support Center, BIN C15700, 7600 Sandpoint Way, NE, Seattle, Washington 98115

Washington: NOAA RAS/DC33, National Capital Administrative Support Center, NBOC1 Room 106, 11420 Rockville Pike, Rockville, Maryland 20852

IV. Review Process and Criteria

A. Evaluation and Ranking of Proposed Projects

For applications meeting the requirements of this solicitation, NMFS will determine which office should evaluate the proposed work. This will normally be the office where the application is filed.

1. Consultation With Interested Parties

The NMFS will evaluate the project(s) contained in the application in consultation with representatives from other Federal Government agencies with programs affecting the U.S. fishing industry, members of the fishing industry, and other fisheries interests, as necessary. The regional and Washington Offices of NMFS will make project descriptions available in the following manner:

a. *Public review and comment.* Regional applications may be inspected at the office to which they are submitted. All applications will be available for inspection at the NMFS Office of Industry Services, 3300 Whitehaven Street, NW., Room 324, Washington, DC from June 3, 1986 to June 13, 1986. Written comments will be accepted at a regional or the Washington office until June 13, 1986.

b. *Consultation with members of the fishing industry.* The NMFS shall, at its discretion, request comments from members of the fishing industry who have knowledge in the subject matter of a project or who would be affected by a project.

c. *Consultation with Government agencies.* Applications will be reviewed in consultation with NMFS Research Centers and Utilization Laboratories, RASC Grants/Contracts Offices and, as appropriate, Department of Commerce and other Federal agencies. The Regional Fishery Management Councils may be asked to review projects and advise of any real or potential conflicts with Council activities.

2. Technical Evaluation

The NMFS will conduct a technical evaluation of each project. If an application contains two or more projects, the NMFS will evaluate the projects separately. All comments submitted to the NMFS will be taken into consideration in the technical evaluation of projects. The NMFS will give projects point scores based on the following evaluation criteria:

a. Adequacy of research/development/demonstration for resolving an impediment and possibilities of securing productive results (20 points).

b. Soundness of design/technical approach for resolving an impediment (20 points).

c. Organization and management of the project, including qualifications and previous related experience of the applicant's management team and other project personnel involved (20 points).

d. Effectiveness of proposed methods for monitoring and evaluating project. A specific evaluation methodology should be proposed as outlined in Section III. D.3.j (20 points).

e. Justification and allocation of the budget in terms of the work to be performed (20 points).

3. Formal Industry Review

After the technical evaluation, each reviewing office will solicit comments from the fishing industry, consumer representatives, and others, as appropriate, to rank the projects filed with the office. This review may be carried out by correspondence or involve formal meetings of industry representatives. Considered in the review, along with the technical evaluation, will be the significance of the problem addressed in the project. The reviewers will rank each project in terms of importance or need for funding, and provide recommendations on the level of funding NMFS should award to

each project and the merits and benefits of funding each project.

B. Funding Awards

After projects have been evaluated, the reviewing offices will develop recommendations for project funding. They will submit the recommendations to the Assistant Administrator for Fisheries, who will determine the number of projects to be funded based on the recommendations provided, consistency of projects with the identified fisheries objectives, and the amount of funds available for the program.

The exact amount of funds awarded to a project will be determined in pre-award negotiations between the applicant and NOAA/NMFS Program and grants management representatives. The Department of Commerce (DOC) will review all recommended projects and funding before final authority is given to proceed on the project. The funding instrument will be determined by RASC Grants Officers. Projects may not be initiated in expectation of Federal funding until a notice of award document is received.

V. Administrative Requirements

A. Obligations of the Applicant

An Applicant must—

1. Meet all application requirements and provide all information necessary for the evaluation of the project.

2. Be available, upon request, in person or by designated representative, to respond to questions during the review and evaluation of the project(s).

3. If a project is awarded, manage the day-to-day operations of the project, be responsible for the performance of all activities for which funds are granted, and be responsible for the satisfaction of all administrative and managerial conditions imposed by the award.

4. If a project is awarded, keep records sufficient to document any costs incurred under the award, and allow access to records for audit and examination by the Secretary, the Comptroller of the United States, or their authorized representatives. The NMFS may provide a proportionate share of funds as part of the financial award to pay for an audit.

5. If a project is awarded, submit quarterly project status reports on the use of funds and progress of the project to NMFS within 30 days after the end of each calendar quarter. These reports will be submitted to the individual specified as the Technical Monitor in the funding agreement. The content of these reports will include, at a minimum:

a. A summary of work conducted which includes a description of specific accomplishments and milestones achieved;

b. The degree to which goals or objectives were achieved as originally projected;

c. Where necessary, the reasons why goals or objectives are not being met; and

d. Any proposed changes in plans or redirection of resources or activities and the reason therefor.

6. If a project is awarded, submit an original and two copies of a final report within 90 days after completion of each project to the NMFS Technical Monitor. The final report must describe the project and include an evaluation of the work performed and the results and benefits in sufficient detail to enable NMFS to assess the success of the completed project. The content of the evaluation should include, at a minimum:

a. Description of the original project goals and objectives, and the context in which the project was to benefit the fishing industry. This description should address the following questions:

(1) What were the original project goals and objectives?

(2) To what extent were goals measurable or quantifiable?

(3) Were modifications made to project goals and objectives and, if so, what was the cause for the modifications?

(4) Were the goals and objectives attained? How? If not, why?

b. Description of the specific accomplishments (information, products, or services) of the project and the relationship of these to the project's goals and objectives:

(1) List the specific information, products, or services produced by the project.

(2) Describe the relationship of the products and services to the original project goals and objectives.

(3) Describe the extent to which the products or services meet the needs of the fishing industry.

(4) Describe the value of the products or services by themselves or in concert with other activities.

c. Description of how the project benefited the fishing industry. This description should address the following questions:

(1) To what extent did the industry have access to the products or services produced by the project?

(2) To what extent have the fishing industry and associated infrastructure (universities, financial institutions, etc.) used the project's products or services to satisfy a need or lessen business or other risks?

(3) To what extent are the project's results likely to be used by the industry in the future?

(4) To what extent are project results likely to be used by others in the future to provide benefits to the fishing industry?

d. Description of the specific economic or other benefits the fishing industry received as a result of its use of the products or services of the project or as a result of others using the products or services. This description should address the following questions:

(1) Are clear economic benefits demonstrable?

(a) If economic benefits are demonstrable, how? (e.g. increased landings, production, sale and/or value of fishery products, increased exports, greater vessel or gear efficiency, etc.)

(b) If not, why? (Were the results too intangible? A function of greater elapsed time interval? Other?)

(2) Nature of benefits:

(a) What were the benefits of the projects?

(b) Are benefits one-time or continuing?

(c) To what extent are benefits measurable vs. intangible?

(d) Are benefits direct or indirect?

(e) Are the benefits the result of a "negative" finding?

e. Description of the actual need for Federal assistance in the project.

7. If a project is funded by grant or cooperative agreement, an applicant must comply with Office of Management and Budget (OMB) Circulars, and Treasury Circulars. Copies are available from the RASC Offices listed above.

8. In order for NMFS to assist the grantee in disseminating information, the grantee is requested to submit three copies of all publications printed with grant funds to the Office of Industry Services, NMFS, Washington, DC 20235.

B. Obligations of the National Marine Fisheries Service

The NMFS will:

1. Provide all forms and explanatory information necessary for the proper submission of applications for fisheries development and utilization projects.

2. Provide advice, through the NMFS Office servicing the applicant's area, to inform applicants of NMFS fisheries development policies and goals. Interested applicants are encouraged to contact the NMFS Washington or Regional Offices for clarification or explanation of any information appearing in this notice.

3. Monitor all projects after award to ascertain their effectiveness in achieving project objectives and in producing measurable results. Actual accomplishments of a project will be compared with stated objectives.

4. Maintain a mailing list for the annual S–K solicitations. Upon request, interested persons will be placed on the mailing list to receive the FY 87 solicitation at the time it is published in the **Federal Register**.

C. RASC Grants Officer Responsibility

The RASC Grants Officer is responsible for the administrative processing of NOAA Federal assistance awards. Questions from the recipient of an administrative nature will be referred to the Grants Officer. The official grant file will be maintained by the Grants Officer who will ensure that OMB, DOC, and NOAA policies are met.

D. Legal Requirements

The applicant will be required to satisfy the requirements of applicable local, State and Federal laws.

VI. Classification

This notice is not subject to Executive Order 12291.

Information collection requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act and have been assigned OMB #0648–0135.

This notice of availability of financial assistance for fisheries research and development projects will also appear in the *Commerce Business Daily*.

(Federal Domestic Assistance Catalogue No. 11.427 Fisheries Development and Utilization Research and Demonstration Grants and Cooperative Agreements)

Dated: March 17, 1986.

Joseph W. Angelovia,

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

[FR Doc. 86–6103 Filed 3–20–86; 8:45 am]

BILLING CODE 3510-22-M

Federal Register

Friday
March 21, 1986

Part III

Department of Agriculture

Office of the Secretary

7 CFR Part 26

Determination of World Price for Rice; Proposed Rule

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 26

Determination of World Price for Rice

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to (1) prescribe a formula by which the Secretary of Agriculture will derive the prevailing world market price, adjusted to U.S. quality and location, for the 1985 through 1990 crops of rice, (2) provide a mechanism by which such price will be announced periodically, and (3) invite public comment on the proposals. These actions are required by sections 101(i)(1)(B)(ii) and 101A(a)(5)(B) of the Agricultural Act of 1949, as amended.

DATE: Comments must be received on or before April 7, 1986, in order to be assured for consideration.

ADDRESS: Mail comments to Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA–ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Eugene S. Rosera, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, Room 3740 South Building, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–5954.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "not major". It has been determined that these provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal assistance programs to which this notice applies are: Title-Rice Production Stabilization, Number 10.065, and Title-Commodity Loans and Purchases, Number 10.051 as found in the Catalog of Federal Domestic Assistance.

I have determined that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The public is invited to comment on the impact of this proposed rule on small entities, and I will review this determination in light of those comments.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

Section 101(i)(1)(B)(ii) and section 101A(a)(5)(B) of the Agricultural Act of 1949, as amended, provide that the Secretary of Agriculture shall prescribe by regulation (1) a formula to define the prevailing world market price for rice; and (2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

The prevailing world market price for rice, as determined in accordance with the formula set forth in this proposed rule, shall be utilized under several provisions of the rice program for the 1985 through 1990 crops of rice which are designed to make domestically produced rice more competitive in the world market.

For example, the prevailing world market price for rice shall be used in the determination of the level at which a producer of the 1985 through 1990 crops of rice may repay a price support loan. In addition, beginning April 15, 1986, the Secretary shall make payments to producers of 1985 crop rice who have not sold or delivered such rice under a sales contract and who were either eligible to obtain a loan on such rice but did not obtain such a loan or who were ineligible to obtain a loan on such rice. Such payments shall be determined based upon the difference between the loan level established for the 1985 crop and the prevailing world market price.

Finally, during the period beginning August 1, 1986 and ending July 31, 1991, whenever the prevailing world market price for a class of rice is below the current loan repayment rate for that class of rice, the Commodity Credit Corporation, in order to make rice available in world markets at competitive prices, is required to issue negotiable marketing certificates. The value of the certificate is to be based on the difference between the loan repayment rate for the class of rice and the prevailing world market price for the class of rice as determined by the Secretary.

There is no currently available, recognized index or formula used by the U.S. or other rice exporting countries for determining the prevailing world market price for rice. World trade in rice encompasses a wide range of qualities, classes, and transaction variables, including the valuation of milled as compared to rough rice and the value of broken kernels as compared to whole kernels. Therefore, it has been determined that a wide range of information should be used in determining the world market price.

Under the proposed rule, the prevailing world market price for a class of rice shall be determined based upon a review of the prices at which rice is being traded in the world market and a weighting of such prices through the use of information such as supply and demand changes, tender results, and other relevant price indicators. The prevailing world market price thus derived shall be adjusted to reflect U.S. equivalent values for U.S. grade No. 2, 4 percent broken kernels, for long, medium, and short grain rice at free-on-board (FOB) vessel positions, U.S. port. A more detailed formula is not being proposed due to the lack of recognized indices of prices and the variables of quality, class, and location which impact greatly on the price of rice in the world market.

The prevailing world market price of rice thus determined reflects U.S. equivalent values of milled rice FOB, U.S. port, whereas rice price support loans are made and repaid on a rough rice basis. It is proposed, therefore, that the prevailing world market price for rice be adjusted to the basis on which rice price support loans are made and repaid (hereinafter referred to as the "adjusted world price, loan rate basis"). The prevailing world market price for a class of rice, U.S. equivalent value, shall be adjusted to obtain (1) a price FOB mill position of such class of rice; (2) the value of the whole kernels in such rice; (3) the unit market value of such whole kernels; (4) the market value of whole kernels in 100 pounds of rough rice; and (5) the total world market value of the rough rice.

The resulting estimated world market price, rough rice basis, shall then be adjusted to a whole kernel loan rate basis.

Under the proposed rule, the adjusted world price for rice, loan rate basis,

shall be announced, to the extent practicable, each Friday beginning April 11, 1986 on or after 3:00 p.m. Eastern time.

Interested persons are invited to submit written comments on both the proposed formula for determining the adjusted world price and the proposed mechanism for periodically announcing such price. Comments must be received by April 7, 1986, date which is 15 days after the date of publication of this proposed rule in order to be assured of consideration. The comment period is being limited to 15 days to allow adequate time to review such comments and make appropriate revisions to this proposed rule prior to April 15, 1986, the statutory date on which rice producers shall be allowed to repay 1985-crop loans at the world price.

List of Subjects in 7 CFR Part 26

Rice, World market price.

Proposed Rule

Accordingly, it is proposed that 7 CFR Part 26, as proposed in the Federal Register of March 11, 1986 (51 FR 8332), be amended by adding a new Subpart B—Determination of World Market Price for Rice.

PART 26—[AMENDED]

Subpart B—Determination of World Market Price for Rice

Sec.

Authority: Secs. 601, 602, Pub. L. 99-198 (7 U.S.C. 1441 et seq.)

Subpart B—Determination of World Market Price for Rice

§ 26.10 Applicability

This subpart sets forth the procedures for determining the prevailing world market price for a class of rice (adjusted to United States quality and location) and the mechanism for periodically announcing such price as required by sections 101(i)(1)(B)(ii) and 101A(a)(5)(B) of the Agricultural Act of 1949, as amended.

§ 26.11 Determination of the prevailing world market price for a class of rice.

(a) The prevailing world market price for a class of rice shall be determined by the Secretary of Agriculture based upon a review of prices at which rice is being sold in world markets and a weighting of such prices through the use of information such as changes in supply and demand of rice, results of tender offers, and other relevant price indicators, and shall be expressed in U.S. equivalent values (free-on-board (FOB) vessel, U.S. port of export) per hundredweight as follows:

(1) U.S. grade No. 2, 4 percent broken kernels, long grain milled rice;

(2) U.S. grade No. 2, 4 percent broken kernels, medium grain milled rice; and

(3) U.S. grade No. 2, 4 percent broken kernels, short grain milled rice;

(b) Export transactions involving rice and all other related market information will be monitored on a continuous basis for the purposes of paragraph (a) of this section. Relevant information may be obtained for this purpose from U.S. Department of Agriculture field reports, international organizations, public or private research entities, international rice brokers, and any other source of reliable market information.

§ 26.12 Adjustment of world price to loan rate basis.

(a) The prevailing world market price for a class of rice adjusted to U.S. quality and location (hereinafter referred to as the "adjusted world price, loan rate basis"), which is determined in accordance with paragraph (b) of this section, shall be applicable to the programs of the Department of Agriculture for the 1985 through 1990 crops of rice as provided in sections 101(i)(1)(B)(ii) and 101A(a)(5)(B) of the Agricultural Act of 1949, as amended.

(b) The adjusted world price, loan rate basis, for each class of rice shall equal the prevailing world market price for a class of rice (U.S. equivalent value) as determined in accordance with § 26.11 and adjusted to U.S. quality and location as follows:

(1) The prevailing world market price for a class of rice (U.S. equivalent value) determined in accordance with § 26.11 shall be adjusted to reflect an FOB mill position by deducting from such calculated price an amount which is equal to the estimated national average costs associated with (i) the use of bags for the export of U.S. rice and (ii) the transfer of such rice from a mill location to FOB vessel (U.S. port of export) with such costs including, but not limited to, freight, unloading, wharfage, insurance, inspection, fumigation, and stevedoring.

(2) The price determined in accordance with paragraph (b)(1) of this section shall be adjusted to reflect the market value of the total quantity of whole kernels contained in such milled rice by deducting the value of broken kernels contained therein, with such value of the broken kernels to be determined by multiplying the quantity of such broken kernels (4% per hundredweight) by the market value of such broken kernels. The market value of broken kernels shall be based upon its estimated domestic market value.

(3) The price determined in accordance with paragraph (b)(2) of this section shall be adjusted to reflect the per pound market value of whole kernels by dividing the price by the quantity of whole milled kernels contained in the milled rice (96% per hundredweight).

(4) The price determined in accordance with paragraph (b)(3) of this section shall be adjusted to reflect the market value of whole kernels contained in 100 pounds of rough rice by multiplying such price by the estimated national average quantity of whole kernel rice by class obtained from milling 100 pounds of rough rice.

(5) The price determined in accordance with paragraph (b)(4) of this section shall be adjusted to reflect the total market value of rough rice by—

(i) adding to such price (A) the market value of bran contained in the rough rice, computed by multiplying the domestic unit market value of bran by the estimated national average quantity of bran produced in milling 100 pounds of rice; and (B) the market value of broken kernels contained in the rough rice, computed by multiplying the estimated domestic market value of broken kernels by the estimated national average quantity of broken kernels produced in milling 100 pounds of rice; and

(ii) deducting from such price an estimated cost of milling rough rice.

(6) The price determined in accordance with paragraph (b)(5) of this section shall be adjusted to a whole kernel loan rate basis by deducting the estimated domestic market value of the total quantity of broken kernels contained in such rice and dividing the resulting value by the estimated national average quantity of milled whole kernels produced in milling 100 pounds of rice.

(c) The adjusted world prices for rice, loan rate basis, shall be determined by

the Secretary of Agriculture and shall be announced, to the extent practicable, on or after 3:00 p.m. Eastern time each Friday beginning April 11, 1986, continuing through the last Friday of July 1991, but may be announced more frequently, as determined by the Secretary. In the event that Friday is a non-workday, the determination will be announced the next workday. The effective period of the announced prices will be specified in each announcement.

Signed at Washington, D.C., on March 19, 1986.

Richard E. Lyng,

Secretary.

[FR Doc. 86-6405 Filed 3-20-86; 9:59 am]

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