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Tuesday
March 25, 1986

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

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aircraft
Federal Aviation Administration

Administrative Practice and Procedure
Internal Revenue Service

Anchorage Grounds
Coast Guard

Aviation Safety
Federal Aviation Administration

Credit
Commodity Credit Corporation

Customs Duties and Inspection
Customs Service

Drug Traffic Control
Drug Enforcement Administration

Employee Benefit Plans
Pension Benefit Guaranty Corporation

Food Assistance Programs
Food and Nutrition Service

Gasoline
Federal Trade Commission

Hazardous Waste
Environmental Protection Agency

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Selected Subjects

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

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Highways and Roads
Federal Highway Administration

Loan Programs—Housing and Community Development
Farmers Home Administration

Marketing Agreements
Agricultural Marketing Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

Organization and Functions (Government Agencies)
United States Information Agency

Public Housing
Housing and Urban Development Department

Privacy
Housing and Urban Development Department

Quarantine
Animal and Plant Health Inspection Service

Surface Mining
Surface Mining Reclamation and Enforcement Office

Trade Practices
Federal Trade Commission

Water Pollution Control
Environmental Protection Agency

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.

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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Presidential Documents

Title 3—

The President

Proclamation 5450 of March 21, 1986

Afghanistan Day, 1986

By the President of the United States of America

A Proclamation

The people of Afghanistan celebrate March 21 as the beginning of their new year. In ordinary times, it is an occasion of joy, renewal, and hope for a better future. March 21, 1986, however, does not mark the passage of an ordinary year, nor does it bring cause to celebrate. For the heroic Afghan people it marks the beginning of yet another year in their struggle for national liberation against the ruthless Soviet military force that seeks to conquer them.

Over six years ago, on December 27, 1979, the Soviet army invaded Afghanistan, a small, friendly, nonaligned, and deeply religious neighbor. For six long years, the Soviets have sought to obliterate Afghan culture and remold that ancient nation into a replica of their own system, causing millions of Afghan refugees to flee the country. To achieve their goals, the Soviets installed the quisling regime of Babrak Karmal, in which Soviet advisors now man the key positions. They have transported thousands of young Afghans to the Soviet Union for reeducation in summer camps, universities, and specialized institutions, and they have set up a secret police apparatus matched in brutality only by their own KGB.

These tactics hardly begin to describe the continuing horror of the Soviet attempt to subjugate Afghanistan, a violation of international law repeatedly condemned by the United Nations. Despite calculated destruction of crops, irrigation systems, and livestock, indiscriminate air and artillery bombardments of civilian areas, brutal reprisals against noncombatants, and other unspeakable atrocities, the Afghan people remain determined to defend their liberty. The resistance has in fact become more effective than ever.

The Soviet failure to quell the Afghan people is not surprising. The Afghans have a long history of resisting invasion and of defending their homes, their faith, and their culture. Since December 1979, resistance fighters have acquitted themselves well in many engagements against larger and better armed Soviet forces. The Afghan freedom fighters have shown they can render all of their country unsafe for the invader. After six years of hard, bloody fighting, the Soviets are far from achieving their military goals.

Recently the Afghan resistance has taken major steps toward achieving unity and making its presence felt on the international scene, strengthening its ability to publicize the Afghan cause. We welcome these developments. With the support of the community of civilized nations, the Afghan resistance has also increased its efforts to aid civilians remaining inside Afghanistan. This will improve the Afghan people's ability to carry on the fight and counter the deliberate Soviet attempt to drive the civilian population away from resistance-controlled areas.

Throughout the period of their brutal occupation, the Soviets have tried—but failed—to divide the international supporters of the cause of Afghan freedom. They cannot be divided. The overwhelming votes in the United Nations General Assembly, year after year, are but one expression of the ongoing commitment of the world community to this cause. For our part we reaffirm our commitment to support this just struggle until the Soviets withdraw; until the people of Afghanistan regain their liberties, their independence, and the

right to self-determination; and until the refugees can return in safety to their native land. Only such a settlement can command the support of the Afghan people; a settlement that does not command their support will not end this war.

Today, we pay tribute to the brave men, women, and children of Afghanistan and remind them that their sacrifice is not and will not be forgotten.

The Congress, by Senate Joint Resolution 272, has authorized and requested the President to issue a proclamation designating March 21, 1986, as "Afghanistan Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 21, 1986, as Afghanistan Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of March, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-6727
Filed 3-24-86; 11:49 am]
Billing code 3915-01-M

Presidential Documents

Proclamation 5451 of March 21, 1986

National Energy Education Day, 1986

By the President of the United States of America

A Proclamation

Abundant, readily available, reliable supplies of energy at reasonable prices have fueled industrial growth in the United States since our country began. A continued supply of such energy is essential to the Nation's future security and to the well-being of our citizens. But the apparent abundance that we enjoy today should not tempt us to a dangerous complacency.

The nature of current energy supplies and the need to provide energy to meet the needs of an expanding economy require us to pursue an enlightened energy policy supported by an informed electorate. Energy education programs in our Nation's schools help to equip future generations of Americans to make wise choices that will shape our economic destiny for years to come.

National Energy Education Day helps bring into focus the energy needs of our Nation and our local communities. It prompts teachers, students, school officials, and private citizens to work together to alert the next generation of Americans to their opportunities and responsibilities. It is appropriate that all Americans, and particularly our educators, take steps to recognize the importance of maintaining and developing adequate sources of energy far into the future.

The Congress, by Senate Joint Resolution 205, has designated Friday, March 21, 1986, as "National Energy Education Day" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Friday, March 21, 1986, as National Energy Education Day, and I call upon the people of the United States to observe this day with appropriate programs and activities to promote energy education programs in America's schools.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of March, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-6728
Filed 3-24-86; 11:50 am]
Billing code 3915-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-305]

Pink Bollworm Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Pink Bollworm" quarantine and regulations by adding as suppressive areas certain previously nonregulated areas in portions of Chicot, Desha, Drew, Jefferson, Monroe, and Phillips Counties in Arkansas and in portions of Bolivar and Washington Counties in Mississippi; and by redesignating Caddo Parish in Louisiana from a suppressive area to a generally infested area. This action is necessary as an emergency measure in order to prevent the artificial spread of pink bollworm through the interstate movement of regulated articles. The effect of this action is to impose certain restrictions on the interstate movement of regulated articles from regulated areas.

DATES: Effective date of this interim rule March 28, 1986. Written comments concerning this interim rule must be received on or before May 27, 1986.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728, Federal Building, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-305. Written comments received may be inspected at Room 728 of the Federal Building between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Michael J. Shannon, Senior Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Background

The pink bollworm, *Pectinophora gossypiella* (Saunders), is one of the most destructive and widespread insect pests of cotton in the world. The insect spread to the United States from Mexico in 1917 and now occurs throughout most of the cotton-producing States west of the Mississippi River.

The "Pink Bollworm Quarantine and Regulations" (referred to below as regulations; 7 CFR 301.52 through 301.52-10) quarantine the States of Arizona, Arkansas, California, Louisiana, Mississippi, Nevada, New Mexico, Oklahoma, and Texas because of the pink bollworm. The regulations restrict the interstate movement of regulated articles from regulated areas in quarantined States for the purpose of preventing the artificial spread of the pink bollworm.

The regulations provide for an area to be designated as a "regulated area" if it is an area in which the pink bollworm has been found, or in which there is reason to believe that the pink bollworm is present, or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. Regulated areas are classified as either "suppressive areas" or "generally infested areas." Suppressive areas are regulated areas in which eradication of the pink bollworm is undertaken as an objective. Generally infested areas are all regulated areas not designated as suppressive areas. Restrictions are imposed on the interstate movement of regulated articles from both generally infested areas and suppressive areas in order to prevent the artificial movement of the pink bollworm into noninfested areas, and to prevent the reinfestation of suppressive areas where the pink bollworm no longer exists.

Chicot, Drew, Jefferson, Monroe, and Phillips Counties in Arkansas and Bolivar County in Mississippi

Prior to the effective date of this document, Chicot, Drew, Jefferson, Monroe, and Phillips Counties in Arkansas and Bolivar County in Mississippi contained no areas regulated because of pink bollworm. Surveys conducted by inspectors of the United States Department of Agriculture and State agencies of Arkansas and Mississippi establish that pink bollworm has spread to areas in Chicot, Drew, Jefferson, Monroe, and Phillips Counties in Arkansas and to areas in Bolivar County in Mississippi. Eradication of pink bollworm is undertaken as an objective, in these areas. Therefore, as an emergency measure, these areas are designated as pink bollworm suppressive areas. The descriptions of the areas designated as suppressive areas are set forth in the rule portion of this document. This action is necessary in order to prevent the spread of pink bollworm and to facilitate its ultimate eradication.

Desha County in Arkansas

Prior to the effective date of this document, the following area in Desha County in Arkansas was designated as a pink bollworm suppressive area and was the only area in Desha County that was designated as a pink bollworm regulated area:

"That area of the county lying south and southwest of the Arkansas River".

Surveys conducted by the United States Department of Agriculture and a State agency in Arkansas establish that pink bollworm has spread or is likely to spread to all of Desha County in Arkansas. The eradication of pink bollworm is undertaken as an objective in all of Desha County. Therefore, as an emergency measure, this document expands the area previously designated as a suppressive area in Desha County in Arkansas to include all of the county as a suppressive area. This action is necessary in order to prevent the spread of pink bollworm and to facilitate its ultimate eradication.

Washington County in Mississippi

Prior to the effective date of this document, the following areas in Washington County in Mississippi were designated as pink bollworm

suppressive areas and were the only areas in Washington County that were designated as pink bollworm regulated areas:

"That portion of sec. 11 and 14, T. 18 N., R. 7 W., lying northwest of old U.S. Highway 61.

That portion of sec. 12, T. 18 N., R. 7 W., lying west of county road 269 and that portion of said section lying south of county road 268 and northwest of old U.S. Highway 61.

That portion of sec. 8, T. 18 N., R. 7 W., lying east of county road 253 and north of the northern most Illinois Central Gulf Railroad track.

That portion of sec. 17, T. 18 N., R. 7 W., lying east of U.S. Highway 253.

That portion of sec. 22, T. 18 N., R. 7 W., lying north of U.S. Highway 82 and west of old U.S. Highway 61.

Secs. 32, 33, and 34, T. 19 N., R. 7 W.

Secs. 3, 4, 5, 9, 10, 15, and 16, T. 18 N., R. 7 W".

Surveys conducted by the United States Department of Agriculture and a State agency in Mississippi establish that pink bollworm has spread or is likely to spread to certain areas beyond the outer perimeter of the specified areas in Washington County in Mississippi which were previously designated as suppressive areas. These additional areas are areas where eradication of pink bollworm is undertaken as an objective.

Therefore, as an emergency measure, this document expands the areas previously designated as suppressive areas in Washington County in Mississippi to include all of the following as suppressive areas:

"The north ½ of T. 18 N., R. 6 W.

The north ½ and secs. 22, 23, 24, 25, 26, 27, of T. 18 N., R. 7 W.

Secs. 7, 8, 13, 14, 15, T. 18 N., R. 8 W.

That portion of sec. 1 lying north of the levee and secs. 11, 12, 23, and 24, T. 17 N., R. 8 W.

That portion of T. 17 N., R. 9 W., lying east of the levee.

Secs. 6, 7, 18, 19, 30, 31, 32, 33, and 34, T. 19 N., R. 7 W.

That portion of T. 19 N., R. 8 W., lying northeast of the levee.

That portion of T. 19 N., R. 9 W., lying northeast of the levee".

This action is necessary in order to prevent the spread of pink bollworm and to facilitate its ultimate eradication.

Caddo Parish in Louisiana

Prior to the effective date of this document, all of Caddo Parish in Louisiana was designated as a suppressive area. This document redesignates all of Caddo Parish as a generally infested area. Surveys conducted by the United States Department of Agriculture and a State agency of Louisiana establish that pink bollworm still exists in Caddo Parish. However, eradication of pink bollworm is no longer undertaken as an objective.

Emergency Action

Harvey L. Ford, Deputy Adminsitrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Because of the possibility that the pink bollworm could spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

The interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will have an estimated annual effect on the economy of approximately $85,000; will not cause a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

This action affects the interstate movement of regulated articles from specified areas in the States of Arkansas, Louisiana, and Mississippi. There are hundreds of small entities that move such articles interstate from nonregulated areas in the United States. However, based on information compiled by the Department, it has been determined that approximately 72 small entities move such articles interstate from the specified areas in those States. Further, the overall economic impact from this action is estimated to be approximately $85,000.

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

Executive Order 12372

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant pests, Plants (Agriculture), Quarantine, Transportation, Pink bollworm.

PART 301—DOMESTIC QUARANTINE NOTICES

Under the circumstances described above, the "Pink Bollworm" quarantine and regulations (contained in 7 CFR 301.52 *et seq.*) is amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162 and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 301.52–2a is amended by revising the list of regulated areas in the States of Arkansas, Louisiana, and Mississippi to read as follows:

§ 301.52–2a Regulated areas; suppressive and generally infested areas.

* * * * *

Arkansas

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Chicot County. That portion of the county lying north of U.S. Highway 82.

Desha County. The entire county.

Drew County. That portion of the county lying east of State Highway 293 and State Highway 4.

Jefferson County. That portion of the county lying east of U.S. Highway 79.

Monroe County. That portion of the county lying east of White River and south of U.S. Highway 79 and U.S. Highway 49.

Phillips County. That portion of the county lying south of U.S. Highway 49.

* * * * *

Louisiana

(1) *Generally infested area.*

Caddo Parish. The entire parish.

(2) *Suppressive area.* None.

* * * * *

Mississippi

(1) *Generally infested area.* None.

(2) *Suppressive area.*

Bolivar County. Secs. 17, 18, 19, 20, 29, 30, 31, and 32, T. 20 N., R. 6 W.

Secs. 6, 7, 18, 19, 30 and 31, T. 20 N., R. 7 W T. 20 N., R. 8 W.

That portion of T. 20 N., R. 9 W., lying east of the levee.

That portion of secs. 3, 4, 5, and 8, T. 21 N., R. 8 W., lying south of the levee and secs. 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 28, 29, 30, and 31, T. 21 N., R. 8 W.

That portion of T. 21 N., R. 9 W. lying east and south of the levee.

Secs. 9, 10, 11, 14, 15, 16, 21, 22, and 23, T 24 N., R. 6 W.

Secs. 2, 3, 4, 9, 10, and 11, T. 24 N., R. 7 W.

Washington County. The north ½ of T. 18 N., R. 6 W.

The north ½ and secs. 22, 23, 24, 25, 26, 27 of T. 18 N., R. 7 W.

Secs. 7, 8, 13, 14, 15, T. 18 N., R. 8 W.

That portion of sec. 1 lying north of the levee and secs. 11, 12, 23, and 24, T. 17 N., R. 8 W.

That portion of T. 17 N., R. 9 W., lying east of the levee.

Secs. 6, 7, 18, 19, 30, 31, 32, 33, and 34, T. 19 N., R. 7 W.

That portion of T. 19 N., R. 8 W., lying northeast of the levee.

That portion of T. 19 N., R. 9 W., lying northeast of the levee.

* * * * *

Done at Washington, DC, this March 20, 1986.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-6440 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

7 CFR Part 1942

Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding loans for Community Facility projects. This action is being taken by FmHA to comply with Public Law (Pub. L.) 99-198. Title XIII of Pub. L. 99-198 changes the criteria for determining what interest rate must apply to certain FmHA water and waste disposal (WWD) and community facility (CF) loans. The intended effect of this action is to bring existing regulations into compliance with Pub. L. 99-198.

EFFECTIVE DATE: March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6328, Washington, DC 20250, telephone: (202) 382-9589 or Wayne Stansbery, Loan Specialist, Community Facilities Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6308, Washington, DC 20250, telephone: (202) 382-1490.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This action is not expected to substantially affect budget outlay or to affect more than one agency or to be controversial. The net result is expected to provide better service to rural communities.

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Nos. 10.418, Water and Waste Disposal Systems for Rural Communities, and 10.423, Community Facilities Loans, and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983, and 7 CFR Part 1940, Subpart J, "Intergovernmental Review of Farmers Home Administration Programs and Activities").

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

This action amends FmHA's policies for making loans to assist in financing the development costs of community facilities and domestic water and waste disposal systems in rural communities. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the purpose of the change is to comply with Pub. L. 99-198 which allows for no administrative discretion in implementation. Any delay would be contrary to the public interest.

Pub. L. 99-198 requires that the interest rate will not exceed 5 per centum per annum for loans that meet certain other requirements and where the median household income of the persons to be served by such facility is below the higher of 80 per centum of the statewide nonmetropolitan median household income or the poverty line established by the Office of Management and Budget, as revised under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). Pub. L. 99-198 further requires the interest rate not be in excess of 7 per centum per annum on loans for such facilities that do not qualify for the 5 per centum interest rate but are located in areas where the median household income of the persons to be served by the facility does not exceed 100 per centum of the statewide nonmetropolitan median household income.

FmHA amends Subpart A of Part 1942 to bring existing FmHA Community Facility regulations into compliance with Pub. L. 99-198.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic

Accordingly, Subpart A of Part 1942 of Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for Part 1942 continues to read as follows:

Authority: 7 U.S.C. 1927 A; 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70

Subpart A—Community Facility Loans

2. In Section 1942.17, paragraphs (f)(2)(ii) and (f)(3) are revised to read as follows:

§ 1942.17 Community facilities.

* * * * *

(f) * * *

(2) * * *

(ii) The median household income of the service area is below the poverty line for a family of four, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), or below 80 percent of the Statewide nonmetropolitan median household income.

(3) *Intermediate rate.* The intermediate interest rate will be set at the poverty line rate plus one-half of the difference between the poverty line rate and the market rate, not to exceed 7 percent per annum. It will apply to loans that do not meet the requirements for the poverty line rate and for which the median household income of the service area is below the poverty line or not more than 100 percent of the nonmetropolitan median household income of the State.

* * * * *

Dated: March 4, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86-6442 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL TRADE COMMISSION

16 CFR Part 306

Octane Certification and Posting Rule; Regulatory Flexibility Act Review

AGENCY: Federal Trade Commission.

ACTION: Summary and analysis of comments and final action.

SUMMARY: On April 2, 1985, the Federal Trade Commission ("the Commission"), in accordance with the requirements of the Regulatory Flexibility Act,[1] published a Notice in the **Federal Register** [2] soliciting comments on whether the Commission's Octane Certification and Posting Rule [3] has had a significant economic impact on small entities,[4] and if so, whether the Rule should be amended to minimize any such impact. The Notice requested that all comments and data be submitted to the Commission no later than May 2, 1985. This notice summarizes the comments received in response to the April 2 Notice and sets out the Commission's actions in response to them.

FOR FURTHER INFORMATION CONTACT: James G. Mills, (202) 376-8934, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

Section 203(c)(1) of the Petroleum Marketing Practices Act [5] requires that the Commission prescribe, by rule, a uniform method by which a person may certify to another the octane rating of automotive gasoline, and a uniform method of displaying the octane rating of automotive gasoline at the point of sale to ultimate consumers. On March 30, 1979, the Commission issued the Octane Certification and Posting Rule,[6] which fulfills these requirements. The Rule establishes standard procedures for determining, certifying and posting (by means of a label on the fuel dispenser) the octane rating of automotive gasoline intended for sale to consumers. In addition, the Rule contains recordkeeping requirements that require gasoline refiners and importers to retain octane rating test records, and gasoline distributors and retailers to retain octane certification records, pertaining to the gasoline they sell in commerce for one year. Thus, the certification, or representation of the octane rating, of a particular shipment of gasoline begins with the importer or refiner and travels through the chain of distribution to the retailer, where the octane rating is posted on the pump. The Rule is intended to enable consumers to buy gasoline with an octane rating that is high enough to prevent inefficient and harmful "engine knock" and to help consumers to avoid buying gasoline with an octane rating that is needlessly higher than the requirements of their automobiles.

In the promulgation of the Octane Rule, an effort was made to minimize the burden imposed by these requirements, including the burden on small businesses, by permitting the octane certification requirement to be satisfied by documents already in use in the industry (shipping receipts, delivery tickets, etc.), on which the octane rating was already being noted, or to be accomplished with a one-time letter of certification.

The Regulatory Flexibility Act requires that the Commission conduct a periodic review of its rules that have or will have a significant economic impact upon a substantial number of small entities.[7]

The purpose of this review is limited to determining whether the Rule should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the Rule upon a substantial number of small entities.

In order to conduct the periodic review of this Rule pursuant to the RFA, the Commission, in the Notice, posed the six questions below for comment. The Commission requested that the factual data (*e.g.*, economic and accounting information, statistical analysis, surveys, studies, etc.) upon which submitted comments are based be included with the comments.

(1) Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

(2) Is there a continued need for the Rule and all of its requirements?

(3) (a) What burdens, if any, does compliance with the Rule place on small entities?

(b) To what extent are these burdens that small entities would also experience under standard and prudent business practice?

(4) What changes, if any, should be made to the rule that would minimize the economic effect on small entities?

(5) To what extent does the Rule overlap, duplicate or conflict with other federal, state and local government rules?

(6) Have technology, economic conditions or other factors changed in the area affected by the Rule since its promulgation in 1979 and, if so, what effect do these changes have on the Rule or those covered by it?

Based upon the comments received, the Commission has no basis to conclude that the Octane Rule has had a significant economic impact upon a substantial number of small entities. Accordingly, the Commission has concluded that the Octane Rule should remain in its present form.

II. The Comments

There were six questions posed in the Notice. Fifty-nine comments were submitted.[8] Of these, 58 contained

[1] Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1982) ("the RFA").

[2] 50 FR 13048 (April 2, 1985) ("the Notice").

[3] 16 CFR Part 306 (1979) ("the Rule").

[4] The definition of the term "small entity" was set out in the Notice. See footnote 7, below

[5] Pub. L. 95-297, 92 Stat. 322, 15 U.S.C. 2801 *et seq.* (1978) ("PMPA").

[6] 44 FR 19160 (March 30, 1979).

[7] For the purpose of this review under the RFA, the term "small entity" is defined under the Small Business Size Standards, codified at 13 CFR Part 121, and recently revised by the Small Business Administration (49 FR 5024 *et seq.* (Feb. 9, 1984)). The definitions of "small entity" applicable to those business entities covered by the Rule are: For petroleum refiners, fewer than 1,500 employees; for petroleum and petroleum products wholesalers, fewer than 500 employees; and for gasoline service stations, under $4.5 million in annual sales.

[8] The comments were placed on the public record in this proceeding under category M (Regulatory Flexibility Act Review Comments) of Public Record Docket No. 202-1. They are designated M-1 through M-59. References to the comments will be made by means of the single-word name of the commenter

Continued

information that was relevant to the questions asked. Only one comment [9] was non-responsive to the questions. Eight comments were received from the industry: two from trade associations [10] and six comments from petroleum refiners.[11] One comment was received from a municipal agency.[12] The following discussion treats each question in sequence and the comments received pertaining to that question.

A. Question 1

Has the Rule had a significant economic impact (costs and/or benefits) on a substantial number of small entities? Please describe the details of any such significant negative and/or positive economic impact.

Four refiners [13] and both trade associations [14] responded directly to this question. In general, all six commenters believed that the Rule has not had a significant economic impact on a substantial number of small entities.

The American Petroleum Institute (API) expressed the opinion that the Commission has already minimized the economic impact of the Octane Rule on all businesses, including small entitites:

1. By allowing the industry to place octane certifications on standard documents, such as invoices or bills of lading, that are already in use;
2. By allowing distributors and wholesalers to use the octane ratings certified to them by their suppliers;
3. By specifying that a recognized and accepted standard—the specifications of the American Society for Testing and Materials (ASTM)—be used to determine octane ratings; and,
4. By standardizing label specifications.

API also noted that the recordkeeping requirement of one year is commensurate with normal file retention policies for tax and other business purposes.[15]

Amoco noted that:

> [T]he economic impact of continuing the existing Rule is minimal. The major startup costs have already been expended, and whatever on-going expenses there are to maintain records and retain samples would have been spent as a normal good business practice. The Rule is applied equally to all marketers so no one is competitively disadvantaged.[16]

Both Mobil [17] and Union [18] noted that the Rule has provided significant consumer benefits without significant economic impact on small entities. Mobil noted, in addition, that ". . . the Rule has had a significant benefit to all reputable refiners, importers, gasoline distributors and service station operators regardless of size." [19] Union noted its opinion that ". . . the importance of this rule will increase as refiners develop lead phasedown market strategies." [20] Presumably, this is a reference to the fact that octane enhancement of automotive gasoline will have to be achieved in a different manner now that recent regulations from the Environmental Protection Agency ("EPA") [21] will result in a significant decrease in the permissible amounts of lead as an octane enhancer. This could result in different octane levels in the marketplace. If this is true, mandatory octane level disclosure will, therefore, become even more important.

SIGMA's comment expressed a concise answer to this question on behalf of its membership:[22]

> The only economic burden on small entities is the cost of decals for labeling motor fuel dispensers. Because most gasoline suppliers satisfy the Rule's octane certification requirement by providing octane information on delivery tickets and invoices, the Rule's recordkeeping requirements impose minimal burdens on small businesses. Such entities routinely retain such records for a period of time as standard and prudent business practices (*e.g.*, income tax records).[23]

Comments received in response to this question have led the Commission to conclude that the Octane Rule has not had a significant economic impact on a substantial number of small entities.

B. Question 2

Is there a continued need for the Rule and all of its requirements?

Virtually all the comments received in this proceeding addressed this issue, and all responded that there is a continued need for the Rule. With only one exception, mentioned before,[24] individual consumers concerned themselves primarily with responding to this question.

Fifteen of the consumer comments expressed the opinion that the Octane Rule is necessary because it provides consumers with the only way to determine whether they are buying the proper quality of fuel for their automobiles.[25] This viewpoint was succinctly expressed by Ralph Pifari:

> The only basis for knowing the quality of fuel, other than waiting until one's car functions adversely, is for the consumer to note the octane rating on the pumps.[26]

Three consumers [27] expressed an interest in being able to find the gasoline with the octane recommended by their owner's manuals.

Four consumers [28] expressed concern over the possibility of damage to their engines as a result of using gasoline with an improper octane rating. Nine of the comments received from consumers [29] expressed the opinion that the Octane Rule was the only way to maintain the integrity of the petroleum industry. In one commenter's opinion, "without the regulation they [the oil companies] could 'salt the gold mine' and we would have no idea of the quality of fuel we were using." [30]

The refiners [31] and the trade associations,[32] as well as the City of

(last name for individuals, primary name for corporations), the number of the comment, and, when appropriate, the page of the comment. For example, a reference to page 2 of the comment submitted by Mobil Oil Corporation would be designated as: Mobil, M-40/2.

[9] Glass, M-24. This comment suggested that four grades of motor fuel be established: truck diesel, auto diesel, unleaded and super unleaded.

[10] The American Petroleum Institute ("API"), M-44, and the Society of Independent Gasoline Marketers of America ("SIGMA"), M-45.

[11] Mobil Oil Corporation ("Mobil"), M-40; Marathon Petroleum Company ("Marathon"), M-41; Tosco Corporation ("Tosco"), M-43; Union 76 Division, Union Oil Company of California ("Union"), M-49; Amoco Oil Company ("Amoco"), M-55; and, Crown Central Petroleum Corporation ("Crown"), M-56.

[12] Department of Consumer Affairs of the City of New York ("New York City"), M-48.

[13] Mobil, M-40/1; Union, M-49/1; Amoco, M-55/1; Crown, M-56/1.

[14] API, M-44/1-2; SIGMA, M-45/2.

[15] M-44/1-2.

[16] M-55/1.

[17] M-40/1.

[18] M-49/1.

[19] M-40/1.

[20] M-49/1.

[21] 50 FR 9386 (March 7, 1985, effective January 1, 1986).

[22] "SIGMA is a national trade association of approximately 260 independent marketers and private-brand chain retailers of motor fuels. SIGMA's members market gasoline in all 50 states, and their sales of motor fuels represent approximately 15 percent of the domestic market. SIGMA members own and operate nearly 13,000 retail gasoline outlets." M-45/1.

[23] M-45/2.

[24] See footnote 9, above.

[25] Wuthrich, M-4, Jeffries, M-6; Lang, M-7; Tankensley, M-12; Pifari, M-13; Reames, M-14; Remstrom, M-15; Freund, M-17; White, M-21; Anderson, M-47; Dunn, M-50; Seehusen, M-51; Pieper, M-57; Schloermer, M-58; Riddell, M-59.

[26] M-13.

[27] Carmel, M-3; Waters, M-11; Tankensley, M-13.

[28] Dixon, M-10; Waters, M-11; Tankensley, M-13, Remstrom, M-15.

[29] Tankensley, M-12, Pifari, M-13; Freund, M-17; Ber, M-19; Tyger, M-26; Harris, M-32; Hansen, M-34; Wood, M-36; Kesselring, M-46. This opinion was shared by the Department of Consumer Affairs of the City of New York, which provided a detailed account of enforcement experience in that city to substantiate the opinion, M-48.

[30] Hansen, M-34.

[31] See footnote 11, above.

[32] See footnote 10, above.

New York,[33] are also unanimously in support of continuation of the Rule.

Four refiners [34] connected the need for continuation of the Rule to the recent move by the Environmental Protection Agency to decrease the amount of lead allowed in automotive fuel.[35] As stated by Tosco:

> [T]he recent Environmental Protection Agency ("EPA") rule to reduce the lead content in gasoline increases the need for the Octane Rule. Lead is the most efficient and least expensive octane enhancing additive available to gasoline refiners and blenders. Under the new EPA rule, these parties will have to find other methods to increase the octane rating of gasoline. There may be a tendency for octane ratings to "slip" as the lead phasedown takes effect, and the Octane Rule will help assure that U.S. consumers receive gasoline which meets their needs.[36]

Mobil [37] and Tosco [38] expressed the opinion that the growth in gasoline imports over the last few years has increased the need for the Octane Rule. These refiners believe that the Octane Rule is needed to assure that imported gasoline and blending stocks meet U.S. octane requirements, and to decrease the potential for abuse of tariff classifications by unscrupulous importers, as well as to ensure that consumers can purchase gasoline with the octane rating necessary for efficient operation of their automobiles.

In commenting in favor of continuation of the Rule, API [39] urged that the Rule be imposed equally on all sectors of the petroleum industry. API pointed out that any exemption that might be granted to small entities would severely hamper the workings of the Rule, since so many independent dealers and jobbers could be defined as "small entities" under the criteria of the Small Business Administration set out in the Notice.

SIGMA [40] took the position that continuation of the Octane Rule would deter the sale of gasoline that would not perform adequately in motor vehicles. Additionally, since octane stickers enable consumers to know that gasoline with the octane their automobiles need is available at smaller, less expensive stations belonging to SIGMA members, continuation of the Rule would benefit both consumers and SIGMA members.

Finally, the comment from the Department of Consumer Affairs of the City of New York [41] recommended that the Rule be continued and, if anything, strengthened in order to ensure fair and responsible business practices in the gasoline retailing marketplace and to quarantee that consumers receive what they pay for. This comment contained a specific narrative of enforcement experience with the octane regulations in the City of New York in the past several years, citing numerous violations as evidence of the need for a strong rule, and concluding:

> The abandonment of the [Octane Rule] at this time, when gas retailers are operating in such a tight market would only be incentive to more fraudulent sales, and more repair costs for consumers whose cars suffer damage from mislabeled gas. The current economic climate calls for more stringent protections for motorists, and responsible competition by all sectors of the gasoline industry. Only through the preservation or strengthening of the [Octane Rule] can the FTC further this goal.[42]

The Commission believes that these comments clearly provide a basis to conclude that there is a continued need for the Rule. There were no comments that suggested otherwise, and only one comment [43] was silent on this issue.

C. Question 3

> (a) What burdens, if any, does compliance with the Rule place on small entities?
> (b) To what extent are these burdens that small entities would also experience under standard and prudent business practices?

Responses to this question came primarily from the industry, with both trade associations and all the refiners but one [44] addressing the question directly. All who commented agreed that whatever burdens are imposed on the industry in general and small entities in particular are minimal. Most [45] agreed that the minimal burdens imposed by the Rule on small entities are burdens that are experienced under standard and prudent business practices. The responses to this question often overlapped with responses to Question One,[46] which asked if the Rule has had a significant economic impact on a substantial number of small entities.

None of the comments received in response to this question or to Question One suggested that the Octane Rule places a significant burden upon small entities. Several noted that whatever minimal burden has been experienced by small entities would have been experienced anyway as a result of standard business practices. Accordingly, the Commission finds no basis to conclude that the Octane Rule places a significant burden on small entities.

D. Question 4

> What changes, if any, should be made to the Rule that would minimize the economic effect on small entities?

Only two comments [47] contained any suggestion for changes to the Rule. All others were either silent on the question or recommended that the Rule be continued in effect without change. As mentioned earlier,[48] the Department of Consumer Affairs of the City of New York recommended that the Rule be strengthened, without recommending specific changes.

Amoco suggested technical changes to the Rule that are discussed in the section dealing with comments on Question Six at the end of this analysis.

Since no comments were received recommending changes in the Rule to minimize the economic effect on small entities, the Commission concludes that there is no basis to recommend such changes.

E. Question 5

> To what extent does the Rule overlap, duplicate or conflict with other federal, state and local government rules?

Only three comments contained answers to this question.[49] SIGMA simply stated that, to the best of its knowledge, the Rule does not overlap, duplicate or conflict with other regulations. Mobil stated the same, adding that several states [50] have octane posting rules that require that only one level of octane per grade per supplier be sold within the state. API was more comprehensive in its answer:

> The current FTC Rule on Octane Certification and Posting is complementary to state octane testing programs. API understands the National Conference on Weights and Measures is attempting to develop guidelines that would serve as a model for all state programs. A change, or any exemptions, in the current FTC Rule could frustrate the National Conference's efforts to promote uniform testing of gasoline quality.[51]

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[33] M-48.

[34] Mobil, M-40/1; Marathon, M-41/2; Tosco, M-43/2-3; Union, M-49/1.

[35] See footnote 21, above.

[36] M-43/2.

[37] M-40/1.

[38] M-43/1-2.

[39] M-44/2-3.

[40] M-45/2.

[41] M-48.

[42] *Id.* at p. 3.

[43] See footnote 9, above.

[44] Union, M-49.

[45] Marathon, M-41; Tosco, M-43; API, M-44 SIGMA, M-45; Amoco, M-55.

[46] See, for example, the quotations from Amoco and SIGMA in the discussion of Question One.

[47] New York City, M-48 and Amoco, M-55.

[48] See discussion of Question One, earlier.

[49] Mobil, M-40/1; API, M-44/3; SIGMA, M-45/2.

[50] Florida and the Carolinas (M-40/2).

[51] M-44/3.

Based on these few comments, the Commission sees no evidence that there are conflicts between the Rule and federal, state and local government rules. To the extent there may be such conflict, section 204 of PMPA establishes that the Rule is preemptive of all state regulations that are in conflict with it. The Commission, therefore, will make no changes in the Rule.

F. Question 6

Have technology, economic conditions or other factors changed in the areas affected by the Rule since its promulgation in 1979 and, if so, what effect do these changes have on the Rule or those covered by it?

Only four comments [52] addressed this question directly. SIGMA [53] noted that, although there have been significant changes, these changes have not had an effect on the Rule. Mobil [54] pointed out that increased availability of computer technology for all sectors of the industry has made the keeping of records less burdensome. API [55] noted EPA's recent ruling to reduce further the allowable amount of lead in gasoline, stating only that this change makes it more important to apply the Rule equally to all sectors of the industry.

Amoco [56] devoted most of its comment to a response to this question. Amoco pointed out that, since the Octane Rule went into effect in 1979, information on the effect of temperature and humidity on octane requirements has been developed and made available to ASTM. This information was developed in part by the Coordinating Research Council and in part by individual oil companies, including Amoco. The information was used to develop seasonal octane specifications, which were first adopted by ASTM in 1981 and which have appeared in every ASTM handbook since then. Amoco included, as part of its comment, a copy of the current ASTM specifications for gasoline, which include seasonal octane specifications. A technical paper produced by the Society of Automotive Engineers describing the technology behind seasonal octane specifications was also attached to Amoco's comment.

Amoco recommends adoption of the seasonal adjustment because, according to Amoco:

FTC incorporation of seasonal adjustments into the octane posting rule would allow the petroleum industry to significantly reduce the cost of octane improvement. With the highly competitive nature of the industry, much of the savings would eventually be passed on to the motorists. We estimate acceptance of a modified posting rule could currently save the consumer in excess of $250 million annually. The savings in later years would be much higher because of the impending lead phasedown and possibly phaseout.

We recommend that the FTC incorporate the ASTM schedule, as currently modified by seasonal adjustment, into its octane posting rule. This would not require posting changes. It would provide uniform antiknock satisfaction to motorists throughout the year.

* * * * *

This matter is most timely because the new restrictions on use of lead antiknock compounds will strain the octane capacity of the refining industry.[57]

The Commission's staff is aware of this development in the octane specifications and is analyzing the materials submitted by Amoco. When this analysis has been completed, the staff will determine what recommendations, if any, to make to the Commission. The Commission does not believe that any action should be taken in response to Amoco's comment within the framework of this review of the Octane Rule, and believes that, if any future action is taken, it should be done in a separate proceeding.[58]

III. Conclusion

After carefully considering the comments received, the Commission believes that they do not present any basis to conclude that the Octane Rule has had a significant economic impact upon a substantial number of small entities. To the extent that the comments disclose any economic impact, they reflect the universal view of the industry and the consuming public that the Rule is beneficial to both the industry and consumers.

[52] 52 Mobil, M-40; API, M-44; SIGMA, M-45; Amoco, M-55.

[53] M-45/2.

[54] M-40/2.

[55] M-44/3. See footnote 21, above. EPA's lead phasedown regulation was also mentioned, in a slightly different context, by Mobil (M-40/1), Marathon (M-41/1); Tosco (M-43/2) and Union (M-19/1).

[56] M-55.

[57] *Id.*, p. 2.

[58] The Commission is authorized, under section 203(c)(3) of the Act, to require procedures other than the statutory ASTM test standards for determining the octane rating of gasoline; in doing so, section 203(c)(3) of PMPA states that the Commission "may permit adjustments in such octane rating to take into account the effects of altitude, temperature, and humidity." While virtually any other rulemaking affecting the Octane Rule must follow section 553 procedures (with an opportunity for an oral hearing), this variation in the octane rating determination procedure under subsection (c)(3) must, under section 203(d)(2), be accomplished "on the record after opportunity for an agency hearing," *i.e.*, formal rulemaking under sections 556 and 557 of the Administrative Procedure Act. *See* 5 U.S.C. 553(c). Thus, the appropriate forum for the amendment proposed by Amoco would be more formal than the instant proceeding.

List of Subjects in 16 CFR Part 306

Gasoline, Labeling, Trade practices.

Authority: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (1980).

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-6444 Filed 3-24-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 86-69]

Coastwise Transportation of Articles by Vessels of the Netherlands Antilles; Provision for Reciprocal Privileges

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to add the Netherlands Antilles to the lists of nations which permit vessels of the U.S. to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports.

Customs has been furnished satisfactory evidence that the Netherlands Antilles places no restrictions on the transportation of certain specified articles by vessels of the U.S. between ports in that country. This amendment provides reciprocal privileges for vessels registered in the Netherlands Antilles.

DATES: Effective March 25, 1986. The reciprocal privileges for vessels registered in the Netherlands Antilles became effective on October 22, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Reusch, Carriers, Drawback & Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883) (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the U.S. except in vessels built in and documented under the laws of the U.S. and owned by U.S. citizens. However, the 6th proviso of the Act, as amended, by Pub. L. 89-194 (79 Stat. 823, T.D. 66-176) and Pub. L. 90-474 (82 Stat. 700, T.D. 68-227), provides that upon a finding by the Secretary of the Treasury,

pursuant to information obtained and furnished by the Secretary of State, that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the U.S., reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the U.S. will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the U.S. for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to extend reciprocal privileges to vessels of the U.S. for the transportation of equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and certain equipment for use with these barges; certain empty instruments of international traffic; and certain stevedoring equipment and material.

On October 18, 1984, the Department of State advised the Director, Carriers, Drawback and Bonds Division, of the Customs Service Headquarters that the Netherlands Antilles places no restrictions on the transportation of the articles listed in the Act by vessels of the U.S. between ports in the Netherlands Antilles. The effective date of such notification was October 22, 1984.

The Carriers, Drawback and Bonds Division is of the opinion that satisfactory evidence has been furnished to establish the reciprocity required in § 4.93(b). Therefore, the Director of the Division has determined that, effective retroactively to October 22, 1984, the Netherlands Antilles should be added to the lists of nations set forth in § 4.93(b) (1) and (2).

By Treasury Department Order 165–25 the Secretary of the Treasury has delegated authority to the Commissioner of Customs to prescribe regulations relating to §§ 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)). These sections relate to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82–201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations), who redelegated this authority to the Director, Office of Regulations and Rulings, who then redelegated it to the Director, Regulations Control and Disclosure Law Division.

Finding

On the basis of the information received from the Secretary of State, as described above, it is determined that the Netherlands Antilles places no restrictions on the transportation of the articles specified in the 6th proviso of § 27 of the Merchant Marine Act of 1920, as amended, by vessels of the U.S. between ports in the Netherlands Antilles. Therefore, reciprocal privileges are accorded as of October 22, 1984, to vessels registered in the Netherlands Antilles.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, cargo vessels, maritime carriers, vessels.

Regulations Amendments

To reflect the reciprocal privileges granted to vessels registered in the Netherland Antilles, Part 4, Customs Regulations (19 CFR Part 4), is amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103; § 4.93 also issued under 19 U.S.C. 1322(a); 46 U.S.C. 883.

§ 4.93 [Amended]

2. Section 4.93(b) (1) and (2), Customs Regulations (19 CFR 4.93 (b)(1), (b)(2)), are amended by adding "Netherlands Antilles", in appropriate alphabetical order to the lists of nations entitled to reciprocal privileges.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this is a minor amendment in which the public is not particularly interested and there is a statutory basis for the described extension of reciprocal privileges, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because this amendment grants an exemption.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of 5 U.S.C. 603, 604, as added by section 3 of Pub. L. 96–354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

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

Dated: March 19, 1986.

B. James Fritz,

Director, Regulations Control and Disclosure Law Division.

[FR Doc. 86–6487 Filed 3–24–86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Placement of Quazepam and Midazolam into Schedule IV

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to place the benzodiazepine substances, quazepam and midazolam, into Schedule IV of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). This action is based on a finding that quazepam and midazolam each fits the statutory criteria for inclusion in Schedule IV of the CSA. As a result of this rule, the regulatory controls and criminal sanctions of Schedule IV of the CSA will be applicable to the manufacturing, distribution, importation and exportation of each substance.

EFFECTIVE DATE: March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537. Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

A proposed rule was published in the **Federal Register** on February 7, 1986 (51 FR 4763–4764), proposing that quazepam and midazolam be placed into Schedule IV of the CSA if and when each New Drug Application (NDA) receives final approval from the Food and Drug Administration (FDA). All persons were given until March 10, 1986 to submit any comments or objections in writing regarding this proposal. No comments or objections were received by the Drug Enforcement Administration.

By letter dated March 3, 1986, the FDA notified DEA of the final NDA approval for each substance contingent upon the announcement of a final scheduling decision in the **Federal Register**. This final rule fulfills that scheduling condition for quazepam and midazolam.

Relying on the scientific and medical evaluations and recommendations of the Acting Assistant Secretary for Health and based on his independent evaluations in accordance with the provisions of 21 U.S.C. 811(c) that quazepam and midazolam each are similar to other substances in Schedule IV, the Administrator of the Drug Enforcement Administration, pursuant to the provisions of 21 U.S.C. 811(a) and 811(b), finds that:

(1) Based on information now available, quazepam and midazolam each has a low potential for abuse relative to the drugs or other substances listed in Schedule III;

(2) Quazepam and midazolam each has a currently accepted medical use in treatment in the United States; and

(3) Abuse of either quazepam or midazolam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Therefore, under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR 0.100), the Administrator hereby orders that 21 CFR 1308.14(c) be amended by the addition of quazepam and midazolam.

The above findings are consistent with the placement of each into Schedule IV of the CSA. In order to avoid delays in the initial marketing of each, the control of quazepam and midazolam in Schedule IV will be effective on March 25, 1986. In the event this imposes special hardships on any registrant, the Drug Enforcement Administration will entertain any justified request for an extension of time to comply with the Schedule IV regulations. The applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes, delivers, imports or exports each substance, quazepam and midazolam, or who engages in research or conducts instructional activities with respect to the substances, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Parts 1301 and 1311 of Title 21 of the Code of Federal Regulations.

2. *Security.* Each substance, quazepam and midazolam, must be manufactured, distributed and stored in accordance with §§ 1301.71–1301.76 of Title 21 of the Code of Federal Regulations.

3. *Labeling and Packaging.* All labels and labeling for commercial containers of quazepam and midazolam must comply with the requirements of §§ 1302.03–1302.05 and 1302.08 of Title 21 of the Code of Federal Regulations.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of each substance, quazepam and midazolam, shall take inventories, pursuant to §§ 1304.11–1304.19 of Title 21 of the Code of Federal Regulations, of all stocks of quazepam and midazolam on hand.

5. *Records.* All registrants required to keep records pursuant to §§ 1304.21–1304.27 of Title 21 of the Code of Federal Regulations shall do so regarding quazepam and midazolam.

6. *Prescriptions.* All prescriptions for products containing quazepam or midazolam shall comply with §§ 1306.01–1306.06 and §§ 1306.21–1306.25 of Title 21 of the Code of Federal Regulations.

7. *Importation and Exportation.* All importation and exportation of quazepam and midazolam shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

8. *Criminal Liability.* The Administrator, Drug Enforcement Administration, hereby orders that any activity with respect to quazepam and midazolam not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act shall be unlawful.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that the control of quazepam or midazolam, as ordered herein, will have no significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). These scheduling actions relate to the initial control of drugs not previously approved for marketing in the United States.

In accordance with the provisions of section 201(a) of the Controlled Substances Act (21 U.S.C 811(a)), this order to place each substance, quazepam and midazolam, into Schedule IV is a formal rulemaking "on the record after opportunity for a hearing." Such formal proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and as such have been exempted from the consultation requirements of Executive Order 12291.

PART 1308—[AMENDED]

Accordingly, 21 CFR Part 1308 is amended as follows:

1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811(a).

2. Section 1308.14(c) is amended by revising the listing in paragraph (c) to read as follows:

§ 1308.14 Schedule IV.

* * * * *

(c) * * *

(1)	Alprazolam	2882
(2)	Barbital	2145
(3)	Bromazepam	2748
(4)	Camazepam	2749
(5)	Chloral betaine	2460
(6)	Chloral hydrate	2465
(7)	Chlordiazepoxide	2744
(8)	Clobazam	2751
(9)	Clonazepam	2737
(10)	Clorazepate	2768
(11)	Clotiazepam	2752
(12)	Cloxazolam	2753
(13)	Delorazepam	2754
(14)	Diazepam	2765
(15)	Estazolam	2756
(16)	Ethchlorvynol	2540
(17)	Ethinamate	2545
(18)	Ethyl loflazepate	2758
(19)	Fludiazepam	2759
(20)	Flunitrazepam	2763
(21)	Flurazepam	2767
(22)	Halazepam	2762
(23)	Haloxazolam	2771
(24)	Ketazolam	2772
(25)	Loprazolam	2773
(26)	Lorazepam	2885
(27)	Lormetazepam	2774
(28)	Mebutamate	2800
(29)	Medazepam	2836
(30)	Meprobamate	2820
(31)	Methohexital	2264
(32)	Methylphenobarbital (mephobarbital)	2250
(33)	Midazolam	2884
(34)	Nimetazepam	2837
(35)	Nitrazepam	2834
(36)	Nordiazepam	2838
(37)	Oxazepam	2835
(38)	Oxazolam	2839
(39)	Paraldehyde	2585
(40)	Petrichloral	2591
(41)	Phenobarbital	2285
(42)	Pinazepam	2883
(43)	Prazepam	2764
(44)	Quazepam	2881
(45)	Temazepam	2925
(46)	Tetrazepam	2886

(47) Triazolam 2887

* * * * *

Dated: March 19, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-6421 Filed 3-24-86; 8:45 am]

BILLING CODE 4410-09-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 504

Organization of USIA

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: The United States Information Agency on a yearly basis updates 22 CFR Part 504 outlining the organizational changes and office moves which have occurred during the past year.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Charles N. Canestro, USIA Management Plans and Analysis Staff, Room 818, 301 Fourth Street SW., Washington, DC, 20547, (202) 485-8676.

SUPPLEMENTARY INFORMATION:

List of Subjects in 22 CFR Part 504

Organization and functions (Government agencies).

E.O. 12291 Federal Regulations

USIA has determined that this is not a major rule for the purpose of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Dated: March 12, 1986.

Charles Z. Wick,

Director.

Part 504 of Title 22 of the Code of Federal Regulations is revised to read as follows:

PART 504—ORGANIZATION

Sec.
504.1 Introduction.
504.2 Description of central and field organization, established places at which, officers from whom, and methods whereby the public may obtain information.

Authority: Sec. 4, 63 Stat. 111, as amended, sec. 501, 65 Stat. 290; 22 U.S.C. 2658, 31 U.S.C. 483a, 5 U.S.C. 301, 552, E.O. 10477, as amended, 18 FR 4540, 3 CFR 1949-1953 Comp., page 958, E.O. 10501, 18 FR 7049, 3 CFR 1949-1953 Comp., page 979. Reorganization Plan No. 2 of 1977, Pub. L. 97-241, 96 Stat. 291, Pub. L. 98-111.

§ 504.1 Introduction.

It is the policy of the United States Information Agency that information about its operations, organization, procedures, and records be freely available to the public in accordance with the provisions of Pub. L. 89-487, the "Public Information Act of 1966", referred to hereinafter as "The Act", which amended the "Public Information" section of the Administrative Procedure Act (5 U.S.C. 552).

§ 504.2 Description of central and field organization, established places at which, officers from whom, and methods whereby the public may obtain information.

(a) The United States Information Agency, redesignated by section 303(a) of the United States Information Agency Authorization Act, Fiscal Years 1982 and 1983 (Pub. L. 97-241, Stat. 291), was formerly the International Communication Agency.

(b) The United States International Communication Agency was established as an independent Agency of the Executive Branch of the Government by Reorganization Plan No. 2 of 1977. The Director of the Agency is responsible for reporting to the President and the Secretary of State, as well as advising the National Security Council, on international informational, educational, and cultural matters. The scope of the Director's advice includes assessments of the impact of actual and proposed U.S. foreign policy decisions on public opinion abroad.

(c) Reorganization Plan No. 2 transferred to the new Agency overseas information functions previously lodged in the U.S. Information Agency and the educational and cultural affairs functions of the Department of State. The Reorganization Plan abolished the U.S. Advisory Commission on Information and the U.S. Advisory Commission on International Educational and Cultural Affairs and established the U.S. Advisory Commission on International Communication, Cultural, and Educational Affairs whose name was subsequently changed to the United States Advisory Commission on Public Diplomacy by section 604 of the Department of State Authorizaton Act, Fiscal Years 1980-1981 (93 Stat. 390, August 15, 1979).

(d) The United States Information Agency has responsibility for the conduct of international information, educational, and cultural activities, including exchange programs to build bridges of mutual understanding between Americans and the other peoples of the world. The United States Information Agency engages in a wide variety of communication activities—from academic and cultural exchanges to press, radio, and television programs—to accomplish its goals of strengthening foreign understanding of American society and support of United States policies. The United States Information Agency operates field posts in 129 foreign countries.

(e) Agency operations are organized along both functional and geographical lines and directed by the Executive Policy Committee composed of the Director, Deputy Director, Counselor, four Bureau Associate Directors, five Area Office Directors, the Inspector General, Director of Private Sector Committees, Coordinator of the President's U.S.-Soviet Exchange Initiative, the General Counsel and Congressional Liaison, Director of the Television and Film Service, Director of the Office of Public Liaison, and the Comptroller of the Agency.

(1) The four Bureaus are: Voice of America (VOA), Programs (P), Educational and Cultural Affairs (E), and Management (M).

(i) The Voice of America is the global radio network of the United States Information Agency which seeks to promote understanding abroad of the United States, its people, culture, and policies. In carrying out its mission, VCA is responsible for conducting its operations in accordance with the VOA Charter, (Pub. L. 94-350), which states:

(A) VOA will serve as a consistently reliable and authoritative source of news. VOA news will be accurate, objective, and comprehensive.

(B) VOA will represent America, not any single segment of American society, and will therefore present a balanced and comprehensive projection of significant American thought and institutions.

(C) VOA will present the policies of the United States clearly and effectively, and will also present responsible discussion and opinion of these policies.

VOA produces and broadcasts radio programs in English and 41 foreign languages, and has developed an integrated network of broadcasting and relay facilities in the United States and in different parts of the world to transmit these programs. The Voice of America's Radio Marti Program, established by Pub. L. 98–111, provides news commentary and other information about events in Cuba and elsewhere so as to promote the cause of freedom in Cuba. Radio Marti broadcasts in accordance with all Voice of America standards to ensure that its programs are objective, accurate, balanced and present a variety of views. The Voice of America reflects what is happening in the United States and the world. It informs, explains, and enlightens. The Voice of America provides background in which listeners can better understand the diversity of American society.

(ii) The Bureau of Programs is comprised of three small specialized staffs, three foreign press centers, and four major offices and services, all reporting directly to the Associate Director. The Policy Guidance Staff provides both fast daily and in depth background guidance for operating elements of the Agency on those U.S. foreign policy issues which are susceptible to public diplomacy and on those domestic concerns which are relevant to the conduct of it. This staff also reviews program proposals of the Agency's overseas posts and Washington elements to assure that they are consistent with agreed-upon policy and that resources are allocated in accordance with priorities, and represents USIA in interagency meetings on public affairs issues, evaluates the extent to which media products reflect the Agency's subject priorities, and develops options and policy recomendations. The International Communication Policy Staff develops options and policy recommendations over the entire range of international communication policy issues for the Director of USIA and for the consideration of the U.S. Government as a whole. The Media Reaction Staff provides daily and special reports of foreign media reaction for the Director and 250 other policymakers in the White House, NSC, State, Defense and Treasury Departments, USIA, and other Federal agencies. Foreign Press Centers in Washington, New York, and Los Angeles provide facilitative services to foreign journalists working in those cities. The Office of Program Coordination and Development coordinates the design and implementation of all Agency support for major communication projects proposed by the Agency's overseas posts or undertaken by it in response to worldwide and regional priorities set by the Director, recruits American participants for those projects, and develops a systematic aggregation of essential resource materials to guide the acquisition and production of media support for them. This Office also is responsible for the development and coordination of the Agency's arts initiative undertaken through an agreement with the National Endowments, including recruitment and scheduling of all fine arts exhibitions and performing artists and groups for overseas programming. The Office of Research combines the functions of research on foreign public opinion and communication environment with analysis of long-term foreign media trends. The two media services, Exhibits, and Press and Publications, are responsible for the acquisition and production of a variety of media products for use or adaptation by USIA's overseas posts. These include exhibits in various formats, a daily wireless bulletin to all posts, magazines, pamphlets, reprints, photographs, and picture stories. The media services also operate printing plants at two overseas locations.

(iii) Four major offices constitute the Bureau of Educational and Cultural Affairs. The Office of Cultural Centers and Resources provides policy direction, program support, and professional guidance and materials to USIA libraries, American and Binational Centers overseas; promotes the distribution of American books in English and in translation; operates a donated books program; and supports English teaching programs abroad. The Office of Private Sector Programs is responsible for developing cooperative projects with private sector institutions to support, complement and enhance the goals and objectives of the United States Information Agency. These projects are designed to promote a better understanding of the United States abroad by means of educational and cultural exchange between Americans and citizens of other nations. The Office of Private Sector Programs may provide selective assistance, encouragement, and grant support to nonprofit activities to U.S. organizations and institutions that satisfy this purpose, with special emphasis on international educational and cultural exchanges. The Office of International Visitors is responsible for planning, implementing, monitoring, and evaluating all International Visitor (both granfee and voluntary) programs; for managing the Agency's four reception centers; for serving as the Agency's liaison with public and private organizations involved in the International Visitor Program; and for arranging programs in the U.S. for UN Fellows and foreign government trainees. The Office of Academic Programs is responsible for organizing and assisting academic exchange between the United States and other countries; facilitating the establishment and maintenance of close ties between the American academic community and those abroad; encouraging and supporting learning; and providing staff support to the Board of Foreign Scholarships. The Office maintains liaison with a wide range of non-government institutions to encourage and support private exchange programs and foster institutional linkages across national boundaries; and coordinates international information, educational, cultural, and exchange programs conducted by other departments and agencies of the U.S. Government. The International Youth Exchange Staff is responsible for planning, developing and monitoring exchanges of young people in over 30 countries in all regions of the world. The International Youth Exchange Staff also administers a national campaign in the United States which encourages young Americans to go abroad, American families to host foreign students and local community involvement in youth exchange activities.

(iv) The Bureau of Management is comprised of a management analysis staff and six major offices reporting to the Associate Director. These offices are responsible for planning, organizing, directing and controlling the Agency's administrative and management operations. These offices provide support services in the areas of administration, personnel and training, budget and fiscal operations, systems technology, security, equal employment opportunity, and contracts.

(v) The Office of Public Liasion (PL), directs and carries out activities designed to discharge the Agency's obligation to provide information about USIA policies, mission and programs to the American people and the communications media. It publishes news releases, fact sheets and over pamphlets; provides Agency speakers in response to invitations from organizations and institutions in the U.S.; and holds seminars and workshops with academic, business, professional and public interest institutions and groups. It is responsible for the publication of the Agency's internal

newsletter. The Office is responsible for conducting tours of the Agency exhibit at the VOA headquarters. The Office also maintains a public affairs staff at the Voice of America, which provides the media and public with information about USIA in general, with emphasis on the U.S. Government's broadcasting arm, the VOA. It also conducts daily tours of VOA facilities, arranges briefings for domestic and foreign groups and dignitaries, and facilitates media coverage of VOA activities.

(vi) The Office of the General Counsel and Congressional Liaison (GC). The General Counsel and legal staff advise all elements of the Agency on the interpretation of all laws, regulations, and Executive Orders that authorize the Agency's programs or relate to the Agency's activities. The Office assists in the drafting of proposed legislation, Executive Orders, regulations, contracts, leases, and other legal documents, and participates in the negotiation of international agreements. The Office represents the Agency in hearings arising from disputes on contracts, equal employment opportunity, grievances, labor disputes, and licensing. The Office provides support to trial counsel in cases tried before domestic and foreign courts. The Office secures the necessary rights clearances for the Agency's activities, exercises in full authority vested in the Director by law relating to Exchange Visitor Program designation, visa waiver review, and authorized periods of duration of stays, and advises on matters relating to ethical conduct and conflict of interest of Agency employees. On congressional matters it maintains contact with Members and staffs and serves as Agency coordinator of hearings on substantive legislation and of Agency programming of Members and staff.

(vii) The Office of Inspector General conducts, supervises, and coordinates audits, program reviews and evaluations, and investigative inquiries relating to programs and operations of the Agency. In addition, the Inspector General directs the resources of the office to promote economy, efficiency and effectiveness, and to prevent and detect fraud and abuse in the administration of the Agency's programs and operations. Further, the Inspector General keeps the Director fully and currently informed about how well such programs and operations are being administered, the problems and deficiencies existing in such programs and operations, and the necessity for and progress of corrective actions. The Inspector General also reports expeditiously to the Attorney General suspected violations of federal criminal laws and receives and considers for investigation employee ("whistleblower") complaints. The Inspector General reports to and is under the general supervision of the Director or the Deputy Director.

(viii) The Television and Film Service is responsible for planning, organizing and directing the Agency's television and film activities. The areas of responsibility encompass planning, and producing scheduled Worldnet television programming for satellite transmissions overseas; produces, acquires and maintains video tape libraries for overseas programming support; facilitative assistance to visiting foreign television and film producers; assistance to foreign broadcasters in the production and foreign telecast of cooperative television programs; and coordination with other U.S. and foreign government agencies on the dissemination of information overseas through television, video cassette libraries and motion pictures.

(ix) The heads of the five geographic areas are the Agency's principal advisers on all programs within countries in their respective areas. They help to formulate Agency policies and represent the Director in interagency working groups. The Area Directors (Africa; Europe; East Asia and Pacific; American Republics; and North Africa, Near East, and South Asia) are responsible for the coordination and management of public diplomacy programs for the countries in their geographic areas. They supply a knowledge of the field programs and requirements to the Agency's policy and planning processes. They arrange with media services to provide media products to their areas. They consult with appropriate area and country officers in the Department of State and other foreign affairs agencies on operational matters of mutual concern.

(x) The Agency maintains 213 posts abroad in 129 countries. These posts are under the supervision of the U.S. Chiefs of Mission, and with the guidance of the Director and the appropriate Area Office Director, conduct information, educational exchange and cultural programs on behalf of the U.S. Government. Each overseas office is headed by a Public Affairs Officer who is a member of the "Country Team" under the Chief of the U.S. Diplomatic Mission. A list of overseas offices is maintained by the Management Plans and Analysis Staff, Washington, DC 20547.

Appendix I—United States Information Agency Office Locations in Washington, DC Area

(1) Agency elements located at 301 4th Street, SW., Washington, DC 20547

Office of the Director
Office of the Counselor
Office of Public Liaison
Office of the General Counsel and Congressional Liaison
Office of Inspector General
Bureau of Programs—
- Policy Guidance Staff
- International Communications Staff
- Office of Program Coordination and Development
- Office of Research
- Exhibits Service
- Press and Publications Service

Bureau of Educational and Cultural Affairs
- Office of Cultural Centers and Resources
- Office of Private Sector Programs
- Office of International Visitors
- Office of Academic Programs

Bureau of Management
- Management Plans and Analysis Staff
- Office of Administrative and Technology
- Office of the Comptroller
- Office of Equal Employment Opportunity
- Office of Personnel
- Office of Security

Office of African Affairs
Office of American Republics Affairs
Office of East Asian and Pacific Affairs
Office of European Affairs
Office of North African, Near Eastern, and South Asian Affairs

(2) Other Agency Elements and addresses:

(a) United States Information Agency, Health and Human Services Building, 330 Independence Avenue, SW., Washington, DC 20547; Voice of America.

(b) United States Information Agency, 400 6th Street, SW., Washington, DC 20547, Voice of America—Radio Marti Program.

(c) United States Information Agency, Patrick Henry Building, 601 D Street, NW., Washington, DC 20547, Television and Film Service.

(d) United States Information Agency, Bureau of Programs—Foreign Press Center, National Press Building, 529 14th Street, NW., Washington, DC 20547.

(e) United States Information Agency, Switzer Building, 300 C Street, SW., Washington, DC 20547, Bureau of Management—Office of Contracts, and the Training and Development Division.

Appendix II—United States Information Agency Office Locations Outside the Washington, DC, Area

Television and Film Service—

(a) New York Office, Room 30–100, 26 Federal Plaza, New York, N.Y. 10278.

(b) Los Angeles Office, 11000 Wilshire Boulevard, Los Angeles, Calif. 90024.

United States Information Agency, Bureau of Broadcasting—

(a) Relay Stations:

(1) Bethany Relay Station, P.O. Box 227, Mason, Ohio 45040.

(2) Delano Relay Station, Route 1, Box 1350, Delano, Calif. 93215.

(3) Dixon Relay Station, Route 2, Box 739, Dixon, Calif. 95620.

(4) Marathon Relay Station, P.O. Box 726, Marathon, Fla. 33050.

(5) Edward R. Murrow Transmitting Station, P.O. Box 1826, Greenville, N.C. 27834.

(b) News Bureaus:

(1) Midwest News Bureau, Room 3876, Federal Building, 230 South Dearborn Street, Chicago, Ill. 60604.

(2) Southeast News Bureau, Room 1518, Federal Office Building, 51 SW. First Avenue, Miami, Fla. 33130.

(3) West Coast News Bureau, Room 8107, Federal Building, 11000 Wilshire Boulevard, Los Angeles, Calif. 90020.

(4) New York News Bureau, Room 30-100, Fisk Building, 26 Federal Plaza, New York, N.Y. 10278.

Bureau of Programs—

(a) Foreign Press Centers:

(1) Federal Building, 11000 Wilshire Blvd., Suite C-200, Los Angeles, Calif. 90024

(2) 18 E. 50th Street, 11th Floor, New York, N.Y. 10022.

(b) Senior Advisor for Public Affairs, U.S. Mission to the United Nations, 799 United Nations Plaza, New York, N.Y. 10017.

Bureau of Management—

Administrative Services Division, New York Services Branch, 830 Third Avenue, Brooklyn, N.Y. 11232.

Bureau of Educational and Cultural Affairs—Reception Centers:

(a) Honolulu—P.O. Box 50186, Honolulu, Hawaii 96850.

(b) Miami—Room 1304, Federal Office Building, 51 SW. First Avenue, Miami, Fla. 33130

(c) New Orleans—Suite 1130, International Trade Mart, 2 Canal Street, New Orleans, La. 70130

(d) New York—Third Floor, 1414 Avenue of the Americas, New York, N.Y. 10019.

[FR Doc. 86-6401 Filed 3-24-86; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 16

[Docket No. R-86-1280]

Implementation of the Privacy Act of 1974, Technical Amendment

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; technical amendment.

SUMMARY: The purpose of this technical amendment is to amend Part 16, Appendix A of Title 24 of the Code of Federal Regulations. This amendment will reflect HUD's redesignation of position titles, as well as, update the mailing addresses for the officials who receive inquiries, requests for access, and requests for correction or amendment as they pertain to the Privacy Act.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Office of the General Counsel, Regulations Division, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500; telephone (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Title 24 of the Code of Federal Regulations, Part 16, Appendix A, contains the position titles and mailing addresses for the Privacy Act Officers, or their designees, who are authorized to receive and act upon inquiries, requests for access, and requests for correction or amendment that pertain to the Privacy Act. It has been recently noted that the addresses for several Regions are incorrect. This technical amendment will reflect HUD's redesignation of position titles and will also update the mailing addresses for the officials who receive inquiries, requests for access, and requests for correction or amendment as they pertain to the Privacy Act of 1974.

List of Subjects in 24 CFR Part 16

Privacy.

PART 16—[AMENDED]

Accordingly, 24 CFR Part 16, Appendix A is revised, in its entirety, to read as follows:

1. The authority citation for Part 16 continues to read as follows:

Authority: Department of Housing and Urban Development Act, Pub. L. 89-174; sec. 7(d), 42 U.S.C. 3535(d); Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

2. 24 CFR Part 16, Appendix A, is revised to read as follows:

Appendix A—Officials to Receive Inquiries, Requests for Access and Requests for Correction or Amendment

Headquarters

Privacy Act Officer, 451 Seventh Street, SW., Washington, DC 20410.

Region I

Regional Administrator—Regional Housing Commissioner, Room 800, John F. Kennedy Federal Building, Boston, Massachusetts 02203-0801.

Manager, One Hartford Square West, Suite 204, Hartford, Connecticut 06104-2943.

Manager, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03103-2487.

Chief, U.S. Federal and Post Office Building, 202 Harlow Street, Bangor, Maine 04401-1357.

Manager, Room 330, John O. Pastore Federal Building and U.S. Post Office, Kennedy Plaza, Providence, Rhode Island 02903-1745.

Chief, 110 Main Street, Fairchild Square, Burlington, Vermont 05402-0989.

Region II

Regional Administrator-Regional Housing Commissioner, 26 Federal Plaza, New York, New York 10278-0068.

Manager, The Parkade Building, 519 Federal Street, Camden, New Jersey 08103-9998.

Manager, Military Park Building, 60 Park Place, Newark, New Jersey 07102-5504.

Manager, Statler Building, Mezzanine, 107 Delaware Avenue, Buffalo, New York 14202-2986.

Manager, Federico Degetau Federal Building, U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico 00918-2276.

Manager, Leo W. O'Brien Federal Building, North Pearl Street and Clinton Avenue, Albany, New York 12207-2395.

Region III

Regional Administrator-Regional Housing Commissioner, Liberty Square Building, 105 South 7th Street, Philadelphia, Pennsylvania 19106-3392.

Manager, HUD Building, 451 Seventh Street, SW., Room 3186, Washington, District of Columbia 20410-5500.

Manager, The Equitable Building, 3rd Floor, 10 North Calvert Street, Baltimore, Maryland 21202-1865.

Manager, 412 Old Post Office Courthouse Building, 7th and Grant Streets, Pittsburgh, Pennsylvania 15219-1906.

Manager, 701 East Franklin Street, Richmond, Virginia 23219-2591.

Director, 800 Delaware Avenue, Room 101, Wilmington, Delaware 19801-1387.

Manager, Kanawha Valley Building, Capitol and Lee Streets, Charleston, West Virginia 25301-1794.

Region IV

Regional Administrator-Regional Housing Commissioner, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303-3109.

Manager, Daniel Building, 15 South 20th Street, Birmingham, Alabama 35233-2096.

Manager, 325 West Adams Street, Jacksonville, Florida 32202-4303.

Manager, P.O. Box 1044, 539 Fourth Avenue, Louisville, Kentucky 40201-1044.

Manager, U.S. Federal Building, 100 Capitol Street, Suite 923, Jackson, Mississippi 39269-1096.

Manager, 415 North Edgeworth Street, Greensboro, North Carolina 27401-2107.

Manager, Strom Thurmond Federal Building, 1835-45 Assembly Street, Columbia, South Carolina 29201-2480.

Manager, One Northshore Building, 1111 Northshore Drive, Knoxville, Tennessee 37919-4090.

Manager, Gables One Tower, 1320 South Dixie Highway, Coral Gables, Florida 33146-2911.

Manager, 700 Twiggs Street, P.O. Box 2097, Tampa, Florida 33601-4017.

Manager, 100 North Main Street, 28th Floor, Memphis, Tennessee 38103-5080.

Manager, One Commerce Place, Suite 1600, Nashville, Tennessee 37239-1600.

Manager, Federal Office Building, 80 North Hughey Avenue, Orlando, Florida 32801–2226.

Region V

Regional Administrator–Regional Housing Commissioner, 300 South Wacker Drive, Chicago, Illinois 60606–6765.
Manager, 151 North Delaware Street, P.O. Box 7047, Indianapolis, Indiana 46204–2526.
Manager, McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592.
Manager, 220 Second Street, South Bridge Place Building, Minneapolis, Minnesota 55401–2195.
Manager, 200 North High Street, Columbus, Ohio 43215–2499.
Manager, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2290.
Chief, Lincoln Towers Plaza, 524 South Second Street, Room 600, Springfield, Illinois 62701–1774.
Manager, 2922 Fuller Avenue, NE, Grand Rapids, Michigan 49505–3409.
Manager, Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202–3253.
Manager, One Playhouse Square, 1375 Euclid Avenue, Room 420, Cleveland, Ohio 44115–1832.

Region VI

Regional Administrator-Regional Housing Commissioner, 221 West Lancaster, Post Office Box 2905, Fort Worth, Texas 76113–2095.
Manager, 320 West Capitol, Suite 700, Little Rock, Arkansas 72201–3523.
Manager, 1661 Canal Street, New Orleans, Louisiana 70172–0288.
Manager, Murrah Federal Building, 200 NW 5th Street, Oklahoma City, Oklahoma 73103–3202.
Manager, Griffin Square Office Building, 555 Griffin Square, Dallas, Texas 75202–5007.
Manager, Washington Square Building, 800 Dolorosa, P.O. Box 9163, San Antonio, Texas 78285–3301.
Manager, 6811 Federal Building, 500 Fannin Street. Shreveport, Louisiana 71101–3077.
Manager, 625 Truman Street, NE, Albuquerque, New Mexico 87100–6443.
Manager, Robert S. Kerr Building, 440 South Houston Avenue, Tulsa, Oklahoma 74127–8923.
Manager, National Bank of Texas Building, 2211 Norfolk, Suite 300, Houston, Texas 77098–4096.
Manager, Federal Building, 1205 Texas Avenue, Lubbock, Texas 79401–4001.

Region VII

Regional Administrator-Regional Housing Commissioner, Professional Building, 1103 Grand Avenue, Kansas City, Missouri 64106–2496.
Manager, 210 North Tucker Boulevard, St. Louis, Missouri 63101–1997.
Manager, Braiker/Brandeis Building, 210 South 16th Street, Omaha, Nebraska 68102–1622.
Manager, Federal Building, 210 Walnut Street, Room 259, Des Moines, Iowa 50309–2155.
Chief, 444 SE Quincy Street, Room 297, Topeka, Kansas 66683–3588.

Region VIII

Regional Administrator-Regional Housing Commissioner, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202–2349.
Manager, Federal Office Building, Drawer 10095, 301 S. Park, Room 340, Helena, Montana 59626–0095.
Chief, Federal Building, P.O. Box 2483, 653 2nd Avenue North, Fargo, North Dakota 58108–2483.
Chief, 119 Federal Building, U.S. Courthouse, 400 S. Phillips Avenue, Sioux Falls, South Dakota 57102–0311.
Manager, 125 South State Street, Salt Lake City, Utah 84138–1102.
Chief, 4225 Federal Office Building, 100 East B Street, Post Office Box 580, Casper, Wyoming 82602–1918.

Region IX

Regional Administrator-Regional Housing Commissioner, Federal Building, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, California 94102–3448.
Manager, 1615 W. Olympic Boulevard, Los Angeles, California 90015–3801.
Manager, One North First Street, 3rd Floor, Post Office Box 13468, Phoenix, Arizona 85004–3468.
Manager, 777 12th Street, Suite 200, P.O. Box 1978, Sacramento, California 95809–1978.
Manager, 880 Front Street, Room 5S3, P.O. Box 2648, San Diego, California 92188–0100.
Manager, 34 Civic Center Plaza, P.O. Box 12850, Santa Ana, California 92712–2850.
Manager, 300 Ala Moana Boulevard, Room 3316, Honolulu, Hawaii, 96850–4700.
Manager, 1050 Bible Way, Post Office Box 4700, Reno, Nevada 89505–4700.

Region X

Regional Administration-Regional Housing Commissioner, Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington 98101–2054.
Manager, 520 Southwest Sixth Avenue, Portland, Oregon 97204–1596.
Manager, 701 C Street, Module G, Box 64, Anchorage, Alaska 99513–0001.
Manager, FB/USCH, Box 042, 550 West Fort Street, Boise, Idaho 83724–0420.
Manager, 746 U.S. Courthouse, West 920 Riverside Avenue, Spokane, Washington 99201–1075.

Dated: March 20, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86–6520 Filed 3–24–86; 8:45 am]

BILLING CODE 4210-32-M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 245

[Docket No. R-86-1125; FR-1730]

Tenant Participation in Multifamily Housing; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects an erroneous cross-reference contained in a final rule that appeared on page 32396 in the **Federal Register** of Monday, August 12, 1985 (50 FR 32396). The rule provided an opportunity for tenants in certain types of subsidized multifamily housing projects to comment on requests by project owners for HUD approval for certain owner actions.

FOR FURTHER INFORMATION CONTACT: James Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410, telephone: (202) 426–3970. (This is not a toll-free number.)

Accordingly, the following correction is being made in FR Doc. 85–18958 appearing on page 32396 in the **Federal Register** of Monday, August 12, 1985:

On page 32407, in the middle column, the cross-reference to "§ 245.10" contained in § 245.530(b) is corrected to read "§ 245.15."

Dated: March 20, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86–6516 Filed 3–24–86; 8:45 am]

BILLING CODE 4210-27-M

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 965

[Docket No. R-86-1281; FR-2087]

PHA-Owned or Leased Projects-Maintenance and Operations; Transfer of Contracting Authority for the Settlement of Disputes Under the Consolidated Supply Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises the Department's Public Housing Consolidated Supply Program (CSP) regulations at 24 CFR Part 965, Subpart

G. This final rule delegates final authority for the resolution of appeals arising from disputes between the HUD Contracting Officer (or his or her designee) and CSP contractors to the Director, Office of Procurement and Contracts, in the Office of the Assistant Secretary for Administration. This conforms with the HUD Acquisition Regulation at 48 CFR 2401.601–70 and 2402.101.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Office of Policy, Room 4118, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755–6713. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD's regulations at 24 CFR Part 965, Subpart G apply to the Department's management of the Consolidated Supply Program (CSP), which assists public housing agencies (PHAs) and Indian housing authorities (IHAs) in ensuring the low-income character of projects as required under sections 6(a) and 9(a) of the United States Housing Act of 1937, 42 U.S.C. 1437d(a) and 1437g(a).

In the **Federal Register** of November 13, 1984 (49 FR 44982), HUD promulgated a final rule at 24 CFR Part 965, Subpart G, which states that the Director, Office of Procurement and Contracts, in the Office of the Assistant Secretary for Administration has contracting authority for the CSP. This revision to HUD's program regulations for the CSP conforms to HUD's Acquisition Regulation (HUDAR), 48 CFR Chapter 24. The HUDAR was promulgated in the **Federal Register** of March 1, 1984 (49 FR 7696) and later amended in the **Federal Register** of November 8, 1985 (50 FR 46572). The contracting authority for the CSP is delegated to the Director, Office of Procurement and Contracts at 48 CFR 2401.601–70 and 2402.101.

This final rule conforms 24 CFR 965.603(c) with the remainder of the CSP regulations and is consistent with the HUDAR. Under this rule, any appeal of a dispute between a HUD Contracting Officer (or his or her designee) and a CSP contractor concerning a factual issue in the contract must be decided by the Director, Office of Procurement and Contracts within 30 days from the date of receipt of the appeal. This decision constitutes final action by the Department on the matter.

In order to conform § 965.601 with the modifications to the HUDAR published in November 8, 1985, § 965.601(a) is revised to reflect the redesignation of HUDAR 2401.601–2 to 2401.601–70, and the definition of "Head of the Contracting Activity" in 2402.101.

The Department has determined that this rule need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553, since this rule merely conforms the CSP regulations to existing practice and to other Department-wide regulations already in effect.

This rule does not constitute a "Major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations. 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 and 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 in domestic or export markets.

A Finding of No Significant Impact with respect to the environment was 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, at the time the HUDAR was published on March 1, 1984. A copy of this Finding of No Significant Impact has been placed in this rulemaking file and is available for public inspection during regular business hours in the Office of General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

Consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that the rule has no significant economic impact on a substantial number of small entities, because it merely reflects a correction of the Department's internal procedures to conform with current procurement policy.

This rule was listed as item number 954 in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 965

Energy conservation, Loan programs, Housing and community development, Public housing, Utilities.

Accordingly, 24 CFR Part 965 is amended to read as follows:

PART 965—PHA-OWNED OR LEASED PROJECTS-MAINTENANCE AND OPERATION

1. The authority citation for 24 CFR Part 965 is revised as set forth below, and any authority citation following any Subpart in Part 965 is removed:

Authority: Secs. 2, 3, 6, and 9, United States Housing Act of 1937 (42 U.S.C. 1437, 1437a, 1437d, and 1427g); sec . 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 965.601 [Amended]

2. In § 965.601, paragraph (a), the phrase "Acquisition Regulation at 48 CFR 2401.601–2" is revised to read "Acquisition Regulation at 48 CFR 2401.601–70 and 2402.101".

3. In § 965.603, paragraph (c) is revised to read as follows:

§ 965.603 Consolidated supply contracts.

* * * * *

(c) *Disputes.* Any dispute concerning a question of fact arising under a CSC which is not disposed of by agreement shall be decided by the CSC Contracting Officer (or his or her designee) after consultation with the Director, Office of Public Housing or the Director, Office of Indian Housing, where appropriate. The decision of CSC Contracting Officer shall be made in writing and a copy sent to the Contractor. The decision of the CSC Contracting Officer shall be final and conclusive unless within 30 days from the date of receipt of such copy, the Contractor submits a written appeal addressed to the Director, Office of Procurement and Contracts, in the Office of the Assistant Secretary for Administration. The decision of the Director, Office of Procurement and Contracts shall be final and conclusive.

* * * * *

Dated: March 12, 1986.

Warren T. Lindquist,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 86–6521 Filed 3–24–86; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD12 86–06]

Special Anchorage Area; Trinidad Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising 33 CFR 110.127c by correcting an error in the geographical description of the Special Anchorage Area for Trinidad Bay, California.

DATE: This regulation becomes effective on April 24, 1986.

ADDRESS: Comments should be mailed to Commander (m), Twelfth Coast Guard District, Bldg. 54–B, Room 250, Coast Guard Island, Alameda, CA 94501–5100. The comments will be available for copying at the above address. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William A. Dickerson at the above address. Telephone (415) 437–3465.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been unnecessary.

The regulation has no economic impact and no adverse comments are expected concerning the terms of the regulation.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESS"** in this preamble. Commenters should include their names and addresses, identify the docket number for the regulation, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this regulation are LCDR William A. Dickerson, project officer, Twelfth Coast Guard District Marine Safety Division, and CDR William Bissell, project attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

This regulation corrects the geographic description of the boundary of the Special Anchorage Area for Trinidad Bay, California. For some time, the limits of this special anchorage described in 33 CFR 110.127c have indicated the south-eastern corner of the special anchorage as being at latitude 41°03′09″ N, longitude 124°03′19″ W. The stated longitude is in error, as it indicates a location approximately 3 miles inland. This regulation corrects the error, and correctly indicates the south-eastern corner of the special anchorage at latitude 41°03′09″ N, longitude 124°08′19″ W.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035 and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a are also issued under 33 U.S.C. 1223 and 1231.

2. Section 110.127c is revised, except the note, to read as follows:

§ 110.127c Trinidad Bay, Calif.

The waters of Trinidad Bay, beginning at the southernmost point of Trinidad Head at latitude 41°03′04″ N., longitude 124°08′56″ W.; thence east to Prisoner Rock at latitude 41°03′09″ N., longitude 124°08′37″ W.; thence east to latitude 41°03′09″ N., longitude 124°08′19″ W., thence north to latitude 41°03′26″ N., longitude 124°08′21″ W.; thence following the shoreline to Trinidad Bay in a westerly and southerly direction to the point of beginning.

* * * * *

Dated: March 12, 1986.

John D. Costello,

Vice Admiral, U.S. Coast Guard, Commander, Twelfth Coast Guard District.

[FR Doc. 86–6373 Filed 3–24–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4 and 5; FRL-2991-1]

Approval and Promulgation of Implementation Plans; Ohio and Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: On February 3, 1983, EPA proposed to approve the Ohio and Kentucky 1982 Ozone State Implementation Plans (SIPs) for the Cleveland and Cincinnati ozone nonattainment areas. On July 25, 1984 (49 FR 29973), as a result of new ozone monitoring information which had become available, EPA reopened the comment period as to the ozone SIP for the Cleveland and Cincinnati urban areas and proposed action on the following two district portions of the Ohio and Kentucky ozone SIPs:

1. USEPA proposed to disapprove Ohio's and Kentucky's demonstration that their SIPs assured attainment of the ozone standard in the Cincinnati and Cleveland areas by December 31, 1982, and Ohio's request for rescission of the original attainment date extension until December 31, 1987; and

2. USEPA proposed to disapprove the Ohio and Kentucky SIP, as a whole, for failure to meet the Part D requirements of the Clean Air Act. These requirements are further specified in USEPA's January 22, 1981 **Federal Register** (46 FR 7182) (e.g., Reasonably Available Technology for all subject stationary sources, Transportation Control Measures, Inspection and Maintenance Program and a demonstration that the SIP provides for attainment as expeditiously as practicable but no later than December 31, 1987).

USEPA is today taking final action to disapprove the Ohio and Kentucky demonstration of ozone attainment by December 31, 1982, and Ohio's request to rescind its attainment date extension to December 31, 1987. Final action disapproving only those items will not change the status quo as to the construction ban and funding restrictions: The ban and restrictions will continue not to apply in the relevant areas in Ohio, but will continue to apply in the relevant areas in Kentucky. USEPA is not taking final action at this time on its proposal to disapprove the Ohio and Kentucky SIPs as a whole for failure to meet the requirements of Part D.

EFFECTIVE DATE: This final rulemaking becomes effective on April 24, 1986.

ADDRESSES: Copies of relevant materials are available for inspection at the following addresses: (It is recommended that you telephone Debra Marcantonio, at (312) 886–6088, before visiting the Region V Office and/or Thomas P. Lyttle, at (404) 887–2864, before visiting the Region IV Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Region IV, Air Management Division, 345 Courtland Street NW., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio (Regarding the Ohio Sections), at (312) 886–6088

Thomas P. Lyttle (Regarding the Kentucky Sections), at (404) 887-2864.

SUPPLEMENTARY INFORMATION: This notice discusses USEPA's review of Ohio's and Kentucky's ozone SIP submission in five parts: I. Background Information; II. Air Monitoring Data; III. Compliance Data; IV. Public Comments; and V. Final Action. The discussion of public comments (Part IV) provides a subdivided discussion of comments and responses on A. Procedural and Legal Issues, B. Sanctions Issues, C. Mobile Source Emissions and Inspection and Maintenance Issues, and D. Meteorology and Air Quality Issues, E. Modeling Issues, F. Miscellaneous Issues and G. Comments on USEPA's February 3, 1983 Proposed Rulemaking.

I. Background Information

The 1977 Amendments to the Clean Air Act added a new Part D to Title I of the Act. Under this Part, the States were required to revise their SIPs for all nonattainment areas and to submit the revisions to USEPA by January 1, 1979 (sections 171-178 of the Act; section 129(c) [not codified], Pub. L. 95-95). The revised plans were to provide for attainment by December 31, 1982, unless the States demonstrated that they could not attain either the ozone or carbon monoxide (CO) standard by that date, despite the implementation of all reasonable control measures (sections 172(a)(1), 173(2)).

If USEPA approved a plan showing attainment could not be achieved by December 1982, upon request of the State, the attainment date for ozone or CO could be extended up to December 31, 1987. States receiving such extensions were to submit second SIP revisions that provide for attainment by the new USEPA approved attainment date, and comply with all of the Part D requirements (section 172(c)). These second SIP revisions had to be submitted by July 1, 1982 (section 129(c) (uncodified), Pub. L. 95-95).

The Cincinnati urban area consists of the following counties designated as nonattainment for ozone: Hamilton, Butler, Clermont, and Warren Counties in Ohio and Boone, Campbell, and Kenton Counties in Kentucky. The Cleveland urban area consists of the following Ohio counties designated as nonattainment for ozone: Cuyahoga, Geauga, Lake, and Lorain Counties. In addition, Medina County, although redesignated to attainment on June 12, 1984 (49 24124), was included in the 1979 SIP for the Cleveland area, was included in the demonstration area in the State's submittals that are the subject of today's rulemaking, and is therefore considered part of the Cleveland urban area for this rulemaking.

On July 27, 1979, the Ohio Environmental Protection Agency (OEPA) submitted initial SIP revisions to USEPA for the Cleveland and Cincinnati urban ozone nonattainment areas with amendments submitted to USEPA on September 13, 1979; December 28, 1979; January 16, 1980; April 24, 1980; and September 17, 1980. In these SIP revisions, the State of Ohio could not demonstrate attainment of the national ambient air quality standard (NAAQS) for ozone by December 31, 1982, in the Cleveland and Cincinnati urban areas. OEPA requested and USEPA approved an extension of the attainment date until December 31, 1987. USEPA conditionally approved the 1979 plan revisions in separate actions on October 31, 1980 (45 FR 72122) and June 18, 1981 (46 FR 31881). Those actions lifted the construction ban previously in effect under 40 CFR 52.24 (1984).

In June of 1979, Kentucky submitted an initial SIP revision for the Boone, Campbell, and Kenton Counties ozone nonattainment areas. The State requested and USEPA approved an extension of the attainment date for the ozone standard in this area until December 31, 1987. USEPA conditionally approved the initial plan revision on January 25, 1980 (45 FR 6092). USEPA disapproved the SIP on September 19, 1980 (45 FR 62506) because of a failure by the State or Counties (other than Boone) to adopt legal authority for the inspection and maintenance (I/M) program required as a condition to receiving an extension of the attainment date under § 172 of the Act. This disapproval reimposed the construction ban in Campbell and Kenton Counties. USEPA subsequently established funding restrictions under section 176(a), and 316(b), 45 FR 81752 (December 12, 1980). The SIP for Boone County was approved on November 30, 1981 (46 FR 58060).

In late 1981 and early 1982, Ohio and Kentucky reevaluated certain ozone air quality data and modeling for the Cleveland and Cincinnati areas. Ohio and Kentucky concluded that these areas could achieve the ozone NAAQS under the existing SIPs by the end of 1982, and that an extension of the attainment date to 1987 was no longer necessary.

Consequently, on September 23, 1982 (Cincinnati) and on November 9, 1982 (Cleveland) Ohio EPA and on September 27, 1982, the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) submitted demonstrations to show that the ozone standard would be attained in the Cleveland and Cincinnati urban areas by December 31, 1982. Ohio also requested that the 5-year extension for meeting the NAAQS which USEPA had granted for Ohio on October 31, 1980, be rescinded for these areas. USEPA reviewed the State's submittals and preliminarly determined that all of the modeling and emission inventory requirements discussed in the 1982 SIP policy published on January 22, 1981 (46 FR 7182), had been met. Therefore, on February 3, 1983 (48 FR 5118), USEPA proposed to approve the ozone and CO attainment demonstrations and to rescind the 1987 extension.

However, after USEPA received Ohio's and Kentucky's submittals and after USEPA had published its proposed rulemaking, exceedances of the ozone standard were recorded at several sites in both the Cincinnati and Cleveland areas. These exceedances occurred in 1983 and thus indicated that the existing SIPs did not assure attainment by the end of 1982. Therefore, on July 25, 1984 (49 FR 29973) USEPA reopened the comment period as to the ozone SIP for the Cleveland and Cincinnati urban areas and proposed action as follows:

1. USEPA proposed to disapprove Ohio's and Kentucky's demonstrations that their SIPs assured attainment of the ozone NAAQS in the Cincinnati and Cleveland areas by December 31, 1982, and Ohio's request for rescission of the original attainment date extension; and

2. USEPA proposed to disapprove Ohio's and Kentucky's SIP, as a whole, for failure to meet the Part D requirements of the Clean Air Act. These requirements are further specified in USEPA's January 22, 1981 **Federal Register** (46 FR 7182), and include Reasonably Available Control Technology for all subject stationary sources, Transportation Control Measures, Vehicle Emissions Inspection and Maintenance Programs and a demonstration that the SIP provides for attainment as expeditiously as practicable, but no later than December 31, 1987).

The basis for the disapproval of the attainment demonstration, as discussed in the notice of proposed rulemaking, is repeated here in Section II Air Monitoring Data, and Section III Compliance Data.

II. Air Monitoring Data

At the time of the February 3, 1983, proposed rulemaking, USEPA had preliminarily determined that Ohio's and Kentucky's ozone SIPs successfully demonstrated attainment of the ozone standard (120 parts per billion, 1-hour average) by December 31, 1982.

Although a limited number of exceedances occurred in 1981 and 1982, it appeared that all the emission reductions required by the Ohio SIP and projected to occur by December 31, 1982, would provide for attainment by that date. However, since the publication of the initial proposed rulemaking, in particular during the summer of 1983, a significant number of ozone standard exceedances occurred at several sites in both the Cincinnati and Cleveland areas. Based on these data, USEPA has concluded that an ozone nonattainment problem continues to exist beyond the end of 1982 in both of these areas despite the existence of modeled demonstrations of attainment in the 1982 SIPs. The peak 1983 ozone concentrations for the Cincinnati and Cleveland areas are summarized in the table below:

Peak 1983 Ozone Concentrations in the Cleveland and Cincinnati Ozone Nonattainment Areas for Sites With Three or More Exceedances

Site	Peak ozone concentrations (ppb)				
	Maximum	2nd maximum	3rd maximum	4th maximum	Number of exceedances
Cincinnati:					
Grooms Road	170	152	150	150	7
Middletown	128	127	126	123	3
Batavia	190	140	136	132	4
Lebanon	152	135	132	192	5
Dayton, Kentucky	162	148	147	144	6
Cleveland					
Painesville	158	151	141	139	7
Eastlake [1]	140	137	137	137	8

[1] Eastlake was established as a new monitoring site in 1983.

Several individuals have submitted comments on data which has been recorded during 1984. In the Cincinnati area, the Middletown monitor recorded two exceedances in 1984 (values of 147 ppb, and 140 ppb), and several other sites recorded one exceedance. In the Cleveland area, the Painesville monitor recorded three exceedances in 1984 (values of 145 ppb, 138 ppb, and 126 ppb), and the Eastlake monitor recorded two exceedances (values of 140 ppb and 135 ppb). These data are available in the rulemaking docket, although the Agency did not relay, in its July 25, 1984, rulemaking notice, on these data. Nevertheless, these data support USEPA's conclusion that the existing SIP did not assure attainment by the end of 1982 in the Cleveland and Cincinnati areas, based on essentially the same rational used for the 1983 data as described in the July 25, 1984, notice.

III. Compliance Data

As an additional check on the demonstrations of attainment, the USEPA requested the OEPA to assess Volatile Organic Compound (VOC) emission control compliance for 1983. This was done to evaluate the possibility that a lack of compliance rather than inadequate SIP demonstrations of attainment could be an explanation of the 1983 standard exceedances. OEPA responded to this request in an October 13, 1983 data submittal.

These data were combined with the data from the final SIPs to determine the impact on non-compliance on the 1983 VOC emissions. Based on these data, EPA concludes that the excess emissions attributable to stationary source non-compliance with the Ohio Reasonably Available Control Technology (RACT I and II) regulations represent 7.3 percent of the 1983 Cincinnati nonattainment area VOC emissions and 2.8 percent of the Cleveland nonattainment area 1983 VOC emissions.

The impact of non-compliance was reviewed by EPA in terms of the peak 1983 ozone data. If the degree of VOC emission control had been adequate, no more than one ozone standard exceedance at each site should have occurred. Therefore, the second-high ozone concentration at each site is the critical concentration for assessing the relative, potential impact of non-compliance.

From the above table, it can be seen that the highest second-high ozone concentrations were 152 parts per billion (ppb) in Cincinnati (Grooms Road site) and 151 ppb in Cleveland (Painesville site). These concentrations significantly exceed the design ozone concentrations (137 ppb in Cincinnati and 128 ppb in Cleveland) uses in Ohio's final 1982 SIPs. Although day-specific input data are not available for 1983, it is reasonable to assume that any ozone modeling conducted for the worst-case 1983 concentrations would lead to modeled VOC emission reduction requirements in excess of those adopted in the 1982 SIPs (14.3 percent in Cincinnati and 9 percent in Cleveland). It is clear that attainment of the ozone standard would not have occurred in 1983 even if 100 percent compliance had been attained.

IV. Public Comments

USEPA reviewed all public comments received on USEPA's proposed action on Ohio's and Kentucky's 1982 Ozone SIP even though several of the letters were submitted to USEPA prior to the official comment period. Each of the issues raised in the comments is addressed below. For some comments, a more detailed discussion of the comments submitted and USEPA's response is contained in the USEPA's technical support document which is in the docket of this rulemaking action. Copies of the technical support document are available from the Region V office listed above.

A. Responses to Comments Regarding Procedural and Legal Issues

Comment: The State of Ohio [1] and other commenters believe that USEPA must approve its SIP revisions because the plan "provides for attainment" by the end of 1982. Ohio commented that the "unambiguous language" of Section 172(a) of the Clean Air Act and the legislative history clearly indicate that the requirement in section 172(a)(i) to provide for attainment means to prospectively demonstrate achievement of applicable NAAQS, and that "the Act does not contemplate that USEPA would hinge its approval of a SIP upon whether attainment is actually achieved by the attainment deadline." Ohio noted that USEPA has agreed with the interpretation of section 172(a)(1) in a policy statement published at 48 FR 50686 and an associated Guidance Document which discusses USEPA's views of the legal consequences for areas with approved State implementation plans which fail to meet a December 31, 1982, attainment deadline. Ohio cited rulemaking for Richmond, Virginia, as an example of USEPA taking the actions recommended by Ohio, viz. approving the SIP as prospectively providing for attainment, simultaneously rescinding the extension of the attainment deadline, and then addressing post-1982 violations not by rescinding SIP approval but rather by calling for a new SIP revision. Finally, the State and other commenters asserted that USEPA has proposed to find, and allegedly continues to find, that the SIP adequately demonstrates prospectively that achievement of the standard is "provided for" by 1982. Another commenter stated that disapproval "would fail to account for a critical distinction between good faith planning and predicting literal events."

Response: USEPA agrees that for a State to obtain approval, it need only show that its plan assures timely attainment and maintenance, in a "prospective or planning sense". Here,

[1] The comments submitted by the State of Ohio were submitted both during the public comment period and in an earlier submission under a petition for rulemaking pursuant to section 553(e) of the Administrative Procedures Act. This action and USEPA's responses as published today represent the Agency's response to both the public comment and the petition.

however, the 1983 air quality data provide direct evidence that the States forecast of attainment by the end of 1982 was incorrect and hence that the plan is not adequate. Although USEPA believes that the State planned in good faith to achieve the standard by 1982, USEPA cannot ignore the more recent evidence that the prediction, inherent in this plan, is in error.

USEPA does not agree with Ohio that the Act requires it to ignore such evidence. In its November 1983 sanctions policy, USEPA interpreted Part D as requiring States merely to establish certain plans, as opposed to requiring States actually to attain the relevant NAAQS by certain deadlines. Hence, USEPA concluded that once it had fully approved a SIP as satisfying Part D it could not subsequently impose sanctions for a failure of the SIP to bring about actual attainment because the State would have discharged its planning obligations. In using the phrase "prospective or planning sense" in the policy, USEPA was referring merely to this interpretation of Part D. USEPA did not intend, by that phrase, to suggest that it must ignore the actual effects of a SIP in evaluating whether the SIP would assure timely attainment. Indeed, in order to rationally evaluate a SIP as a plan, USEPA must take all relevant information into account, including whether the SIP, in fact, did what the State said it would do. Nothing in the Act requires or allows USEPA to blind itself to such evidence.

The Agency was not free to take Ohio's recommended approach in dealing with the Ohio revisions. In Richmond, Virginia, and in other cities covered by the cited policy, USEPA published final approval of the plan prior to the passage of the 1982 deadline and prior to receipt of any evidence that the standard would not be achieved at the end 1982. The final rulemaking for Richmond was published on May 3, 1982, and so the 1983 air quality data were obviously not available when USEPA was judging the attainment demonstration. In contrast, USEPA had strong evidence of post-1982 violations in both Cleveland and Cincinnati prior to any final rulemaking. It should also be noted that Richmond, Virginia, did not in fact receive an extension of its attainment deadline and, for this reason as well, presented a different set of circumstances from Cleveland and Cincinnati.

Comment: Numerous commenters argued that USEPA may not delay final rulemaking on SIP revisions. Further, they contend that, had USEPA not delayed its rulemaking, the Agency would have approved Ohio's SIP revisions prior to the receipt of the 1983 exceedances. These commenters than conclude that USEPA must now approve these SIP revisions.

Ohio EPA reviewed section 110(c)(1) of the Clean Air Act, and concluded that this portion of the Act requires USEPA to promulgate SIP revisions within 6 months of the date by which SIP revisions are required, unless the State has submitted an acceptable revision itself. The State maintains that USEPA must act now in the same manner as it would have acted within 6 months of the due date for the SIP revision. In the State's view, USEPA must, therefore, act now to approve the SIP, and ignore any evidence that could not have been available prior to January 1, 1983. The State claims that USEPA's "inexcusable delay" exposes Ohio to the "risk of irreparable harm."

Other commenters pointed to section 110(a)(2) of the Act as evidence that USEPA must approve or disapprove SIP revisions within 4 months of the due date of the plan. One of these commenters uses logic similar to the State's to argue that air quality data which were not available in this 4-month time frame may not be considered in rulemaking.

The State also comments that the USEPA made a "willful and conscious decision" to delay action in order to review 1983 air quality data. The State bases this comment on a statement in the technical support document produced for USEPA's July 25, 1984, proposal to disapprove. In this document, it was stated that, despite the fact that USEPA reviewed the SIP and public comments and found that "the 1982 SIPs did successfully demonstrate attainment" by the end of 1982, "it was decided by USEPA to review 1983 ozone data for these areas prior to final rulemaking."

Response: USEPA cannot agree with the State of Ohio and other commenters in their assertion that USEPA must take action to approve or disapprove 1979 or 1982 SIP revisions within 4–6 months of receipt. First, the Agency rejects Ohio's assertion that USEPA is required to promulgate a Part D ozone plan for the State within a set period of time following submittal of a plan by the State. Second, only original State plans submitted pursuant to section 110(a)(1) of the Clean Air Act, 42 U.S.C. section 7410(a)(1), were to be reviewed by USEPA within 4 months.

Subsequent revisions to the State plans, on the other hand, are governed by section 110(a)(3)(a), which imposes no statutory deadline for review. In light of the absence of a mandatory review deadline for revisions submitted subsequent to the initial SIPs, the Agency contends that its obligation under the Statute is to act within a reasonable time, as determined by the Administrator.

The chronological record of USEPA's actions supports the fact that USEPA has acted within a reasonable time:

May 24, 1982—Ohio submitted draft Cincinnati SIP

June 9, 1982—Ohio submitted draft Cleveland SIP

June 25, 1982—USEPA commented on draft Cincinnati SIP

July 9, 1982—USEPA commented on draft Cleveland SIP

September 23, 1982—Ohio submitted final Cincinnati SIP

November 9, 1982—Ohio submitted final Cleveland SIP

February 3, 1983—USEPA proposed approval of both SIPs, and opened a comment period extending to March 21, 1983

April 18, 1983—At the request of the TriState Air Committee, USEPA extended the public comment period to May 5, 1983

June 24, 1983—A draft final rulemaking package was transmitted within USEPA from Region V to Headquarters

June 28, 1983—USEPA was already aware of multiple exceedances at sites in both Cincinnati and Cleveland.

This chronology also illustrates that USEPA had within its possession information suggesting that the forecast of 1982 attainment was incorrect before final rulemaking could have been published. USEPA could not proceed with rulemaking to approve the Ohio plan and ignore available contradictory information.

Regarding the statement quoted from the technical support document, it is important to note that this statement was made on November 22, 1983, well after reports of 1983 violations had been received. This statement does not indicate any pre-ozone season decision to postpone rulemaking for purposes of obtaining 1983 air quality data, but instead recorded USEPA's decision, after obtaining those data, that the Agency needed to review all available information to determine the veracity of reports that approval of the 1982 attainment demonstration could no longer be justified.

USEPA does not believe that the above schedule represents "inexcusable delay." Most of the time between June 28, 1983, and the date of revised rulemaking was spent confirming the accuracy of early reports of 1983 exceedances, and discussing with the State how to remedy the SIP and thereby avoid SIP disapproval. In addition, the "irreparable harm" cited

by the State is no more than the consequences spelled out in the Clean Air Act for any failure on the part of the State to take necessary actions on its SIP (e.g., for section 176(a), to make "reasonable efforts" to submit a mandated SIP revision). Even if USEPA's delay was unreasonable or its deadline for action was 4–6 months, there is no authority in the Clean Air Act for USEPA to remedy the delay by approving a plan it knows is unapprovable. In short, the Act does not allow USEPA to correct a mistake in processing with another mistake in substance.

Comment: Numerous commenters state that USEPA's action is inconsistent with its actions regarding other major metropolitan areas. For example, the State submitted air quality data for several cities which experienced violations of the ozone air quality standard in 1983. These commenters argued that it is inappropriate for USEPA to require Ohio to meet all requirements for areas with extended attainment deadlines and yet not to require other areas to meet these same requirements, even though these other areas also had violations after 1982. Many commenters focused on the inconsistency that inspection and maintenance (I/M) is being required in the Cincinnati and Cleveland areas and is not being required in other areas with post-1982 violations.

Response: The difference in treatment is based on a difference in circumstances. USEPA had given final approval for the SIPs for the other areas cited by the State of Ohio, but USEPA had not given final approval to the Cleveland and Cincinnati SIPs when the 1983 air quality data became available. The other cities all had 1979 SIPs which demonstrated attainment by 1982 and, therefore, were never granted extensions of the attainment deadline. For Cincinnati and Cleveland, the 1979 SIP demonstrated that attainment would not occur by 1982 and so at the request of Ohio USEPA extended the attainment deadline to 1987. USEPA's continuation here of the deadline extension, means that the concomitant SIP requirements (e.g., I/M) in section 172 of the Act remain applicable.

Comment: The State of Ohio expressed several procedural concerns related to consideration of whether 1983 violations were attributable to abnormal meteorological conditions. First, the State noted that on June 11, 1984, roughly 6 weeks prior to publication of proposed rulemaking, USEPA was notified of Ohio's contention that 1983 violations were attributable to abnormal meteorological conditions and yet, USEPA ignored this contention. Second, the State believes that it was "especially egregious" to deny this contention without having attempted any analysis of the issue. Third, the State believes that USEPA must abide by the State's determination as to whether air quality data are representative.

Response: Under most circumstances, it is not necessary to adjust the number of expected exceedances. If a State wishes to make adjustments to that number of expected exceedances, the State must supply detailed justification of these adjustments. (See Section IV.D of this notice for a discussion of the issues which must be addressed by such a justification.) The June 11, 1984 Ohio letter did not supply a specific, scientific rationale for making such adjustments. In this context, USEPA believed that the most appropriate procedure for soliciting comments on this and other issues would be to publish proposed rulemaking based on unadjusted 1983 air quality statistics and then to review the various relevant comments (including the comments submitted June 11, 1984) received prior to publishing final rulemaking. Discussion in Section IV.D of this document (Meteorology and Air Quality Issues) shows that the State's contentions have been addressed.

Finally, while the State is responsible for submitting justification for adjusting data, USEPA bears ultimate responsibility for independently assessing this justification in its evaluation of the approvability of SIPs.

Comment: Several resolutions and a few other comment letters were submitted which stated that USEPA should approve the SIP because it proposed approval on February 3, 1983, and received no negative public comments to justify failing to approve the SIP. Another commenter stated that USEPA should not base its action on information which was not available during the public comment period. This commenter adds that "at the very least, the comment period should be reopened in order to include the data and other comments on the data." (This comment was made before the supplemental proposed rulemaking on July 25, 1984, was published.)

Response: USEPA notes that it did receive negative comments on both the Cleveland and Cincinnati ozone SIPs, although the Agency did not find these comments sufficient to justify disapproving these SIPs. More significantly, and as discussed earlier, USEPA determined that consideration of the 1983 ozone data was necessary to ensure that the modeled demonstration was consistent with the actual air quality status of the areas at issue, despite the fact that some of this information was received after the close of the comment period. USEPA agrees that it was advisable to reopen the comment period to solicit comments on the use of the 1983 air quality data, which is why USEPA published the July 25, 1984, supplemental notice of proposed rulemaking.

Comment: The Cincinnati Area Council of Governments requested that USEPA defer final rulemaking for a year "so that the existing 1982 SIP could be revised." This commenter nevertheless acknowledges that "only the State of Ohio has the statutory authority" to make such a request.

Response: In separate remarks made during the public comment period, the State commented that it "is not in a position at this time to withdraw its 1982 demonstration of attainment." The State submittal did not request any deferral of final rulemaking, and in fact criticized USEPA for previous delays in publishing final rulemaking on the State's attainment demonstration.

Comment: The State of Kentucky commented that 1 year of air quality data is not as reliable as the "predictions of proven models using more data gathered over an extended time period." The State then commented that given the long-term nature of the SIP planning and implementing process, USEPA should simply request a mid-course correction, rather than outright disapproving the SIP.

Response: In this case, USEPA finds the direct evidence of monitored violations to be more convincing than the indirect evidence of a modeling analysis using prior monitoring data predicting no violations. This is particularly true when the monitoring data base used to assess whether attainment actually occurred is expanded from 1 year to 3 years. It has been noted elsewhere in this notice that data from the most recent 3-year period, i.e., 1982 to 1984, indicates that both Cincinnati and Cleveland continue to experience violations of the ozone standard even after 1982, a conclusion which is at odds with the model predictions based on 1979 to 1981 air quality data. As for the recommendation that USEPA simply request a midcourse correction, this may be considered to be exactly what USEPA is doing. USEPA is only at this time disapproving the attainment demonstrations and rescission request. USEPA is not at this time taking final action disapproving the SIP for failure to meet the requirements

of the Clean Air Act. (See section V of this notice).

Comment: A member of Congress commented that approval of the SIP would help the various groups concerned with Cleveland air quality to work together to implement cost-effective controls, whereas SIP disapproval could lead to court action and further delay.

Response: USEPA must judge the approvability of SIPs in accordance with the Clean Air Act requirements. Commitments made by the State of Ohio to adopt the necessary control measures will hopefully obviate the need for ligitation and any associated delay in meeting air quality goals.

Comment: A commenter stated that the Clean Air Act is not clear on requirements for attainment areas developing problems after 1982.

Response: While the commenter may be correct, this comment is not relevant to this rulemaking, since Cincinnati and Cleveland have never been designated attainment and never had an approved demonstration of attainment by 1982. Further, the Clean Air Act is very clear on the requirements for areas which received an attainment date extension beyond December 31, 1982, as is the case for the Cleveland and Cincinnati areas.

Comment: The State of Ohio and other commenters believe that Ohio's withdrawal of its extension request results automatically in termination of the designation of Cleveland and Cincinnati as "extension" areas.

Response: Congress could not have intended to provide for an automatic voiding of an extension whenever a State chooses to withdraw a previously requested, and granted, extension of the attainment date. Such an interpretation of the Clean Air Act would defeat the basic statutory scheme for extension areas as set forth by Congress. As a result, those requirements imposed on extension areas and intended by Congress would not be achieved. USEPA can, however, review requests to rescind extensions to determine if in fact they are justified. Any action by USEPA to rescind an extension would be the subject of a separate rulemaking process and would require, in the case of Ohio, revisions to Part 40 of the Code of Federal Regulations (CFR) § 52.783, Attainment Dates for National Standards. Therefore, consistent with the requirements of the Clean Air Act, extensions will remain in effect until changes through the rulemaking process are made.

Comment: One commenter noted that under 40 CFR Part 51, USEPA promulgated regulations for the development of SIPs. Because Ohio is being judged by something outside of the scope of the requirements in Part 51, USEPA must first revise Part 51 before final action can be taken on the Ohio SIP. The commenter also noted that the Agency was in direct conflict of its policy in 40 CFR 56 concerning regional consistency, because other areas have not been subject to the same additional review.

Response: USEPA does not agree with the commenter that Part 51 is the exclusive repository of the standards by which the Agency reviews all SIPs. Although requirements for SIP submissions are detailed in Part 51, it does not include the additional requirements imposed by the provisions of the 1977 Clean Air Act Amendments (e.g. Section 110 and Part D). Those requirements were detailed in an April 4, 1979 (44 FR 20372) **Federal Register** entitled *General Preamble for Proposed Rulemaking on Approval of Plan Revision for Nonattainment Areas.* The General Preamble supplemented all future proposals on revisions to the SIPs for nonattainment areas by identifying the major considerations that will guide USEPA's evaluation of the submittals. In addition, subsequent guidance was issued regarding extension areas on January 22, 1981 (46 FR 7182) and November 2, 1983 (48 FR 50686). Each of those **Federal Registers** includes additional standards by which USEPA judges the approvability of SIP revisions required by the 1977 Clean Air Act Amendments.

USEPA also cannot agree with the commenter's claim that the Agency is inconsistent in its treatment of other areas. All other areas have also been subject to these same review requirements.

Comment: One commenter stated that USEPA has sufficient authority under Sections 110 and 113 of the Clean Air Act to correct any existing conditions which would lead to air quality deficiencies, without the use of Section 172. The commenter contends that USEPA is taking action under the wrong provision of the Act.

Response: Section 172 of the Act provided the authority by which a State such as Ohio could request and USEPA could approve an extension of the attainment date to no later than December 31, 1987. Section 172 also requires that the plan developed for the extension area include the implementation of certain additional measures and outlines each of those measures.

The State of Ohio submitted the ozone attainment demonstration pursuant to section 172 and USEPA has evaluated it under the framework requested by the State. Additionally, assuming the State wants to continue to avoid the imposition of sanctions, section 172 is the correct provision under which to submit and evaluate the ozone SIP.

Comment: One commenter noted that USEPA's proposed action is invalid as USEPA has not complied with the important provisions of the Regulatory Flexibility Act and has not provided a "Regulatory Impact Analysis".

Response: USEPA is merely acting upon the States' request to rescind a previously requested extension and a 1982 attainment demonstration which was submitted to support the State's contention that an extension was no longer required. USEPA has only the choice of either approving or disapproving the States' submissions and must consider all the facts. USEPA is not assembling a regulatory program nor is it imposing any further requirements (other than those already in effect) in Ohio or Kentucky. Therefore, for the Agency to conduct an analysis of the costs of staying with the current SIP requirements is pointless and is not required under the Regulatory Flexibility Act.

Additionally, there are no new construction nor federal funding restrictions associated with today's action. Any future construction or funding restrictions that might result from Ohio's or Kentucky's failure to submit an approvable ozone SIP for either the Cleveland or Cincinnati areas would be the subject of a separate rulemaking action and the impact, if any, on small entities would be discussed therein. Therefore, USEPA concludes that today's action will not have significant economic impact on a substantial number of small entities.

B. Sanctions Issues

Comment: There were several comments regarding sanctions. Briefly they ranged as follows: One commenter raised concern that Cincinnati and Cleveland are being threatened with sanctions, although the situation is not a result of any reluctance on their part in reducing reactive hydrocarbon emissions. Other commenters asserted that the construction moratorium specified in section 110(a)(2)(I) of the Act unfairly penalizes stationary sources. Other commenters were concerned with the impact sanctions would have on economic recovery efforts in the State of Ohio. Other commenters expressed concern over sanctions under section 316(b) of the Act whereby USEPA has discretion to limit funds for construction of sewage

treatment facilities in any areas where a State does not have in effect a plan that accommodates emissions associated with sewage treatment facilities. Another commenter stated that when USEPA proposed its sanctions policy, Cincinnati was not one of the areas identified as being subject to this policy, therefore, the public was deprived of the opportunity to make comments on this policy. Another commenter stated that Part D penalties are not applicable because the Clean Air Act does not contain provisions that regulatory review be completed but only requires the State action be completed. Another commenter expressed concern that this action would perpetuate sanctions in Campbell and Kenton Counties, Kentucky.

Response: Because USEPA is not taking action at this time on its proposal to disapprove the Ohio and Kentucky SIPs as a whole for failure to meet the requirements of Part D, today's action will not impose any additional sanctions in either Kentucky or Ohio. Therefore, most of these comments are not relevant to this action. (The commenter's concern regarding the perpetuation of sanctions in the two Kentucky counties does appear to be relevant and is discussed in more detail below.) If USEPA does, however, take final action disapproving the Ohio and Kentucky SIPs as whole and imposes sanctions, that final action will reflect a review of each of the comments above.

Comment: Several commenters argued that disapproval of the SIP will continue existing sanctions in Campbell and Kenton Counties, Kentucky, which they consider to be inequitable and unnecessary. Several points were raised in support of the argument that the sanctions are inequitable. Commenters argued that, although none of the Ohio or Kentucky Counties have implemented a vehicle emission inspection and maintenance program (I/M), only Campbell and Kenton Counties have been subjected to the sanctions. Second, they argue that, even if USEPA was justified in imposing sanctions because of the failure of the two counties to adopt I/M legal authority as part of Kentucky's 1979 SIP, the submission of an apparently approvable 1982 SIP should allow lifting of the sanctions, since this constituted a good faith effort to submit an approvable SIP. Third, they contend that the contribution of the three Kentucky Counties to the overall Cincinnati ozone problem is small; and if the counties were considered separately, they would not have an ozone problem. Finally, they argue that USEPA has no basis for requiring the counties individually to implement I/M.

Response: In response to the first point, although none of the Ohio or Kentucky Counties have implemented I/M, all of the counties except Campbell and Kenton, have complied to date with requirements that are sufficient to avoid implementation of sanctions. Specifically, areas with extensions of the attainment date were required to submit a 1979 SIP revision which had to include legal authority and an implementation schedule for I/M. Ohio and Boone Counties adopted legislation and schedules which were submitted as part of the 1979 SIP revisions which USEPA approved. Campbell and Kenton Counties chose not to adopt legal authority and, as a result, USEPA imposed sanctions in 1980. The two Counties have had and continue to have the opportunity to "catch up" with Boone County and Ohio by submitting I/M legislation and schedules, but have not yet done so. Although the two Counties evidently expected that the 1982 attainment demonstration would eliminate the need for I/M and sanctions as well, USEPA could not lift sanctions until final approval of the 1982 attainment demonstration. USEPA could lift the funding sanctions on Campbell and Kenton, if either the missing 1979 SIP elements were submitted and approved, or the demonstration that the area attained the ozone NAAQS by December 31, 1982, was approved. Alternatively, if a 1982 SIP revision, including all required elements for extension areas, such as I/M were approved, USEPA could lift the sanctions. None of these actions has occurred, thus there is no basis for lifting the sanctions on the two counties at this time.

The second point advanced by commenters is that the Counties made a good faith effort to meet the requirements of the Clean Air Act by its submission of the 1982 SIP projecting attainment by the end of 1982, and thus the sanctions should be lifted. In response, it should be noted that the construction moratorium enacted under section 110(a)(2)(I) cannot be lifted until USEPA approves a 1979 or 1982 SIP which contains all elements required by the Clean Air Act. The Section 176(a) highway funding sanctions and 316(b) sewage treatment funding sanctions were imposed because the two counties had not submitted, or made a reasonable effort to submit, a 1979 SIP. USEPA believes that, in a case such as this, the appropriate evidence of good faith effort to submit a SIP would be the adoption and submittal of legal authority and an implementation schedule for an I/M program. This is the criteria used by USEPA in lifting funding sanctions which were imposed in California at the same time and for the same reason as they were imposed in Kentucky.

It can be argued that a good faith effort was made by Kentucky to meet the SIP requirements by submission of the 1982 attainment demonstration. However, until the 1982 attainment demonstration is approved by USEPA, the 1979 SIP requirement for submission of I/M legal authority and implementation schedule remains in effect. Since Kentucky and the counties have not yet submitted these items, the funding sanctions must remain.

The third point was that the Kentucky Counties should be considered separately from Cincinnati. USEPA has recognized that ozone is an areawide problem, caused by emissions of hydrocarbons (HC) and nitrogen oxides (NO_X) over a large urban area. Because it is an areawide problem and ozone violations often occur many miles downwind of the source of precursor emissions, an areawide solution is required. Since all of the emissions in the urbanized area contribute to ozone problems, USEPA's ozone policy of April 4, 1978 (44 FR 20372) required controls in the entire urbanized area and fringe areas of development.

In the northern Kentucky case, the three counties contribute about 16 percent of the areawide HC inventory, and thus make a significant contribution to the areawide ozone problem. Even though most of the ozone violations have occurred in Ohio, as would be expected from the prevailing wind direction toward the northeast, violations have also occurred in Kentucky. In particular, six exceedances were recorded at the Dayton (Campbell County) Kentucky site in 1983. Thus, because the Kentucky counties contribute significantly to the Cincinnati ozone problem, and ozone violations have occurred in both States, there is no reason for allowing Kentucky to avoid a proportional share of the necessary HC control. Finally, it was argued that USEPA could not require the Kentucky counties individually to implement I/M. USEPA notes that it might be preferable for the State air agency or some other agency with a similar background to implement I/M. However, the decision as to which agency will be responsible for implementing I/M must be made by the State and local governments involved. USEPA's only concern is that an effective program be implemented. In Kentucky's case, the State legislature

failed to adopt legal authority for a State operated program. Jefferson (a separate ozone nonattainment area) and Boone Counties subsequently adopted I/M legislation under their existing authority. The need for adoption of a program by the individual counties came about because the State legislature refused to adopt legal authority for a State-operated program, thereby leaving the authority of the various counties as the only available mechanism to implement I/M.

C. Mobile Source Emissions and Inspection and Maintenance Issues

Comment: Two Ohio state representatives urged USEPA to move toward achieving air quality standards in a reasonable way without unnecessarily burdening area residents.

Response: USEPA has no flexibility not to require I/M for any area which has been granted an extension of the December 31, 1982, attainment date.

Comment: The State of Ohio commented that "[e]ven USEPA does not suggest" that inspection and maintenance (I/M) would result in any significant improvement in air quality. The State notes that USEPA's proposal to disapprove the Cleveland and Cincinnati SIPs does not suggest that I/M might eliminate the "apparent [post 1982] exceedances, and that in fact this proposal suggests that these exceedances "could be attributed to excess VOC emissions from stationary VOC sources." The State believes that USEPA has not demonstrated that these exceedances are attributable to mobile source emissions. Other commenters individually questioned whether I/M programs in Cleveland and Cincinnati were necessary or benefical.

Response: The Clean Air Act mandates that areas which were unable to demonstrate attainment of ambient air quality standards for ozone and/or carbon monoxide by the December 31, 1982 deadline, and requested an extension to December 31, 1987, to attain the standards, must develop and implement an I/M program in the areas needing an extension. The State of Ohio was unable to demonstrate attainment of the ozone standard in the Cleveland and Cincinnati areas by December 31, 1982, and, therefore, must implement I/M programs in these areas. Ohio's comments, therefore are irrelevant.

USEPA believes, however, that Ohio's SIP demonstrates that mobile sources contribute a significant fraction of overall emissions in both Cleveland and Cincinnati and, therefore, can be said to contribute significantly to monitored exceedances. I/M programs are able to reduce hydrocarbon emissions which contribute significantly to the formation of ozone. A well run I/M program is designed to reduce 1987 light duty gasoline powered hydrocarbon exhaust emission by 25 percent.

Comment: The State commented that, by virtue of USEPA's policy for correction of deficient SIPs, USEPA has "adequate remedies" for achieving attainment of the ozone standard without having to require I/M. The State continued that it is important to distinguish between requiring I/M versus requiring attainment with I/M being simply one of several measures that might be necessary.

Response: Since USEPA finds that Cleveland and Cincinnati must continue to be considered "extension areas", the Clean Air Act dictates that an approvable SIP for these areas must include an I/M program, regardless of whether alternative means might be found to achieve the ozone air quality standard by 1987.

Comment: Some commenters believe that I/M programs are not a cost effective means of meeting ozone National Ambient Air Quality Standards. In addition, other commenters suggest alternatives to I/M for reducing hydrocarbon emissions which they believe are more cost effective and would result in greater air quality benefits.

Response: The State of Ohio requested and received an extension of time to achieve ozone and carbon monoxide NAAQS in both Cleveland and Cincinnati. Section 172 (b)(11) provides that States requesting extensions shall establish additional programs to control air pollution, including an inspection and maintenance program. The cost effectiveness of I/M may be compared with other control measures required under section 172(b)(11). The results of such analyses are that I/M cost effectiveness is in the same general range as other control measures.

Comment: The northern Kentucky counties are willing to support the Cincinnati Area State Implementation Plan for ozone by implementing measures against vehicle misfueling and/or vehicle tampering. They believe these measures could take the place of the requirement in the Clean Air Act for operating an I/M program and could be the basis for removal of section 110 sanctions in these Kentucky counties.

Response: USEPA has determined that direct correlations exist between excess automotive emissions and vehicle tampering and misfueling. It is USEPA's policy that if it can be demonstrated by the State that an anti-tampering and anti-misfueling program can achieve RACT emission reductions that this would satisfy the USEPA requirement for an I/M program provided the other requirements as specified in the July 17, 1978 memorandum from David Hawkins, former Assistant Administrator for Air, Noise and Radiation, to Regional Administrators, are present.

Comment: I/M programs have been effectively implemented in more than twenty States and should be implemented in Cincinnati.

Response: USEPA agrees.

Comment: Requiring I/M may reduce the chance of developing the remainder of air pollution control programs that would be more effective in improving air quality because there would arise a struggle to gain legislative approval of an I/M program.

Response: USEPA recognizes that the State of Ohio needs to obtain additional legislative authority to fund the I/M program, and/or authority to assess fees, and establish a mechanism for program enforcement, but notes that this program is a Congressionally-mandated program which must be implemented in accordance with Part D. Other States have been successful in developing the remainder of their programs while implementing an I/M program. USEPA, therefore, believes that the State of Ohio can also continue to proceed expeditiously to meet other SIP requirements in addition to developing and implementing an I/M program.

Comment: Three parties made comments on the Boone County I/M program. In particular, allegations were made that USEPA withdrew funding from the county's I/M program, thus causing it to be dismantled. Therefore, it is charged that it would be improper for USEPA to penalize the county for failure to have I/M implemented. Also, it was noted that USEPA had allowed Cincinnati to discontinue its local I/M program.

Response: In response to the first comment, USEPA Region IV made $333,000 available to the northern Kentucky counties for I/M startup (Kentucky offered about $666,000 for the same purpose).

Boone County requested, on November 14, 1980, $27,500 to hire an I/M coordinator. This grant was awarded January 30, 1981. On March 5, 1982, Boone County requested an additional $120,500 for various startup expenses for the program. However, in June of 1982, Kentucky submitted its 1982 SIP indicating that the northern Kentucky and Cincinnati area would attain the ozone standard by the end of 1982, which would have eliminated the

requirement for I/M. Because Boone County's ordinance required I/M only if it were required by Federal law, and because Boone County expressed no interest in implementing the program if it were not required, USEPA did not feel it would be appropriate to grant the full amount requested for I/M implementation. Nonetheless, recognizing the possibility that I/M might still be required if USEPA could not accept the 1982 attainment demonstration, Region IV did make a partial award of $20,000 on August 25, 1982, so that the county's I/M coordinator could be retained. This was intended to allow resumption of I/M implementation on short notice if, as later occurred, USEPA determined the program would still be required. The remaining USEPA grant funds have been, and continue to be, available at any time if Boone or the other Kentucky counties make a definite commitment to implement I/M.

With regard to the Cincinnati I/M program, Cincinnati had been experiencing significant compliance problems with its I/M program, primarily due to a low level of enforcement. Because of the low compliance rate, the program was losing money. USEPA was asked to provide a grant to subsidize continued operation of the program.

However, because the program was relatively ineffective and because the areawide program then proposed by Ohio promised to effectively meet USEPA's I/M requirements, USEPA allowed Cincinnati to drop the local program in 1981. This was because the existing I/M program was to be replaced by another, more effective program, not because I/M was no longer required.

Comment: Two commenters stated that USEPA must consider the pollution caused by the removal of catalytic converters by Lew Smith Muffler Shop and other companies. In particular, it was alleged that USEPA had stated in the case of *United States of America v. Lew Smith Muffler and Parts, Inc.*, Civil Action No. 82-223 (E.D. Kentucky) that 6 percent of the areawide HC inventory was caused by these catalyst removals. Commenters allege that had USEPA better enforced the anti-tampering requirement, the area would have met the ozone standard.

Response: First, the figure cited is erroneously interpreted. In the USEPA statement, it was estimated that the effects of tampering by Lew Smith was the equivalent of 6 percent of the reduction which would be attributable to I/M in Kenton County, not 6 percent of the total inventory in the Cincinnati area. Thus, the tampering does not negate the I/M program as alleged. While the tampering cited does contribute to a higher than necessary HC inventory, it is not of such a magnitude as to cause the exceedances of the ozone standard by itself.

USEPA does not agree that it has been "dilatory" in enforcing the anti-tampering law. The prosecution of Lew Smith Muffler Shop is evidence of this. While tampering has occurred and will probably continue to occur, USEPA is expending considerable resources to enforce the requirements of the Clean Air Act. In any case, it is the responsibility of the State and local governments to adopt the measures necessary to allow attainment of the ozone standards. A State or local government is free to adopt and enforce an anti-tampering law on its own, if it feels that such a law would contribute to reducing motor vehicle emissions.

D. Meteorology and Air Quality Issues

Comment: Numerous commenters argue that the multiple exceedances of the ozone standard recorded in 1983 were due to unusual meteorological conditions and, therefore, these exceedances should not be considered as evidence that Cincinnati and Cleveland continue to need the attainment deadline extension.

These commenters quote meteorological statistics for 1983 or cite the U.S. Department of Agriculture's declaration that Cincinnati and two Cleveland area counties were disaster areas due to dryness and high temperatures, as evidence that the 1983 meteorological conditions in these cities were unusual. In making this argument, most commenters implicitly assume that this kind of adjustment to air quality data is (or should be) acceptable. Ohio, on the other hand, is explicit in arguing that USEPA policy permits such air quality data adjustments. The State further presents two analyses which concluded that the exceedances of the ozone standard that occurred in the Cleveland and Cincinnati areas in 1983 were attributable to unusual meteorological conditions and thus should not be treated as evidence that these cities failed to attain the standard by 1982.

Response: USEPA does not support adjusting or discarding valid, quality assured ambient concentration measurements submitted by the State. In calculating air quality statistics (e.g. number of expected exceedances and design value), the "Guideline for the Interpretation of Ozone Air Quality Standards" states that the methodology employed cannot merely ignore high values for a particular year simply because they are unlikely to recur. The purpose of the standard is to protect against high values in a manner consistent with their likelihood of occurrence. This Guideline further states that the use of three years of measurements in calculating these air quality statistics should be sufficient to average the effect of year-to-year variations in meteorological conditions. Nevertheless, USEPA finds the commenters correct that, in cases where adjustments for example to the number of expected exceedances are clearly justified, it is both appropriate and permissible under Agency policy to make such adjustments as a part of control strategy planning. The USEPA's memoranda and rulemaking actions cited by the commenters suggest that the use of adjustments in calculated air quality statistics can more readily be justified for total suspended particulate matter than for ozone, reflecting a belief that particulate matter concentrations can be more directly affected by a single discrete event, whereas ozone formation is a more complex process including a combination of coincident meteorological conditions. However, if a State could provide a justification for adjusting the number of expected exceedances and/or the SIP design value, USEPA would consider accepting such adjustments.

It should be noted that, in general, the policy memoranda and rulemaking actions cited by the commenters focus on unusual meteorological events and not on unusual frequency of normal events. The distinction between unusual conditions and an unusual frequency of normal events is important since ozone concentrations should not be considered as unusual unless the meteorological conditions which led to these values were, in and of themselves, unusual. It appears that neither the State nor any other commenter has alleged that the days on which the 1983 exceedances occurred were themselves unusual. In fact, the data presented by the State suggest that the days recording exceedances experienced quite normal meteorological conditions. The commenters' concern instead is that 1983 experienced an unusual frequency of recurring meteorological events. In this context, the State must meet two tests to justify treating the 1983 air quality data as not indicating post-1982 violation of the standard. First, Ohio must demonstrate that the number of situations where meteorological conditions were conducive to high ozone during 1983 was unusual. Second, Ohio must then show that if 1983 had experienced a more typical number of

occurrences of these meteorological conditions, the number of expected exceedances would be 1.0 or less. This requires development of a meteorological index comprised of parameters which reflect the meterological potential for exceedances to occur.

The State's submittal fails to identify any meteorological index (and USEPA is not aware of any index for either Cincinnati or Cleveland) which can reliably indicate whether 1983 was unusually conducive to ozone formation.

The technical support document provides a more detailed review of evidence correlating ozone formation with various parameters including temperature and rainfall. This review concludes that such parameters have a general correspondence with ozone formation but do not explain an adequate part of the variance of ozone concentrations even on a single day basis, much less the variance of ozone concentrations on a seasonal basis. Indeed, when the frequency of hot weather is compared to the frequency of exceedances (using 1983 data and using a maximum temperature at least 85° as an indicator), Cleveland experienced 52 hot days but only 13 exceedance days, and Cincinnati experienced about 80 hot days and only 17 exceedance days.

It is clear that days with high temperatures do not necessarily record high ozone concentrations. At the same time, many of the 1983 exceedances occurred on days with peak temperatures below 90°F, illustrating that high ozone concentrations do not necessarily occur on the hottest days. Thus, while the State has presented several arguments that 1983 was unusually hot and dry, the State has not provided convincing evidence that 1983 was unusually conducive to ozone formation.

In the absence of a reliable indicator of conduciveness for ozone exceedances, the State's submittal also provides no means of estimating the number of exceedances expected in a typical period. Indeed, on this issue, the State recommends discarding all 1983 violations, but provides no justification that violations would be unanticipated during a typical period.

The technical support document also finds that, even apart from the inadequacies of the State's parameterization of ozone conduciveness, the full use of this indicator still leads to the conclusion that Cincinnati and Cleveland violated the ozone standard even if adjustment were appropriate. First, such an adjustment of 1983 air quality statistics would probably show the exceedance rate well above the attainment level of 1.0 expected exceedances or less. Second, in the same way that 1983 violations indicate post-1982 nonattainment, the 1984 air quality support the same conclusion. Indeed, by Ohio's indicator, 1984 was relatively unconducive toward ozone formation, and yet sites in both Cleveland and Cincinnati have recorded multiple exceedances in 1984. Third, USEPA generally recommends using 3 years of data as a means of averaging out the meteorological variations that occur from year to year. The most recent 3 years (1982 to 1984) had an average number of days of 90°F that was almost identical to the long-term climatological means for Cleveland and Cincinnati, and yet these 3 years of data clearly suggest violations continuing after 1982 in both cities. Fourth, if the State's indicator was used, then upward adjustments would be appropriate for years other than 1983 which may be less conducive to ozone formation than would be considered usual. Particularly for Cincinnati, for which the SIP only narrowly suggested attainment by 1982, such considerations might have led to attainment not being projected to occur by 1982.

In summary, the State has not shown that 1983 was unusually conducive to ozone formation, nor has it suitably addressed the issue of how many exceedances would be expected in a typical year.

If follows that the other commenters that simply cite the State's findings have also failed to justify such an adjustment of the data. Indeed, the full use of the State's indicator of meteorological conduciveness toward ozone formation supports the conclusion that violations can be expected to continue after 1982. Finally, the designation of the Cincinnati area and parts of the Cleveland area as disaster areas by the Department of Agriculture does not justify discarding the 1983 ozone data, because it is not clear what criteria were used in making this designation, how unusual it is to meet these criteria, and, most importantly, how these criteria relate to ozone formation. Thus, the finding that violations are continuing after 1982 appears to be an appropriate conclusion.

Comment: One commenter supported the proposed USEPA position that the 1983 air quality data should not be excluded due to unusual meteorology. This commenter noted that 1982 plus 1984 by themselves recorded 12 exceedances in Cincinnati, which the commenter believed is nine more than is permitted in a 3-year period.

Response: The table below shows air quality data at selected sites in the Cincinnati area for 1982, 1983 and 1984. While these data support the commenter's conclusion that 1983 data should not be excluded, they do not entirely support the analysis leading to this conclusion. First, USEPA does not count total exceedances in an area, but rather assesses attainment of the standard on a site-by-site basis. Second, the 1982 air quality data do not provide a direct indication of whether nonattainment is expected after 1982, since considerable emission reductions occurred at the end of 1982, which is the final date for most VOC emitting sources in Ohio to achieve compliance with applicable SIP regulations and install RACT levels of controls. Based on modeling in the SIP, it appears likely that a repetition of 1982 meteorology after 1982 would result in one exceedance at the Middletown site, for example, not two exceedances. Nevertheless, the 1984 data, particularly at the Middletown site, do support USEPA's finding that the Cincinnati area continued to violate the ozone standard after 1982.

RECENT AIR QUALITY DATA IS SELECTED CINCINNATI AREA SITES

Site	Year	03 concentration parts per billion (ppb)		Exceedances
		Max	2nd Max	
Middletown	1982	160	129	2
	1983	128	127	3
	1984	147	140	2
Lebanon	1982	127	(1)	1
	1983	152	137	5
	1984	125	(1)	1
Hamilton	1982	135	127	2
	1983	(1)	(1)	0
	1984	140	135	2

[1] Concentration is not an exceedance.

Comment: Several commenters addressed 1984 ozone exceedances in the Cleveland area. These commenters reported three exceedances at the Painesville, Ohio, site (values of 145 ppb, 138 ppb, and 126 ppb). Further, data reported independently by Ohio EPA indicate that the Eastlake, Ohio, site recorded two exceedances in 1984 (values of 140 ppb and 135 ppb). However, none of these commenters believe that these exceedances support disapproving the Cleveland SIP. One commenter argues that the violations at these Lake County sites should not necessarily be attributed to emissions in the Cleveland area. This commenter provides wind data for the hours in 1984 when Painesville recorded concentrations of 120 ppb or above, and states that, based on these data and similar data for the 1983 exceedances,

Painesville and Eastlake are receptor sites for ozone which is generated at various times in Cleveland, the Youngstown area, the Akron/Canton area, the Ashtabula area, and sometimes in locations long distances across Lake Erie. This commenter asked for further time to study the origins of violations in Lake County and asked that USEPA's final action be that of "no action" taken at this time. A second commenter noted that these sites were exceedances occurred are actually in Lake County (northeast of Cleveland) and not in Cleveland or Cuyahoga County, and recommended, therefore, that the SIP for Cleveland should not be disapproved. Several other commenters also urged that final action be delayed, in order to analyze 1984 air quality data.

Response: The 1984 air quality data lend support to USEPA's finding that the demonstration of attainment by 1982 should not be approved. The data submitted by the first commenter failed to provide wind data for the hours prior to the violations recorded in 1984 at Eastlake and Painesville. Therefore, USEPA supplemented the commenter's data with available wind data for these earlier hours. A review of these more complete sets of data indicate that, in fact, Cleveland area emissions were the probable cause of these ozone standard violations.

Even apart from these wind data, USESPA finds that the most plausible origins of the violations being recorded at Eastlake and Painesville are the emissions being generated in the Cleveland area. In USEPA's experience, these monitors are within the distance range and direction to record peak ozone concentrations generated by Cleveland. At the same time, none of the other origins of these violations appear to represent a plausible source of these concentrations. For example, Youngstown is about 80 kilometers southeast of Painesville (roughly 140 kilometers along the trajectory suggested by the commenter), a distance far beyond the probable location of peak Youngstown impact. Furthermore, the other cities have considerably less population than the Cleveland area, and their emission are presumably similarly smaller. For these several reasons (as discussed in more detail in the technical support document), USEPA finds that the most plausible principal cause of the violations in the Cleveland area (particularly in Lake County) are the Cleveland area emissions. Ohio's inclusion of only Cleveland area counties in its SIP indicates that the State agrees with this finding. Also, it is worth reemphasizing that the wind data available for the days of the 1984 exceedances tend to confirm this finding. In response to the second commenter, this finding indicates that the SIP for Cuyahoga County along with the other Cleveland area counties was inadequate to achieve attainment in Lake County. USEPA also notes that two exceedances were recorded in 1983 at each of two sites in Cuyahoga County (at the Westlake and E. 152nd Street monitors) suggesting that Cuyahoga County itself may have violated the standard after 1982.

USEPA cannot honor the commenter's request for more time to analyze the origins of the Painesville (and Eastlake) violations. The State of Ohio submitted a SIP indicating that exceedances at Painesville during 1979–1981 were attributable to the overall Cleveland metropolitan area. The commenter and others have had over a year to analyze 1983 data, and the commenter has also reviewed 1984 data. Despite this extensive evaluation period, USEPA has not received persuasive evidence to suggest that these violations are not attributable to the Cleveland metropolitan area. Therefore, it would be inappropriate for USEPA to delay final rulemaking on the State's attainment demonstration. Such delay would also be inconsistent with the comments of other members of the public who criticize USEPA for previous delays in rulemaking.

Comment: A commenter noted that, on January 12, 1982, Ohio petitioned USEPA to redesignate Cleveland to attainment for ozone and CO.

Response: Ohio's January 12, 1983, request does not pertain to ozone but pertains only to CO. The CO redesignation request has not been granted and, in any case, is not relevant to this rulemaking.

Comment: A commenter stated that, although air quality data suggest that attainment may not have been achieved, USEPA should establish the cause of the continued nonattainment before disapproving the SIP. The commenter believes that disapproval leaves the area without defensible guidelines for SIP development, urges USEPA to "approve the 1982 SIP, and address the air quality deficiency of 1983 in a manner consistent with promulgated rules and the goals of the Clean Air Act."

Response: USEPA finds that the cause of the continued nonattainment is that Ohio SIP did not provide sufficient reduction of the VOC emissions by December 31, 1982. However, disapproving Ohio's SIP would not leave the State "without defensible guidelines for SIP development," since the State may still follow the existing guidance for 1982 SIP development such as the guidelines published in the Federal Register of January 22, 1981 (46 FR 7182) which represents USEPA's interpretation of Clean Air Act requirements and goals.

Comment: A commenter asserted that the Cincinnati area continues to violate the ozone standard, citing as evidence, 1982, 1983 and a portion of 1984 air quality data. the commenter stated that the EKMA/OZIPP model does not realistically account for extreme ozone conducive variations in weather conditions, but added that, if the model is adjusted to account for these variations, it should also be adjusted to account for unusually mild weather conditions. Further, the commenter stated that the 1983 data provide an appropriate basis for additional air quality planning, and stated that these data clearly indicate that further controls must be instituted to attain the standard. For these reasons, this commenter supported USEPA's proposal that the Ohio SIP should be disapproved.

Response: USEPA agrees that nonattainment continued beyond 1982, and agrees that 1983 data proved an appropriate basis for additional air quality planning. USEPA adds that it recommends the use of 3 years of data in order to minimize the impact of year-to-year meteorological variations. Further discussion about the use of EKMA/OZIPP is contained in the following section.

Comment: A commenter stated that USEPA has not convincingly eliminated source noncompliance with applicable SIP VOC abatement measures (as opposed to SIP inadequacy) as the basis for the 1983 violations. (This comment was made prior to publications of proposed rulemaking discussing this issue.)

Response: USEPA ordinarily would assume that 1983 violations indicate that the SIP did not provide sufficient emission reductions to attain the standard by the end of 1982. Nevertheless, in this case, USEPA evaluated some State-submitted information on the excess emissions attributable to sources not complying with requirements for control. This analysis was discussed in the notice of proposed rulemaking and is included in Section III of this notice. Since USEPA received no contrary evidence during the public comment period, USEPA continues to find that the 1983 violations signify an inadequate SIP.

E. Modeling Issues

Comment: Several commenters addressed the possibility that the 1983 exceedances are indicative of deficiencies in USEPA's SIP planning process. Most of these commenters focused on the assumption inherent in USEPA's recommended procedures that future years (e.g., the projected attainment year) will have the same meteorology as the 3-year base period (in this case 1979 to 1981). Several commenters recommended various approaches for dealing with these perceived modeling deficiencies. For example, one commenter urged that USEPA revise its procedure to account for year-to-year variations in meteorology. A second commenter felt that, if USEPA disapproved the SIP revisions and thereby admitted the deficiencies of its planning process, then USEPA could not, at the same time, approve SIPs for other urban areas which used this planning process. A third commenter felt that USEPA should not disapprove the Ohio SIP but should instead publish new guidelines for SIP planning, ask for revised SIPs for Ohio and elsewhere, and judge all SIPs accordingly.

Response: The response to these concerns in many ways parallels the response to concerns about 1983 violations being attributable to unusual meteorology (see section IV.D). In this context, USEPA would like to clarify that the EKMA/OZIPP model is designed to simulate ozone formation on individual days. Since no commenter has argued that the 1983 exceedance days individually experienced unusual meteorological events, the ability of EKMA/OZIPP to account for unusual meteorology is not an issue. A more appropriate concern would be whether the procedures for demonstrating attainment (i.e., the use of EKMA/OZIPP results) can account for an unusually high or low frequency of conditions conducive to ozone formation. However, since neither the State nor any other commenter has demonstrated that 1983 experienced this type of unusual meteorology, this is also not an issue. Nevertheless, USEPA recommends the use of a 3-year base period in SIP planning in order to minimize the impact of year-to-year meteorological variations. While the Agency is receptive to suggestions for improving modeling procedures, and is receptive to the use of improved precedures in individual plans, the commenters do not provide specific recommendations which would yield more reliable results. USEPA continues to believe that use of its recommended procedures in these areas generally provides the best available forecast of attainment prospects. Only when available evidence clearly contradicts the modeling forecast is the forecast not accepted.

Further details which relate to these comments are included in the technical support document and in the previous discussion of alleged unusual meteorological conditions experienced in 1983.

Comment: A commenter "questions USEPA's assumption that modeling data for 1983 would fail to demonstrate compliance". This commenter continued that "we should not have regulatory decisions on assumptions of what modeling would show." A second commenter stated that "the only evidence presented by [USEPA] which would suggest any SIP deficiency" is in an October 13, 1983, letter from Ohio EPA which discusses the emissions impact of sources not complying with SIP limits. This commenter stated that he did not understand how this letter supported a finding of SIP inadequacy.

Response: It appears that these commenters may not fully understand the analysis conducted by USEPA and described in the notice of proposed rulemaking. USEPA was assessing the possibility that one interpretation of the violations recorded in 1983 is that these violations indicate that the SIP was inadequate to attain the standard by 1982. An alternative interpretation is that the SIP is adequate, but these violations occurred because sources were exceeding SIP limits. The analysis in question attempted to assess the plausibility of this latter interpretation.

Section III of this notice describes USEPA's analysis of whether the 1983 violations could be attributed to sources exceeding SIP allowable emissions limits. From this analysis, USEPA concluded that the 1983 violations could not be solely attributed to excess emissions from noncomplying sources but are better interpreted as evidence that the SIP itself is inadequate to attain the standard by 1982.

USEPA agrees that higher concentrations will not necessarily lead to higher emission reduction percentages. However, in the absence of more complete information on model inputs, this assumption appears to be reasonable, particularly in the context of assessing the possibility that a more thorough analysis would show that compliance with the SIP could have averted the 1983 violations.

It must be noted that no further information has been received to contradict USEPA's proposed finding. Therefore, USEPA continues to find that the 1983 violations indicate inadequacy of the SIP rather than inadequate compliance with the SIP. In response to the second commenter, the principal evidence of SIP inadequacy was air quality data monitored after 1982. The cited information from the State was used simply to assure that indeed these air quality data indicated SIP inadequacy.

F. Miscellaneous Issues

Comment: Some comments noted that ozone is a serious threat to health. One commenter cited specific studies to support a finding that even the achievement of the current ozone air quality standard would not eliminate ozone impacts on health.

Response: USEPA agrees that ozone concentrations in excess of the air quality standard can cause adverse health impacts. However, this rulemaking is not an appropriate forum for reviewing whether the current air quality standard protects the public health with an adequate margin of safety. This rulemaking is intended to judge whether Ohio's SIP submittals meet the requirements under the Clean Air Act for areas that are violating the established standard.

Comment: A commenter urges that "the ozone attainment plan be approved, or alternatively approved at least with respect to stationary sources."

Response: The question being addressed by USEPA is whether the attainment demonstration should be approved or disapproved. This judgment must be based on emissions and emission reductions from all source types, and so the option is not available to approve just the stationary source part of the attainment demonstration. (The commenter's recommendation to approve the attainment demonstration is addressed elsewhere.)

Comment: Two citizens' organizations urged that funding be provided for public education and participation during the SIP process. One of these commenters further urged that the SIP include a strong program for public participation.

Response: Congress has not provided USEPA the authority to provide this funding. On the other hand, the Clean Air Act does require that the State provide the opportunity for public comment and participation during the SIP development process, e.g., by holding a public hearing. USEPA believes that Ohio and Kentucky have met these requirements and provided suitable opportunity for public participation in SIP development.

G. Comments on USEPA's February 3, 1983 Proposed Rulemaking

On February 3, 1983, USEPA proposed to approve the Cleveland and Cincinnati areas ozone SIPs. Comments that were received on this proposal are to some extent moot since USEPA subsequently reversed its position and is now disapproving the attainment demonstrations in these SIPs. Nevertheless, for completeness, these comments and USEPA's responses are summarized below. A more complete discussion is contained in the technical support documents.

Comment: The Attorney General for the State of New York (henceforth referred to as New York) commented that approval of the Cleveland and Cincinnati area ozone SIPs would contravene Clean Air Act section 110(a)(2)(E) by allowing sources in these areas to make it unduly difficult to achieve attainment in the New York City area. New York further argued that Stage II vapor recovery should be required in the Cleveland and Cincinnati areas as being reasonably available control technology.

Response: New York has not demonstrated that the source in the Cleveland and Cincinnati areas contribute to air quality standard violations in the New York City area on the days these violations occur. Furthermore, even if New York had made this showing, USEPA has in place policies which preclude ozone transport in excess of the standard and which provide for a reasonable allocation of controls on upwind sources and controls on sources within the relevant urban area. Also, USEPA does not currently require Stage II vapor recovery except in those areas where attainment cannot be demonstrated without such controls. Consequently, USEPA does not believe that New York's arguments represent an appropriate basis for disapproving the Cleveland and Cincinnati areas ozone SIPs.

Comment: Ohio made several comments on USEPA's February 3, 1983 proposal. Ohio noted that this proposal had failed to propose rescinding the attainment deadline extension for Geauga County, even though it proposed to rescind the extension for the rest of the Cleveland area. Ohio provided details on the transportation control measure program in the Cleveland area and asked for emission reduction credits from these measures as part of the area's growth margin. Ohio noted that the 1982 air quality data in the Cincinnati area support that area's projection of attainment by the end of 1982.

Response: USEPA is now retaining the attainment deadline extension for the Cleveland area, including Geauga County. The State has made progress on implementing its transportation control measures, although some questions remain on the enforceability of its commitments to adopt further such measures. However, Ohio's comments on the growth margin have been made moot by the finding that the present SIP does not provide any growth margin by the projected 1982 attainment date. Finally, although 1982 air quality qualitatively suggest the possibility that attainment would occur by the end of 1982, the 1983 and 1984 air quality data more clearly and directly indicate that attainment by the end of 1982 did not occur.

V. Final Action

USEPA is taking final action to: 1) Disapprove the Ohio demonstration that the Cleveland area SIP assured attainment of the ozone NAAQS by December 31, 1982; and 2) disapprove the demonstrations by Ohio and Kentucky that the Cincinnati areas SIP assured attainment of the ozone NAAQS by December 31, 1982, and 3) deny Ohio's request for rescission of the 5-year extension of the attainment deadline extension for the Cinncinnati and Cleveland areas.

In anticipation of submissions in the near future, USEPA is not at this time taking final action disapproving the Ohio and Kentucky SIPs for failure to meet the Part D requirements of the Clean Air Act as specified in USEPA's January 22, 1981, Federal Register (e.g., Reasonably Available Control Technology for all subject stationary sources, Transportation Control Measures, Inspection and Maintenance Program and a demonstration that the SIP provides for attainment as expeditiously as practicable but no later than December 31, 1987). Today's action will not result in the new imposition of any Clean Air Act restrictions.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

The Regulatory Flexibility Act, 5 U.S.C. 600 et seq., requires the Agency to prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 5 U.S.C. 605(b), this requirement may be waived if the Agency certifies that the rule will not have a significant economic effect on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over population of less than 50,000. As previously indicated in this notice, there are no new construction nor federal funding restrictions associated with today's action. Any future construction or funding restrictions that might result from Ohio's or Kentucky's failure to submit an approvable ozone SIP for either the Cleveland or Cincinnati area would be the subject of a separate rulemaking action and the impact, if any, on small entities would be discussed therein. Additionally, this action does not impose any further requirements (other than those already in effect) in Ohio or Kentucky. Therefore, we conclude that today's action will not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Intergovernmental relations Air pollution control, Ozone, Hydrocarbons.

Dated: March 15, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

Subpart S—Kentucky

2. Section 52.930 is amended by adding paragraph (b)(2) as follows:

§ 52.930 Control Strategy: Ozone

* * * * *

(b) *Part D—Disapproval*

(1) * * *

(2) Northern Kentucky (Boone, Campbell and Kenton Counties) ozone nonattainment area. The demonstration of attainment of the ozone standards by the end of 1982, submitted as part of Kentucky's ozone SIP revision on June 23, 1982, (draft), September 27, 1982, and November 3, 1982, is disapproved. As a result, the extension of the attainment deadline until December 31, 1987, remains in effect, along with the related requirement to submit a SIP revision

addressing all requirements of Part D extension areas.

Subpart KK—Ohio

1. Section 52.1885 is amended by adding paragraphs (e) and (f) as follows:

§ 52.1885 Control Strategy: Ozone

* * * * *

(e) *Disapproval*—On May 24, 1982, (draft) and September 23, 1982 (final) the State of Ohio submitted a revised demonstration that attempted to show attainment by December 31, 1982, of the ozone National Ambient Air Quality Standards (NAAQS) for the Cincinnati urban area. Supplemental information was submitted on November 4, 1982, and March 16, 1983. The May 24, 1982, submittal also requested that the 5-year extension for meeting the NAAQS requested on July 29, 1979, and granted by USEPA on October 31, 1980, and June 18, 1981, be rescinded for this area. The Cincinnati urban area for ozone consists of Hamilton, Butler, Clermont and Warren Counties. The attainment demonstration and rescission request are disapproved by USEPA.

(f) *Disapproval*—On June 9, 1982, (draft) and November 9, 1982 (final) the State of Ohio submitted a revised demonstration that attempts to show attainment by December 31, 1982, of the ozone National Ambient Air Quality Standards (NAAQS) for the Cleveland urban area. Supplemental information was submitted on March 8, 1983, and March 16, 1983. The June 9, 1982, and March 8, 1983, submittals also requested that the 5-year extension for meeting the NAAQS requested on July 29, 1979, and granted by USEPA on October 31, 1980 and June 18, 1981 be rescinded for this area. The Cleveland urban area for ozone consists of Cuyahoga, Geauga, Lake, Lorain, and Medina Counties. The attainment demonstration and rescission request are disapproved by USEPA.

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[FR Doc. 86-6500 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 57

[OAR-FRL-2990-2]

Air Programs; Nonferrous Smelter Orders Covering the Period January 1, 1983 to January 1, 1988

AGENCY: Environmental Protection Agency.

ACTION: Correction of final rule.

SUMMARY: On February 15, 1985 (50 FR 6434-93), EPA promulgated regulations establishing the minimum required contents of primary nonferrous smelter orders (NSOs) under Section 119 of the Clean Air Act. This action corrects an error in the description of the test for eligibility for an NSO. It makes clear that a primary nonferrous smelter need only pass one of two alternative financial tests contained in the regulation to satisfy the financial eligibility requirements for an NSO.

EFFECTIVE DATE: This correction is effective March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Laxmi N. Kesari, Stationary Source Compliance Division (EN-341), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-2835.

SUPPLEMENTARY INFORMATION: Section 119 of the Clean Air Act provides for the issuance of nonferrous smelter orders (NSOs) to eligible primary smelters by either the States (with EPA approval) or by EPA. An NSO permits a smelter to defer complying with its State Implementation Plan (SIP) emission limitation for sulfur dioxide during the period of the order. EPA promulgated regulations implementing section 119 on February 15, 1985. The preamble to those regulations discusses at length eligibility criteria and minimum contents for an NSO.

An important element in demonstrating eligibility for an NSO is a showing of the adverse financial impact the smelter would suffer if it had to install constant controls to meet its SIP emission limitations by the SIP compliance date. The regulations establish two alternative tests based on which this showing can be made, the Rate of Return test and the Profit Protection Test. These tests are discussed at length in the preamble to the final regulations.

EPA's intention has always been that a smelter could satisfy the financial eligibility requirements by passing either of the two tests. In its proposal of the NSO regulations on September 19, 1983 (48 FR 42050-42100), EPA explained the rationale for this. EPA concluded that the two tests would establish financial criteria sufficient to prevent closure of a smelter or other unreasonable economic consequences due to pollution control requirements, (see the discussion at 48 FR 42052-53). The Profit Protection Test was intended to serve as a safety valve for a smelter which could not pass the Rate of Return test but still would suffer unreasonable economic consequences in the form of a reduction of 50% or more in profits. (48 FR 42053) [See *Kennecott Corp.* v. *EPA*, 684 F.2d 1007 (D.C. Cir. 1982)].

Unfortunately, in one of the descriptions of the financial eligibility tests, in § 57.102(b)(3), the language appears to require a smelter to pass both financial tests to qualify for an NSO. This was clearly not EPA's intention. EPA's intention was correctly stated in Appendix A under 1.2.1 (NSO Eligibility Tests) where it states "[a]n applicant will determine financial eligibility for an NSO by passing at least one of the following two tests."

To correct this error, EPA is substituting the word "both" for "either" in § 57.102(b)(3). Because of the construction of that section, this will now correctly state that technology will be considered adequately demonstrated to be reasonably available, and thus the smelter will be ineligible for an NSO, only if it "fails" *both* tests.

EPA believes that this correction will not cause any disruption since affected parties have been interpreting the overall effect of EPA's regulations as EPA intended but this correction will eliminate the ambiguity now present.

Accordingly, FR Doc 85-3593 is corrected as follows:

§ 57.102 [Corrected]

Section 57.102(b)(3) is corrected by substituting the word "both" for the word "either."

Dated: March 17, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-6505 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[SW-9-FRL-2990-1]

Decision To Approve Revision of North Carolina's Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Approval of Substantial Program Revision to the North Carolina Hazardous Waste Program.

SUMMARY: North Carolina has requested approval of a substantial modification to its program. The State modified its regulatory authority in July 1985 by adopting the new definition of solid waste and resource recovery provisions which were promulgated by the Environmental Protection Agency (EPA) on January 4, 1985. EPA has reviewed North Carolina's adopted rules, considers them to be a substantial modification in accordance with § 271.21(b)(2) and believes that they are

equivalent to EPA's regulation. Thus, EPA is approving this revision to North Carolina's Hazardous Waste Program.

EFFECTIVE DATE: Approval of North Carolina's program revision shall be effective at 1:00 p.m., Eastern time on April 8, 1986.

FOR FURTHER INFORMATION CONTACT: Otis Johnson, Jr., Chief, Waste Planning Section, U.S. EPA, 345 Courtland Street, Atlanta, Georgia 30365 (404) 347-3016.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Under EPA's current regulations, changes to the Federal program can have a profound impact on States that either are applying for or have received Final Authorization. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. States must adopt these changes if the changes expand the scope of the Federal program or make the Federal program more stringent. The "moving target" regulation (40 CFR 271.21(e)) requires modification of approved State programs when EPA changes Parts 124, 260-266, and 270. Generally, modifications must be made within one year of the date of promulgation of each new regulation.

On January 4, 1985, EPA promulgated the new definition of solid waste at 50 FR 614. This rule deals with the question of which materials being recycled (or held for recycling) are solid and hazardous wastes. This rule also provides general and specific standards for various types of hazardous waste recycling activities, explains EPA's jurisdiction over hazardous waste recycling activities, and sets forth the regulatory regime for recycling activities subject to the Agency's jurisdiction. Technical corrections to the new definition were made on April 11, 1985, at 50 FR 14216 and on August 20, 1985, at 50 FR 33541.

A State with final authorization must either adopt regulatory analogues equivalent to and no less stringent than this new rule in its entirety or show through a revised Attorney General's Statement that its current regulations are equivalent to and no less stringent than EPA's new regulations.

B. North Carolina

The State received Final Authorization for RCRA on December 31, 1984. On July 25, 1985, the North Carolina Department of Human Resources requested approval from EPA to modify its program to include the new definition of solid waste. The State adopted the redefinition of solid waste on May 3, 1985, and it became effective under State law on July 1, 1985. North Carolina submitted a copy of the newly-adopted rules and a certification from the Attorney General that the State's new regulations were equivalent and no less stringent than the Federal regulation on July 25, 1985.

C. Public Comment

On December 30, 1985, EPA published its intent to approve this revision to North Carolina's Hazardous Waste Program at 50 FR 53159. The December 30 notice announced the availability of North Carolina's adopted rules and Attorney General's certification for public review and comment and the date of a public hearing on the application. The public hearing was not held since neither EPA nor the North Carolina Department of Human Resources received a significant show of interest in holding the hearing.

EPA has reviewed North Carolina's regulation and the Attorney General's certification and believes that it is equivalent to EPA's regulation. Consequently, EPA is approving this modification to North Carolina's program.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(B), I hereby certify that this authorization will not have a significant economic impact on a substantial number of entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental Relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C., 6912(a), 6926, 6974(b).

Dated: March 3, 1986.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 86-6502 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 60339-6039]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

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

ACTION: Emergency rule; correction.

SUMMARY: This document corrects sentences in the "EFFECTIVE DATES" paragraph and in the regulatory text of the emergency rule for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic published March 11, 1986, 51 FR 8325.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

In FR Doc. 86-5269, page 8325, column 1, the first sentence in the "EFFECTIVE DATES" paragraph is corrected to read: "In § 642.21, all of paragraph (a) except the last two sentences and paragraph (b) are suspended from March 6, 1986, through June 4, 1986, and new paragraphs (f), (g), and (h) are effective from March 6, 1986, through June 4, 1986".

Dated: March 20, 1986.

Joseph W. Angelovie,

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

§ 642.21 [Corrected]

The following correction in FR Doc. 86-5269 is also made: On page 8326, column 1, § 642.21 paragraph 3, the sentence is corrected to read "Section 642.21 is amended by suspending all of paragraph (a) except the last two sentences and paragraph (b) from March 6, 1986, through June 4, 1986, and . . . ."

[FR Doc. 86-6528 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 57
Tuesday, March 25, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Handling of Appeals From Agency Decisions in Freedom of Information Act Disputes

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Committee on Judicial Review of the Administrative Conference is reviewing a draft report concerning the desirability and feasibility of establishing an administrative tribunal to resolve Freedom of Information Act disputes. The report concludes that creation of such a tribunal, if properly structured, would be desirable, and outlines a proposed structure for the tribunal. The Committee is considering whether to develop possible recommendations on this subject to submit to the entire Conference membership, but seeks more information about the nature and extent of problems with the existing system of court review of FOIA disputes and about possible alternative remedies less elaborate than the creation of a tribunal. This notice informs interested persons of the availability of the draft report and invites these persons to submit views and information to aid the Committee in its consideration of this subject.

DATES: Comments must be received by April 24, 1986. Comments received after the deadline will be considered only to the extent feasible.

ADDRESSES: Comments should be submitted to Mary Candace Fowler, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037; a single copy is sufficient. All comments submitted to the Committee will be placed in a file available for public inspection during normal business hours (9:00 AM to 5:30 PM, Monday-Friday, except Federal holidays) at the Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Copies of the draft report can be obtained from the Conference at the same address.

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. Telephone: 202-254-7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference Committee on Judicial Review has received a draft report from Professor Mark Grunewald, Washington and Lee University School of Law, concerning the desirability and feasibility of creating an administrative tribunal for the resolution of Freedom of Information Act ("FOIA") disputes (and possibly Privacy Act and other public access disputes as well). The report reviews experiences under the existing system of court review of agency FOIA decisions through analysis of data on caseloads and case processing times as well as interviews with a wide range of people frequently involved in access disputes.

Professor Grunewald found that, of approximately 5000 FOIA disputes resolved at least partially against the requester at the agency level, an average of slightly more than 500 result in court actions each year. The court processing times for these cases vary widely; however, a figure which gives some indication of the time spent in court on FOIA cases is the median processing time for the middle 80% (excluding the 10% of cases completed most quickly and the 10% that took the longest to complete) of cases, which has averaged approximately 8 months over a 6-year period. The range of processing times for the 40% cases below the median was from 2 to 8 months; the range for the 40% above the median was from 8 to 27 months. These figures include cases settled and otherwise disposed of before trial as well as fully litigated cases. The report contains considerably more detailed data on case processing times as well as on the stages at which FOIA cases were terminated and their outcomes. It also includes a discussion of the approximate cost of FOIA court proceedings.

The report concludes that, if properly structured, an administrative tribunal could probably handle FOIA disputes with greater speed, cost-effectiveness, and specialized expertise than the federal courts. The report describes the possible structure, jurisdiction, and general procedural operation of such a tribunal.

In summary, the report proposes a tribunal that would be as independent as possible, established either as a separate entity or as an independent unit within an existing compatible agency such as the National Archives and Records Administration. The tribunal would have its own head, appointed by the President for a term of years, confirmed by the Senate, and removable only for cause, and a small staff of administrative law judges and conciliators. The tribunal would handle disputes submitted to it by consent of the parties or by certification from the federal district courts on motion of a party. The district courts would retain their existing jurisdiction to hear *de novo* FOIA cases not referred to the administrative tribunal. Decisions of the tribunal in cases referred to it would be reviewable in the federal courts of appeals, thus preserving their law-interpreting role. The appellate courts would apply the same standards of review to FOIA cases from the district courts and those from the tribunal.

The tribunal's procedure for handling disputes, while adversary, would be as informal, expeditious, and flexible as possible. The tribunal would also have a staff of one or more conciliators to aid in the informal resolution of FOIA disputes either before or after final agency decision on a request for documents. Professor Grunewald's report describes the proposed administrative tribunal more fully and outlines a possible limited pilot project for testing the feasibility of the tribunal idea.

The Committee is uncertain whether an administrative tribunal is necessary or advisable given the existing caseload and handling of FOIA disputes in the federal courts and would like to have more information before deciding whether to develop proposed recommendations for submission to the full Conference membership. In addition to the administrative tribunal proposal as outlined in Professor Grunewald's report, the Committee is considering the following possible alternatives: (1) Leave the existing system of court review as it is (this alternative would be

based on the conclusion that present levels of cost and delay are acceptable); or (2) strengthen (or modify, as necessary) existing mechanisms for facilitating the prompt resolution of FOIA disputes. The Committee has identified the following possibilities for strengthening existing mechanisms and wishes to consider them both separately and in various combinations: 1) increased use of magistrates for fact finding in federal court FOIA proceedings; 2) more frequent and effective use of the Office of the Special Counsel at the Merit Systems Protection Board, which is empowered under existing law to investigate requesters' complaints of alleged arbitary or capricious government withholding of information but has not bee used; 3) establishment within some other agency of a fairly independent ombudsman or conciliator's office to help resolve disputes either at the agency level or at the appellate level; 4) the creation of statutory incentives to encourage the Department of Justice to promote early settlement in cases where the government has a significant chance of losing and /or no strong legal or institutional interest in withholding the documents at issue; 5) development of guidelines for more efficient and expeditious handling of FOIA cases by the judiciary.

To aid in its deliberations, the Committee is seeking comments from interested members of the public, and particularly from those experienced in handling FOIA disputes either for requests of documents or for government agencies. The Committee is interested in views, and, whenever available, specific information on the nature and scope of problems with the existing system of court review and on the merits and feasibility of the various alternatives identified for resolving these problems (as well as any other remedial suggestions commenters may have). Comments focussing on the following questions would be particularly helpful:

(1) How significant are the problems of delay, expense, and consistency of decision making in FOIA litigation in the federal courts? Do these factors affect the settlement posture of parties to FOIA disputes, either at the agency level or at the court level? Do they prevent any significant number of requesters from bringing court proceedings seeking reversal of adverse agency decisions? Do they interfere with achievement of the purposes of the Freedom of Information Act?

(2) As noted above, a relatively small percentage of agency FOIA decisions adverse to the requester result in federal court litigation. What factors are most significant in producing this low rate of cases: cost of litigation, lack of continuing interest in the imformation sought (particularly in information whose value is time sensitive), requester satisfaction that the agency decision is probably correct? How might the existence of (a) an administrative tribunal providing a quicker and possibly less expensive review procedure; (b) an ombudsman's office; or (c) other measures affect the number of cases pursued beyond the agency level?

(3) Assuming the problems with the existing review system are significant enough to require some action, are any of the remedies suggested here likely to be effective in resolving them? Is an administrative tribunal of the type described by Professor Grunewald a necessary or advisable approach? Could modifications to existing FOIA dispute resolution mechanism, such as those identified above, provide adequate remedies more efficiently?

(4) Could the investigatory function now assigned to the Office of the Special Counsel of the Merit Systems Protection Board be developed into a useful ombudsman/conciliator function to resolve FOIA disputes? Would statutory changes in the description or agency placement of this function make it more effective? Does the fact that this investigatory function has never been used indicate a lack of promise in the ombudsman approach?

The Committee has not plans to consider other aspects of Freedom of Information Act law or procedure, such as the scope of exemptions or the basic procedure for handling FOIA requests at the agency level (except insofar as this procedure might be affected by the availability of an ombudsman/conciliator), and is not seeking comments on these issues at this time. The Committee will keep commenters informed of its future activities concerning this project.

List of Subjects in 1 CFR Ch. III

Administrative practice and procedure, Freedom of Information, Judicial review.

Dated: March 20, 1986

Richard K. Berg,

General Counsel.

[FR Doc. 86-6525 filed 3-24-86; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 235

Child Nutrition Program; Revision of Requirements Governing Availability of State Administrative Expense Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed Rule.

SUMMARY: The Food and Nutrition Service (FNS) is proposing to amend the regulations governing State administrative expense (SAE) funds to enable it to more effectively manage these funds. Under this proposal, the annual State agency administrative plan for the use of SAE funds would be integrated into the SAE funding process. As a result, each fiscal year State agencies would, upon FNS approval of their administrative plans, receive SAE funds equal to the lesser of the amount provided under the various SAE allocation formulas for the forthcoming year plus any amounts carried over from the current year or amounts requested and justified in their annual plans. It is proposed that the annual State agency administrative plans be broadened to cover State as well as SAE funds and be structured to address program needs. These plans could be amended at any time during the year to justify the need for additional available SAE funds or to reflect any other changes in funding or funding needs. FNS would monitor and assess the implementation of State agency administrative plans as an integral part of its ongoing management evaluation of State agencies. This proposed rule would also limit the number of annual SAE reallocations to one and would emphasize FNS's authority to sanction State agency SAE funds for failure to implement approved administrative plans.

DATE: To be assured of consideration, comments must be postmarked on or before May 27, 1986.

ADDRESS: Comments should be sent to Lou Pastura, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written submissions will be available for public inspection in Room 509, 3101 Park Center Drive, Alexandria, Virginia, during regular business hours (8:30 a.m. to 5:00 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Pastura at the address listed above or call (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

The proposed rule has been reviewed under Executive Order 12291 and has been classified as not major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more, nor will it result in major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions. Furthermore, it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant adverse economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), additional recordkeeping and reporting requirements contained in § 235.5(b) and (c) and in § 235.7(b) of this proposed rule are subject to review and approval by the Office of Management and Budget (OMB). Current recordkeeping and reporting requirements for Part 235 were approved by OMB for use through January 31, 1986. (OMB Nos. 0584–0067 and 0584–0319).

This activity (SAE) is listed in the Catalog of Federal Domestic Assistance under No. 10.560 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983.)

Background

Section 7 of the Child Nutrition Act (CNA) of 1966, as amended, requires the Secretary of Agriculture to make SAE funds available to the States for costs incurred by them in administering the National School Lunch Program (NSLP), School Breakfast Program (SBP), Special Milk Program (SMP), and Child Care Food Program (CCFP). SAE funds may also be used to assist in the administration of the Food Distribution Program (FDP) in schools and institutions which participate in these programs. SAE funds were first made available to States during the second half of Fiscal Year 1969. In Fiscal Year 1970 the first full year in which SAE funds were available to States, $2.75 million was appropriated for this purpose. This has grown to an appropriation level of $49 million for Fiscal Year 1986. Under a 1978 amendment to section 7(a) of the CNA (section 7, Pub. L. 95–627), the annual SAE appropriation level was authorized at not less than one and one-half percent of the appropriate Child Nutrition Program funds (NSLP, SBP, SMP, and CCFP) expended in the second preceding fiscal year. Under a 1981 amendment to section 7(e) of the CNA (section 815, Pub. L. 97–35), SAE funds allocated to each State in any fiscal year remain available for expenditure for 2 years.

Each fiscal year, FNS allocates SAE funds to State agencies in accordance with formulas prescribed in section 7 of the CNA and in 7 CFR Part 235. Before the funds are placed in the State agency's Letter of Credit, a State agency must have an SAE plan approved by FNS, describing the planned use of SAE funds. Although FNS reviews and approves the SAE plans, State agencies receive their specific SAE formula allocation amounts regardless of the amount of SAE funds budgeted for in the approved plan. As a result, some State agencies have more SAE funds available to them than budgeted in their plans while others could use more than the formula allocation amounts to meet their administrative needs. To compensate for this, FNS has conducted an annual reallocation of SAE funds. (Although the regulations authorize two reallocations a year, in recent years only one had been conducted.) State agencies with excess SAE funds are requested to return such funds to FNS while State agencies requesting additional SAE funds are required to submit appropriate justification. Although FNS encourages the return of unneeded funds, State agencies often elect to hold such funds for an additional year, as permitted by section 7(e) of the CNA. For example, in Fiscal Year 1985, only Fiscal Year 1984 funds were returned to FNS for reallocation; no Fiscal Year 1985 funds were returned. The carryover of unneeded funds by a number of State agencies hinders FNS's ability to deal with legitimate requests from other State agencies for additional SAE funds through the reallocation process. Since the reallocation occurs late in the fiscal year, typically in June or July, State agencies requesting additional funds often ask for current year funds which will remain available for expenditure through the next fiscal year. Due to State planning, budgeting, and procurement requirements or for other reasons, a State agency may be unable to actually expend reallocated prior year funds by the end of the current fiscal year even though it has a justified need for additional funds.

There is increasing concern within and outside of FNS over the substantial total amount of SAE funds currently being carried over by State agencies. The substantial SAE carryover suggests to some that SAE may be overfunded or may be managed inefficiently.

To address these concerns, FNS is currently developing a system to strengthen the management of SAE funds while seeking to improve overall State agency administration of the Child Nutrition Programs. This system will be a cyclical process which will integrate all aspects of SAE (planning, allocation of funds, disbursement of funds, use of funds, reallocation, State support, and carryover) rather than considering them separately. This integrated process will place FNS in a better position to determine: (1) That State agencies have sufficient but not excessive amounts of SAE funds to manage the Child Nutrition Programs, (2) that State agencies are using the funds effectively and (3) that State maintenance of effort requirements are met.

A key element in the SAE management system that is crucial to achieving the system's objective is the annual SAE plan. However, in order to become part of the management system, the existing plan must be broadened to become a comprehensive administrative plan. That is, it must: (1) Address available State as well as Federal funds to be used for Child Nutrition Program administration; (2) reflect individual State agency needs; and (3) provide sufficient information for effective plan evaluation, approval and monitoring by FNS. This proposal is concerned primarily with revising existing SAE plan provisions to meet these requirements.

Under this proposed rule, a State ageny's annual SAE plan would become more than simply a plan for using SAE funds. The plan would, in addition to providing staffing pattern information, address State as well as Federal funds and would project budget needs by program, activity, and cost category. This would enable FNS to better assess the need for and use of SAE funds within the State agency. Like the current plan, a State agency's administrative plan would be submitted to FNS for approval prior to the release of SAE funds to the State agency. However, the amount of SAE funds that would be made available for payment to the State agency in any fiscal year would be limited to the lesser of the amount

justified in the administrative plan for the year or the amount allocated to the State agency for the year plus any SAE funds being carried over into the year by the State agency. FNS would specify these limitations in the appropriate grant award documents for the State agency.

A State agency would be able to amend its administrative plan at any time during the fiscal year to justify the need for additional SAE funds up to the amounts allocated to it for the year plus carryover from the previous year. Amendments would be subject to the same review and approval process as the plan itself, and upon approval, would result in additional funds being made available to the State agency in its Letter of Credit. A State agency would also be required to amend its administrative plan to reflect any reduction in funding needs. In addition, a request from a State agency for reallocated SAE funds would also be treated as an amendment to its administrative plan. In connection with this, only one reallocation of SAE funds would be authorized annually under this proposal; current regulations authorize two such reallocations. FNS would make appropriate changes to the State agency's grant award document(s) upon approval of any amendment to the State agency's administrative plan.

This proposed rule further strengthens FNS management of SAE funds by requiring State agencies to implement their administrative plans to the exent practicable. Implementation of the plans would be assessed as an integral part of the management evaluation process. The proposed rule would emphasize that if FNS determines that a State agency has failed to implement its administrative plan (as amended), FNS would be authorized to recover, withhold or cancel payment of all or a portion of the State agency's SAE funds under the existing sanction provisions in § 235.11(b).

This proposal would also require State agencies to follow the matching and cost sharing provisions of OMB Circular A-102 and Departmental regulations (7 CFR Part 3015) in complying with the State maintenance of effort requirement for the receipt of SAE funds. Among other things, these provisions allow in-kind contributions to be counted toward meeting the matching or cost sharing provisions of Federal grant programs. However, since section 7 of the CNA requires States to maintain a level of *funding* out of State revenues for administrative costs in connection with specific child nutrition programs in order to receive SAE funds, this proposed rule would make it clear that in-kind contributions cannot be counted toward the maintenance of effort requirement. Furthermore, this proposal would require that each State ageny's annual administrative plan address all funds from State sources that will be applied toward the State maintenance of effort requirement for the fiscal year. State agencies would also be required to report on the use of these funds at the end of each fiscal year so as to ensure compliance with the maintenance of effort requirement.

Finally, this proposal would delete language restricting the amount of SAE funds which may be transferred from a State agency to a distributing agency and would make several nonsubstantive revisions to Part 235 to reflect current OMB Circulars as well as current FNS organizational designations and to define the acronym SAE.

List of Subjects in 7 CFR Part 235

Food assistance programs, National School Lunch Program, School Breakfast Program, Special Milk Program, Child Care Food Program, Food Distribution Program, Grants administration, Intergovernmental relations, Reporting and recordkeeping requirements, Administrative practice and procedure.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

Accordingly, it is proposed that Part 235 be amended as follows:

1. The authority citation for Part 235 continues to read as follows:

Authority: Secs. 7 and 10, Pub. L. 89-642, 80 Stat. 888, 889 (42 U.S.C. 1776, 1779), unless otherwise noted.

2. In Part 235, all references to "SPD" are changed to read "CND".

3. In § 235.2, paragraph (p-1) is removed, paragraph (b) is revised and paragraph (n), previously reserved, is added as follows:

§ 235.2 Definitions.

* * * * *

(b) "CND" means the Child Nutrition Division of the Food and Service of the U.S. Department of Agriculture.

* * * * *

(n) "SAE" means State administrative expense funds for State agencies under this part.

* * * * *

4. In § 235.4, paragraphs (c), (d) and (e) are removed, and paragraphs (f), (g), and (h) are redesignated (c), (d), and (e) respectively.

5. Section 235.5 is revised to read as follows:

§ 235.5 Payment to States.

(a) *Method of payment.* FNS will specify the terms and conditions of the State agency's annual grant of SAE funds in a grant award document and will make funds available for payment by means of a Letter of Credit issued in favor of the State agency. The total amount of a State agency's grant shall be equal to the sum of the amounts made available to such agency under § 235.4 plus or minus any adjustments resulting from the reallocation provisions under paragraph (d) of this section. The amount of SAE funds made available for payment to a State agency in any fiscal year shall be determined by FNS upon approval of the State agency's administrative plan for the fiscal year under paragraph (b) of this section. Funds shall not be made available before the State agency's administrative plan has been approved by FNS. However, if the plan has not been approved by October 1 of the fiscal year, FNS may advance SAE funds to the State agency, in amounts determined appropriate by FNS, pending approval of the plan.

(b) *Administrative plan.* Based on guidance provided by FNS, each State agency shall submit to FNS, by August 15, each year, a plan for meeting its administrative responsibilities under the National School Lunch Program, School Breakfast Program, Special Milk Program, Child Care Food Program, and Food Distribution Program in schools and child care institutions as applicable, for the upcoming fiscal year. The State agency's administrative plan shall include its staffing pattern for State level personnel and, if applicable, system level supervisory and operating personnel, and school level personnel; a budget for the forthcoming fiscal year showing projected amounts (combined SAE and State funds) by program, activity, and cost category, and a breakdown of the total funds budgeted by fundings source, i.e., funds from state sources and funds provided under this part; the total forthcoming fiscal SAE allocation; and the estimated total SAE carryover from the current fiscal year. As applicable, activities shall include, but not be limited to, applications and agreements, training, supervisory and technical assistance, program monitoring, processing and payment of claims for reimbursement, commodity processing, other food distribution functions, Federal reporting, and Federal audit requirements. State agencies shall refer to Office of Management and Budget Circular A-87, Attachment B to establish cost categories. In accordance with Office of Management and Budget

Circular A-102, Attachment F. Such Budgets shall include not only the projected expenditures of State funds for the forthcoming fiscal year of the State agency (as required above), but also all projected expenditures of other divisions of the State that will be applied to the State's maintenance of effort requirement under § 235.11(a) of this part. FNS shall approve a state agency's administrative plan if it determines that the plan is consistent with program needs. In approving a State agency's administrative plan, FNS shall establish the amount of SAE funds to be made available for payment to the State agency in the forthcoming fiscal year. This amount shall be equal to the lesser of the amount of SAE funds justified in the administrative plan or the total amount allocated to the State agency under § 235.4 for the forthcoming fiscal year plus any funds to be carried over from the current fiscal year grant. To the extent practicable, State agencies shall implement their approved administrative plans. FNS shall monitor State agency implementation of the plan through management evaluation, State agency reports submitted under this part, and through other available means. Failure of a State agency to substantially implement its approved administrative plan (as amended shall subject it to the sanction provision of § 235.11(b).

(c) *Amendments to the administrative plan.* A State agency may amend its administrative plan at any time during the fiscal year to justify the need for additional SAE funds up to the total amount allocated under § 235.4 plus any funds carried over from the prior fiscal year grant. Any such amendment must be approved by FNS before additional SAE funds are made available for payment to the State agency. State agencies shall also amend their administrative plans to reflect any other changes in funding or funding needs.

(d) *Reallocation of funds.* As determined by FNS, but no earlier than March 1 and no later than May 1 of each year, each State agency shall submit to FNS a State Administrative Expense Funds Reallocation Report (FNS-525) on the use of SAE funds. At such time, a state agency may also use the FNS-525 to amend its administrative plan to request additional funds in excess of the amounts allocated under § 235.4 and carried over from the previous fiscal year. Based on this information, FNS shall request the return of and shall reallocate, as it determines appropriate, any funds allocated to State agencies in current fiscal year which will not be expended in the following fiscal year and any funds carried over from the prior fiscal year which will not be expanded in the current fiscal year.

(e) *Return of funds.* Each State agency shall return to FNS any funds made available through its Letter of Credit under this part which are unexpended at the end of the fiscal year following the year for which such funds were allocated. Release of funds by the State agency shall be made as soon as practicable, but in any event, not later than 30 days following demand by FNS.

6. In § 235.6:

a. Paragraphs (a) and (a-1) are redesignated as (a-1) and (a-2) respectively, and a new paragraph (a) is added to read as follows:

b. The words "Federal Management Circular 74-4 (32 CFR Part 255)" in paragraph (b) are changed to read "Office of Management and Budget Circular A-87".

c. The last sentence of paragraph (c) is removed.

§ 235.6 Use of funds.

(a) Funds allocated under this part and 7 CFR Part 225 shall be used by the State agency for administrative costs incurred by it in connection with the programs governed by 7 CFR Parts 210, 215, 220, 225, 226, and 250 of this title. Funds allocated under § 235.4, paragraphs (a) and (b) and 7 CFR Part 225 shall be used by the State agency for the program(s) for which allocated, except that the State agency may transfer up to ten percent of the funds allocated for any such program(s) to other such program(s). For each fiscal year, funds made available to a State agency under this part remain available for obligation and expenditure by such State agency during the following fiscal year.

* * * * *

7. In § 235.7, paragraph (b) is amended by adding a sentence between the first and second sentences to read as follows:

§ 235.7 Records and reports.

* * * * *

(b) * * * Based on guidance provided by FNS, each State agency shall at the end of each fiscal year, also use the SF-269 to report on the use of State funds provided during the fiscal year to meet the State's maintenance of effort requirement under § 235.11(a) of this part. * * *

* * * * *

8. In § 235.11, paragraph (a) is amended by adding a sentence to the end of the paragraph to read as follows:

§ 235.11 Other provisions.

(a) * * * State agencies shall follow the provisions of Office of Management and Budget Circular A-102, Attachments F and G and 7 CFR Part 3015, Subparts G and H in identifying and documenting expenditures to meet the maintenance of effort requirement of this paragraph, however, in-kind contributions shall not be counted toward meeting the requirement.

* * * * *

Dated: March 19, 1986.

Robert E. Leard,

Administrator.

[FR Doc. 86-6437 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of marketing policy.

SUMMARY: This notice sets forth a summary of the 1985-86 marketing policy for Valencia oranges grown in Arizona and designated part of California. The marketing policy was submitted by the Valencia Orange Administrative Committee which functions under the marketing order covering California-Arizona Valencia oranges. The marketing policy contains information on crop and market prospects for the 1985-86 season.

DATE: Written suggestions, views, or pertinent information relating to the marketing of the 1985-86 California-Arizona Valencia orange crop will be considered if received by April 8, 1986.

ADDRESS: Interested persons are invited to submit written statements in duplicate to: Docket Clerk, Room 2069-S, F&V, AMS, U.S. Department of Agriculture, Washington, DC 20250. Such submissions should reference the date and page number of the **Federal Register** and will be made 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, telephone (202) 447-5053. Growers and handlers of Valencia oranges may obtain a copy of the marketing policy directly from the Valencia Orange Administrative Committee. Copies of the marketing

policy are also available from the U.S. Department of Agriculture.

SUPPLEMENTARY INFORMATION: Pursuant to § 908.50 of the marketing order covering Valencia oranges grown in Arizona and designated part of California (Marketing Order No. 908), the Valencia Orange Administrative Committee, hereinafter referred to as the "committee", is required to submit a marketing policy to the Secretary of Agriculture prior to recommending regulations for the ensuing season. The order authorizes volume and size regulations applicable to fresh shipments of Valencia oranges to domestics markets including Canada. Export shipments of oranges and oranges utilized in the production of processed orange products are not regulated under the order.

The committee has formulated a marketing policy for the 1985–86 marketing season. The marketing policy is intended to inform the Secretary of Agriculture and persons in the industry of the committee's plans for recommending regulation of shipments during the marketing season and the basis therefore. The committee evaluates market conditions and makes recommendations to the Secretary of Agriculture as to the quantity of Valencia oranges that can be shipped each week to domestic outlets without disrupting markets. Under certain conditions, the committee may recommend size regulations applicable to fresh domestic shipments.

In its 1985–86 marketing policy, the committee projected the California-Arizona Valencia orange crop at 41,800 cars (1,000 cartons at 37½ pounds net weight each). Last year's production was recorded at 56,196 cars. The production area is divided into three districts. The current estimates by district (with last year's production in parentheses) are as follows: District 1—17,000 cars (20,085); District 2—20,300 cars (32,249); and District 3—4,500 cars (3,862).

It is expected that orange sizes will be larger than average in Districts 1 and 2 and somewhat smaller than average in District 3. Fruit quality is expected to be good.

The committee estimates that shipments to domestic fresh market outlets, including Canada, will account for 20,400 cars. Last year a total of 23,860 cars were shipped to domestic markets. Fresh export shipments are expected to total 11,000 cars compared to 12,898 cars last year. Processing and other disposition is now forecast at 10,400 cars compared to 19,438 cars last year.

Limited shipments of Valencia oranges began in February. Shipments are expected to finish in early November. The committee has formulated a schedule of estimated weekly shipments for the 1985–86 season.

When the marketing policy was formulated, indications were that Florida round orange production would be about 260,000 cars, 25 percent more than last year when a major freeze occurred. In Texas, production is estimated at 620 cars, a small fraction of crops produced prior to the 1983 freeze which eliminated all commercial production.

Section 908.50(a) of the marketing order states that:

> Prior to the recommendation for regulation for each prorate district, the committee shall submit to the Secretary its marketing policy for the ensuing season. Such marketing policy shall contain the following information: (1) The available crop of oranges in the prorate district, including estimated qualify and composition of sizes; (2) the estimated utilization of the crop, showing the quality and percentages of the crop that will be marketed in domestic, export, and by-product channels, together with quantities otherwise to be disposed of; (3) a schedule of estimated weekly shipments to be recommended to the Secretary during the ensuing season; (4) available supplies of competitive oranges in all producing areas of the United States; (5) level and trend of consumer income; (6) estimated supplies of competitive citrus commodities; and (7) any other pertinent factors bearing on the marketing of oranges. In formulating its marketing policy the committee should give due consideration to the onset and duration of prorate and size regulation. In the event that it becomes advisable substantially to modify such marketing policy, the committee shall submit to the Secretary a revised marketing policy setting forth the information as required in this paragraph.

Based upon information now available, season average equivalent fresh ontree grower returns for California-Arizona Valencia oranges (under Marketing Order No. 908) are likely to approach but not exeed the projected season average equivalent parity price for such oranges. As additional information on this price relationship becomes available, it will be reviewed by the Department of Agriculture in the light of program requirements and the provisions of the Agricultural Marketing Agreement Act of 1937.

In order to provide for public input, the Department will accept written views and information pertinent to the proposed marketing policy and the need for, or level of, regulation for the 1985–86 season. The Department is also concerned with developing criteria for determining when volume regulations should be terminated for the season. The committee, in recent years, has recommended such termination in each prorate district once 85 percent of that district's crop has been shipped. In its marketing policy, however, the committee states that criteria such as market conditions, total fruit supplies, and other factors could be more appropriate for making this decision. Interested persons are also invited to submit their views and comments on this issue.

Publication of this summary of the marketing policy is to provide information as to potential regulations. This action does not create any legal obligations or rights, either substantive or procedural.

List of Subjects in 7 CFR Part 908

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

PART 908—[AMENDED]

1. The Authority citation for 7 CFR Part 908 continues to read:

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

Dated: March 21, 1986.

Thomas R. Clark,

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

[FR Doc. 86-6572 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Parts 925 and 944

Grapes Grown in a Designated Area of Southeastern California, and Table Grapes Imported Into the United States; Proposed Maturity and Pack Requirements for the 1986 Season and Each Season Thereafter

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would: (1) Establish a specific maturity requirement for domestic and imported Flame Seedless grapes to improve the quality and flavor characteristics available to consumers; (2) Establish a lower net fruit weight requirement for wrapped grapes, than for unwrapped grapes; (3) Clarify that current packing holiday requirements also apply to grapes which are repacked; (4) Establish April 15 rather than May 1 as the effective date of the 1986 domestic regulations since the 1986 crop is expected to mature earlier; and (5) Establish an effective date of April 15 for all imports of grapes other than those

arriving by ocean transport and an effective date of May 1 for ocean transport arrivals. The changes applicable to domestic grapes were recommended by the California Desert Grape Administrative Committee, the body which works with the Department in administering the Federal marketing order for California desert grapes. The changes applicable to grapes offered for importation are necessary under § 8e of the Agricultural Marketing Agreement Act of 1937.

DATES: Comments due April 4, 1986.

ADDRESSES: Comments must be sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2069, South Building, Washington, D.C. 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, D.C. 20250, telephone (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "nonmajor" 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 22 handlers of desert grapes will be subject to regulation under the California Desert Grape Marketing Order and that approximately 50 importers of table grapes will be subject to any action under the table grape import regulation during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued during the season impose some costs on affected handlers and importers, the added burden imposed on small entities by this proposal, if present at all, is not significant.

The California desert grape regulations are effective on a continuous basis under the marketing agreement and Order No. 925 (7 CFR 925), regulating the handling of table grapes grown in a designated area of southeastern 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 California Desert Grape Administrative Committee, established under the order, locally administers the marketing program.

Table grape imports are covered under an import regulation which requires table grapes offered for importation to meet the same minimum grade, size, and maturity requirements as specified under the California desert grape regulation during the same specified period the domestic regulation is in effect. Grapes of the Emperor, Calmeria, Almeria, and Ribier varieties are exempt from import requirements because they are not regulated under the California desert grape regulation. The import regulation is effective under § 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601-674). Section 8e requires that when specified commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

The California and import table grape regulations are in effect continually from May 1 through August 15 each year unless a change is necessary to coincide with the beginning of the season because the crop is maturing earlier or later than May 1.

The California and import table grape regulations require table grapes to meet the minimum grade and size requirements of U.S. No. 1 Table grade as specified in the United States Standards for Grades of Table Grapes (European or Vinifera Types) except that grapes of the Flame Seedless variety are required to meet the "other varieties" standard for berry size (ten-sixteenths of an inch). In addition, fresh table grapes (domestic and imported) are required to meet the minimum maturity requirements for table grapes as specified in the California Administrative Code.

The California Desert Grape Administrative Committee met January 16, 1986, and recommended changes in the maturity and pack requirements for 1986 season table grapes grown in southeastern California. It also recommended that the proposed changes, described in detail below, be effective April 15, 1986, so that all 1986 season fresh grape shipments are subject to regulation. It is now expected that the domestic crop this year will mature earlier than usual; thus the effective date should be April 15 rather than the currently specified date of May 1.

The committee recommended that a higher minimum maturity standard be established for the Flame Seedless variety the same as that currently in effect for the Thompson Seedless grapes. Thompson Seedless grapes are the major commercial variety produced in California. Flame Seedless grapes are a relatively new variety and increasing in importance. The committee believes that the requirements for Flame Seedless grapes should be the same as those for Thompson Seedless grapes to help the Flame Seedless variety stay competitive with Thompson Seedless in the marketplace. Pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, this proposed change must also apply to Flame Seedless grapes offered for importation.

Currently, the Flame Seedless variety is considered mature if the grapes test not less than 16.5 percent soluble solids (i.e., the amount of sugar in the grape juice) or the juice contains soluble solids equal to or in excess of 20 parts to every part of acid contained in the juice. To ensure a more uniform flavor to consumers, the committee recommended that Flame Seedless grapes be considered mature if the juice of the grapes contains not less than 15 percent soluble solids, and the juice contains soluble solids equal to or in excess of 20 parts to every part acid contained in the juice. Under the proposal, if the soluble solids drop below the 15 percent level, the grapes would automatically fail to meet the maturity standards and no further maturity tests would be necessary. Currently, Flame Seedless grapes are considered mature with less than 15 percent soluble solids if they meet or exceed the 20 to 1 sugar to acid ratio.

The committee also recommended that the minimum net weight requirement for grapes packed in standard containers be relaxed from 22 pounds to 20 pounds, if such grapes are wrapped in plastic or paper, or packed in plastic bags prior to packing. Standard containers hold about 22 pounds of grapes. Due to the wrapping material fewer bunches of grapes are able to be packed in a standard container and handlers had a difficult

time meeting the 22 pound net fruit requirement last season. Hence, a 20 pound net weight requirement for wrapped grapes is proposed to be established.

The committee also recommended that packing holiday requirements established under the order also apply to repacked grapes. Handlers cannot handle grapes packed during such holidays. This is to avoid an oversupply of grapes early in the week. Under the order, grapes not meeting the marketing order standards when initially packed and inspected may be stored for repacking and reinspection. Some handlers picked more grapes than could be properly packed in the established five day week last season to avoid the packing holiday requirements. This action effectively defeated the purpose of the packing holiday requirements. The committee's recommendation is intended to stop handlers from circumventing these requirements.

Finally, the committee recommended that the 1986 domestic seasonal regulations become effective on April 15 rather than May 1 as currently provided in the continuing regulation. Field reports indicate that because of excellent grape growing weather conditions, growers are experiencing early bud-break which also indicates that the 1986 desert grape crop will be harvested and that the 1986 shipping season will begin earlier than usual.

Domestic grape producers vary their cultural practices early in the grape growing season to meet necessary requirements for grade, size, and maturity at harvest time. We understand that domestic producers and packers have been informed of these proposed changes in the seasonal regulations and of the April 15 effective date.

A similar change is necessary in the import regulation effective date pursuant to § 8e of the Agricultural Marketing Agreement Act of 1937. However, because the current continuing regulation specifies a May 1 effective date for imported grapes, importers and exporters have been conducting their operations on this basis. We also understand that between 20 and 30 ships with grapes are expected to arrive from Chile, the primary grape exporter to the United States, after April 15. It takes about two weeks for a ship to arrive from Chile, and exporters have not yet been given notice of any possible maturity or effective date change. Therefore, to afford exporters and importers ample notice of the proposed regulation changes, as required under section 8e, the Department is proposing that the imported regulated varieties of table grapes be subject to import requirements effective April 15, but that the effective date be delayed until May 1 for those arriving by ocean transport.

The Department recognizes that under the proposal, domestic and imported grapes will be competing in the marketplace for about two weeks with only domestic grapes subject to quality and inspection requirements. The Department further recognizes that if imports during this period are of substandard quality, that that could undermine the market for California desert grape producers. However, there is little possibility that the Chilean exporters will ship immature grapes this late in their season and destroy the quality product image California producers are attempting to attain.

It is hereby found and determined that a comment period of less than 30 days is appropriate. The California desert grape shipping season is expected to begin April 15, and any regulatory amendment should become effective as close to that date as possible.

List of Subjects

7 CFR Part 925

Marketing agreements, Grapes, California, Incorporation by reference.

7 CFR Part 944

Fruits, Imports, Grapes, Incorporation by reference.

PARTS 925 AND 944—[AMENDED]

1. The authority citation for 7 CFR Parts 925 and 944 continues to read as follows:

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

2. Therefore, §§ 925.304 and 944.503 are proposed to be revised to read as follows:

§ 925.304 California Desert Grape Regulation 6.

During the period April 15 through August 15, 1986, and May 1 through August 15 of each year thereafter, no person shall pack or repack any such grapes on any Saturday or Sunday, or on the Memorial Day or Independence Day holidays of each year, unless approved in accordance with paragraph (e) of this section nor handle any variety of grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, unless such grapes meet the following requirements:

(a) *Grade, size, and maturity.* Such grapes shall meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.887 through 51.912), except that grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch, and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in §§ 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of the California Administrative Code (Title 3).

(b) *Container and pack.* (1) Such grapes shall be packed in one of the following containers, which are new and clean, and which otherwise meet the requirements of Sections 1380.19(14), 1436.37, and 1436.38 of the California Administrative Code (Title 3):

(i) Sawdust pack with inside dimensions of 7¾ x 14 15/16 x 18⅝ inches, specified as container 28;

(ii) Polystyrene lug with inside dimensions of 6¾ x 12½ x 15⅜ inches, specified as container 38J;

(iii) Standard grape lug with dimensions in inches of 4½ to 8½ (inside) 13½ to 14½ (outside) x 16⅝ to 17½ (outside); specified as container 38K;

(iv) Polystyrene lug with inside dimensions of 6¾ or 8¼ x 11½ x 18⅛ inches, specified as container 38Q;

(v) Grape lug with dimensions in inches of 4 to 7 inches (inside) x 15¾ (outside) x 19 11/16 (outside), specified as container 38R;

(vi) Such other types and sizes of containers as may be approved by the committee for experimental or research purposes.

(2) The minimum net weight of grapes in any such containers, except for containers containing grapes packed in sawdust, cork, excelsior or similar packing material, or packed in bags or wrapped in plastic or paper, and experimental containers, shall be 22 pounds based on the average net weight of grapes in a representative sample of containers. Containers of grapes packed in bags or wrapped in plastic or paper prior to being placed in these containers shall meet a net weight requirement of 20 pounds.

(3) Such containers of grapes shall be plainly marked with the minimum net weight of grapes contained therein (with numbers and letters at least one-fourth inch in height), the name of the variety of the grapes and the name of the shipper.

(4) Such containers of grapes shall be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized

inspector, except that such requirement shall not apply to containers in the center tier of a lot palletized in a 3 box by a 3 box pallet configuration.

(c) *Organically grown grapes.* Organically grown grapes (defined to mean grapes which have been grown for market as natural grapes by performing all the normal cultural pratices, but not using any inorganic fertilizers or agricultural chemicals including insecticides, herbicides, and growth regulators, except sulfur) need not meet the minimum individual berry size requirements of this section if the following conditions and safeguards are met: (1) The handler of such grapes has registered and certified with the committee on a date specified by the committee the location of the vineyard, the acreage and variety of grapes, and such other information as may be needed by the committee to carry out these provisions; (2) each container of organically grown grapes bears the words "organically grown" on one outside end of the container in plain letters in addition to requirements specified under paragraph (b)(3) of this section.

(d) *By-product grapes.* The handling of grapes for processing (raisins, crushing and other by-products) is exempt from requirements specified in paragraphs (a), (b), and (c) of this section if the committee determines that the person handling such grapes has secured the appropriate permit or order from the County Agricultural Commissioner, and the by-product plant or packing plant to which the grapes are shipped has adequate facilities for commercial processing, grading, packing or manufacturing of by-products for resale.

(e) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing or repacking grapes on any Saturday or Sunday, or on the Memorial Day or Independence Day holidays of each year, may be modified or suspended to permit the handling of grapes provided such handling complies with procedures and safeguards specified by the committee.

(f) Certain maturity, container, and pack requirements cited in this regulation are specified in the California Administrative Code (Title 3) and are incorporated by reference. Copies of such requirements are available from the Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447-5053. They are also available for inspection at the office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they existed on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.**

(g) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is the governmental inspection service for certifying the grade, size, quality, and maturity of table grapes grown in the production area. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspections and certification of fresh fruits, vegetables, and other products (7 CFR Part 51); except that all persons who request such inspection and certification must provide adequate facilities in which the inspections may be conducted and also provide the necessary equipment and incidental supplies that are considered as standard requirements for providing fresh inspection under Federal or Federal-State inspection procedures.

§ 944.503 Table Grape Import Regulation 4.

(a) (1) Pursuant to § 8e of the Act and Part 944—Fruits, Import Regulations, the importation into the United States of any variety of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table grade, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.880 through 51.912), except that grapes of the Flame Seedless variety shall meet the minimum berry size requirement of ten-sixteenths of an inch, and shall be considered mature if the juice contains not less than 15 percent soluble solids and the soluble solids are equal to or in excess of 20 parts to every part acid contained in the juice in accordance with applicable sampling and testing procedures specified in §§ 1436.3, 1436.5, 1436.6, 1436.7, 1436.12, and 1436.17 of Article 25 of the California Administrative Code (Title 3).

(2) Such minimum maturity standards are incorporated by reference, copies of which are available from the Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447-5053. They are also available for inspection at the office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(3) All regulated varieties of grapes offered for importation during the 1986 season, other than those arriving by ocean transport, shall be subject to the grape import requirements effective April 15, 1986, through August 15, 1986, and ocean transport arrivals in 1986 shall be subject to these requirements during the period may 1, 1986, through August 15, 1986. In 1987, and every year thereafter, all regulated varieties of grapes offered for importation regardless of how they arrive shall be subject to the specified import requirements effective May 1 through August 15.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmetal inspection serivce for certifying the grade, size, quality, and maturity of table grapes that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of table grapes, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetable, and other products (7 CFR Part 51) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Requested Inspection and Certification (7 CFR 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of said lot born by the importer.

Dated: March 20, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 86-6539 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1403

Referral of Delinquent Debt Information to Credit Reporting Agencies

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth procedures under which the Commodity Credit Corporation (CCC) proposes to refer information with respect to delinquent debts owed to CCC to credit reporting agencies. This action, which is usual and customary in commerce, is being taken as an incentive for delinquent debtors to repay debts owed to CCC.

DATE: Comments must be received by April 24, 1986, in order to be assured of consideration.

ADDRESS: Send comments to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Dale R. Phillips, Claims Specialist, Fiscal Division, ASCS, U.S Department of Agriculture, P.O. Box 2415, Washington, DC 20013, (202) 447-4039.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in conformance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major." It has been determined that the provisions of this proposed rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, productivity, innovation, or in the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

The titles and numbers of the Federal Domestic Assistance Programs to which this proposed rule applies are: Commodity Loans and Purchases, 10.051; Cottom Production Stabilization, 10.052; Dairy Indemnity Program, 10.053; Feed Grain Production Stabilization, 10.055; Storage Facilities and Equipment Loans, 10.056; Wheat Production Stabilization, 10.058; Rice Production Stabilization, 10.065; Grain Reserve Program, 10.067; as listed in the Catalog of Federal Domestic Assistance.

Background

CCC makes loans, guarantees, and payments and enters into contracts in connection with its activities under which various individuals, organizations and entities become indebted to CCC. At the close of fiscal year 1985 the amount of delinquent debt owed to CCC exceeded $168,000,000.

CCC has authority under section 4(k) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(k)) to make final and conclusive settlement and adjustment of any claims by or against the corporation. As an aid in effective debt management, CCC proposes to submit information with respect to delinquent debts owed to CCC to credit reporting agencies. This policy would be consistent with customary business practices of the private sector, the Federal Claims Collection Standards (FCCS), 4 CFR 102.5, and Office of Management and Budget (OMB) Circular A-129.

The Debt Collection Act of 1982 (Act) (Pub. L. 97-365) amended section 3 of the Federal Claims Collection Act (FCCA) (now codified at 31 U.S.C. 3711(f)) to authorize the head of an agency, in attempts to collect delinquent debts owed by an individual, to disclose information relating to such debts to a consumer reporting agency. The Act also amended the Privacy Act of 1974 (5 USC 552a(b)) to permit such disclosure of information with respect to an individual.

Under the proposed rule, information with respect to delinquent debts of individuals will be referred to consumer reporting agencies and information with respect to other delinquent debts will be referred to credit reporting agencies. In accordance with the position taken by OMB, which has the authority to issue guidelines and regulations for the implementation of the Privacy Act, farmers engaged in an entrepreneurial capacity will not be considered individuals.

In disclosing information with respect to delinquent individual debts, CCC will follow the due process requirements set forth in the FCCS. In disclosing information with respect to other delinquent debts to credit reporting agencies, CCC will afford such debtors notice and due process similar to that provided to individuals. Only that information directly related to the identity of the debtor and the history of the claim will be released. Debtor information will consist of the following: the debtor's name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor; the amount, status, and history of the claim, and the program under which the claim arose.

The public is invited to submit written comments with respect to this proposed rule to the Director, Fiscal Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, DC 20013. All written submissions will be made available for public inspection in Room 6094, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC, Monday through Friday, between 9:00 a.m. and 4:00 p.m. A comment period of 30 days on this proposed rule is provided in order to give interested parties time to comment and to make possible the early implementation of this policy as an aid in effective debt management.

List of Subjects in 7 CFR Part 1403

Commodity Credit Corporation, Credit reporting procedures, Delinquent debts, Credit.

Accordingly, it is proposed that the regulations at 7 CFR Part 1403 be amended as follows:

Proposed Rule

1. The authority citation for Part 1403 is revised to read as follows:

Authority: Sec. 4, Pub. L. 80-89, 62 Stat. 1070, as amended (15 U.S.C. 714b).

2. The Part heading of 7 CFR Part 1403 is revised to read as follows:

PART 1403—DELINQUENT DEBTS

3. Sections 1403.1 through 1403.6 are designated as Subpart A, and a new subpart heading is added before 7 CFR 1403.1 to read as follows:

Subpart A—Interest on Delinquent Debts

4. A new subpart B, consisting of §§ 1403.21 through 1403.32 is added following 7 CFR 1403.6 to read as follows:

Subpart B—Referral of Delinquent Debt Information to Credit Reporting Agencies

Sec.
1403.21 Purpose.
1403.22 Definitions.
1403.23 Determination of delinquency.
1403.24 Demand for payment.
1403.25 Notice of debtor.
1403.26 Subsequent disclosure and verification.
1403.27 Source of delinquent debt information.
1403.28 Information disclosure limitations.
1403.29 Attempts to locate debtor.
1403.30 Request for review of the indebtedness.
1403.31 Disclosure to credit reporting agencies.
1403.32 Request regarding information from a system of records.

Subpart B—Referral of Delinquent Debt Information to Credit Reporting Agencies

§ 1403.21 Purpose.

This subpart specifies the procedures that will be followed and the rights that will be afforded to debtors in connection with the reporting by Commodity Credit Corporation (CCC) to credit reporting agencies of information with respect to delinquent debts owed to CCC.

§ 1403.22 Definitions.

"Credit reporting agency" means (1) a consumer reporting agency as defined at 4 CFR 102.5(a), or (2) any entity which has entered into an agreement with CCC or the Agricultural Stabilization and Conservation Service (ASCS) to provide credit reporting services.

"Debt" and "claim" are deemed synonymous and are used interchangeably herein. The debt or claim is an amount of money, the total amount of which is in excess of $100, which has been determined by an appropriate agency official to be owed to CCC by an individual, organization or entity, except another Federal agency, State, local or foreign government or agencies thereof, Indian tribal governments, or other public institutions. The debt or claim may have arisen from loans, loan guarantees, overpayments, fines, penalties, or other causes.

"Delinquent debt" means: (1) any debt owed to CCC that has not been paid by the date specified in the applicable contract, agreement or initial notification of indebtedness and (2) any overdue amount owed to CCC by a debtor which is the subject of an installment payment agreement which the debtor has failed to satisfy under the terms of such agreement.

"Individual" does not include a farmer engaged in an entrepreneurial capacity.

"System of records" means a group of any records under the control of CCC or ASCS from which information is retrieved by the name of the individual, organization or other entity or by some identifying number, symbol, or other identification assigned to the individual, organization or other entity.

§ 1403.23 Determination of delinquency.

Prior to disclosing information to a credit reporting agency in accordance with this subpart, the claims official, or the designee of the claims official who has jurisdiction over the claim, shall be responsible for reviewing the claim and determining that it is valid and overdue.

§ 1403.24 Demand for payment.

The claims official (or designee) responsible for carrying out the provisions of this subpart with respect to the debt shall send to the debtor appropriate written demands for payment in terms which inform the debtor of the consequences of failure to make payment, in accordance with guidelines established by the Executive Vice President, CCC, and consistent with the Federal Claims Collection Standards at 4 CFR 102.2.

§ 1403.25 Notice to debtor.

(a) In accordance with guidelines established by the Executive Vice President, CCC, the claims official (or designee) responsible for disclosure of information with respect to the delinquent debts to a credit reporting agency shall send written notice to the debtor informing such debtor:

(1) Of the basis for the indebtedness;

(2) That the payment of the debt is overdue;

(3) That CCC intends to disclose to a credit reporting agency that the debtor is responsible for the debt and, with respect to an individual, that such disclosure shall be made not less than 60 days after notification to such debtor;

(4) Of the specific information intended to be disclosed to the credit reporting agency;

(5) Of the rights of such debtor to a full explanation of the claim and to dispute any information in the records of CCC concerning the claim;

(6) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and

(7) With respect to an individual, of the date on which or after which the information will be reported to the credit reporting agency.

(b) The content and delivery standards for demand letters and notices sent under this section shall be consistent with the Federal Claims Collection Standards at 4 CFR 102.2.

§ 1403.26 Subsequent disclosure and verification.

(a) CCC shall, within 30 days, notify each credit reporting agency to which the original disclosure of delinquent debt information was made of any substantial change in the condition or amount of the claim. A substantial change in condition may include, but is not limited to, notice of death, cessation of business, or relocation of the debtor. A substantial change in the amount may include, but is not limited to, payments received, additional amounts due, or offsets made with respect to the debt.

(b) CCC shall promptly verify or correct, as appropriate, information about the claim on request of such credit reporting agency for verification of any or all information so disclosed. The records of the debtor shall reflect any correction resulting from such request.

(c) CCC shall obtain satisfactory assurances in the Consumer Agreement with each consumer reporting agency to which information will be provided that the agency is complying with the provisions of all the laws and regulations of the United States relating to providing consumer credit information.

§ 1403.27 Source of delinquent debt information.

Information provided to a credit reporting agency on delinquent debts shall be derived from systems of records maintained by CCC or ASCS.

§ 1403.28 Information disclosure limitations.

CCC shall limit delinquent debt information disclosed to credit reporting agencies to:

(a) The name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor;

(b) The amount, status, and history of the claim; and

(c) The CCC program under which the claim arose.

§ 1403.29 Attempts to locate debtor.

Before disclosing delinquent debt information to a credit reporting agency, CCC shall take reasonable action to locate a debtor for whom CCC does not have a current address in order to send the notification which is required by § 1403.25 of this subpart.

§ 1403.30 Request for review of the indebtedness.

(a) Before disclosing delinquent debt information to a credit reporting agency, CCC shall, upon request of the debtor, provide for a review of the claim, including an opportunity for reconsideration of the initial decision concerning the existence of amount of the claim, in accordance with applicable administrative appeal procedures.

(b) Upon receipt of a timely request for review, as provided for in 7 CFR 780, CCC shall suspend its schedule for disclosure of delinquent debt information to a credit reporting agency until such time as a final decision is made on the request.

(c) Upon completion of the review, the reviewing official shall transmit to the debtor a written notification of the decision. If appropriate, notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to the credit reporting agency. The notification shall, if appropriate, also indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.

§ 1403.31 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Executive Vice President, CCC, the responsible claims official or designated manager of the system of records shall disclose to credit reporting agencies the information specified in § 1403.28.

(b) Information with respect to debts of individuals shall be reported to consumer reporting agencies and information with respect to all other debtors shall be reported to such credit reporting agencies which have entered into agreements with CCC or ASCS to perform credit reporting services.

(c) Disclosure of information to credit reporting agencies shall be made in accordance with §§ 1403.25(a)(3) and 1403.30 and shall be comprised of the information set forth in the initial determination or any modification thereof.

(d) This section shall not apply to disclosure of delinquent debts when:

(1) The debtor has agreed to repay the debt, and such agreement is still valid; or

(2) The debtor has filed for review of the debt and the reviewing official or employee has not issued a decision on the review.

§ 1403.32 Request regarding information from a system of records.

(a) Upon written request of a debtor, CCC shall:

(1) Notify a debtor if a system of records maintained by CCC or ASCS contains any record pertaining to such debtor and permit access by the debtor to such records;

(2) Review a request by a debtor for correction or amendment to a record; and

(3) Consider an appeal by a debtor whose request for correction or amendment has been denied under paragraph (2) of this section.

(b) All requests or appeals under this section shall be made in accordance with the rules set forth in the Secretary's regulations at 7 CFR §§ 1.110–1.123 and shall be submitted to the Director, Kansas City Management Office, ASCS/USDA, 8930 Ward Parkway, Kansas City, Missouri 64114.

Signed at Washington, DC on March 6, 1986.

Frank W. Naylor, Jr.

Acting Secretary.

[FR Doc. 86-6435 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AGL-5]

Proposed Alteration of Transition Area; Alexandria, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Alexandria, Indiana, transition area to accommodate an existing VOR Runway 27 Standard Instrument Approach Procedure (SIAP) to Alexandria, Indiana, Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before April 25, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-5, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The present transition area is being altered to accommodate an existing VOR Runway 27 SIAP. The alteration consists of a reduction to the existing transition area radius by 1 mile, and an 8 mile expansion to the east from the 5-mile radius with a 1.5 mile width each side of the 090° bearing.

This docket action is being processed simultaneously along with control zone/transition area alterations at Anderson and Muncie, Indiana, Docket Nos. 86-AGL-6 and 86-AGL-7, respectively.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those

comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near Alexandria, Indiana.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

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

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

2. By amending § 71.181 as follows:

Alexandria, IN

That airspace extending upward from 700 feet above the surface, within a 5 mile radius of Alexandria Airport (lat. 40°14'00" N., long. 85°38'15" W.) and within 1.5 miles each side of the 090° bearing from the airport, extending from the 5 mile radius area to 13 miles east of the airport excluding that portion which overlies the Anderson, Indiana, and Muncie, Indiana, transition areas.

Issued in Des Plaines, Illinois, on March 12, 1986.

Peter H. Salmon,

Acting Manager, Air Traffic Division.

[FR Doc. 86-6410 Filed 3-24-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-7]

Proposed Alteration to Control Zone and Transition Area in Muncie, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Muncie, Indiana, control zone and transition area to accommodate increasing turbojet operations at Delaware County-Johnson Field, Indiana.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before April 25, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-7, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The present control zone and transition area are being altered to accommodate increased utilization of the airport by turbojet aircraft. The control zone is being expanded to the southwest and north and is being reduced to the northwest. None of the airspace modifications will exceed 2-mile adjustment. The transition area radius being expanded 1.5 miles and all extensions are being deleted.

This docket action is being processed simultaneously along with control zone/transition area alterations at Alexandria and Anderson, Indiana, Docket Nos. 86-AGL-5 and 86-AGL-6, respectively.

Aeronautical maps and charts will reflect the area returned to a non-controlled status and will depict the new control zone and transition area for Muncie, Indiana, to enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or agruments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasons regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those

comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list of future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the designated control zone and transition area near Muncie, Indiana.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.171, *Control Zone*, and § 71.181, *Transition Area*, as follows:

§ 71.171 [Amended]

Muncie, IN

Within a 5-mile radius of Delaware County-Johnson Field (lat. 40°14'31" N., long. 85°23'47" W.); within 3 miles each side of the Muncie VORTAC 125 radial, extending from the 5-mile radius zone to 8.5 miles southeast of the VORTAC; within 3 miles each side of the Muncie VORTAC 014 radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; and within 3 miles each side of the Muncie VORTAC 321 radial, extending from the 5-mile radius zone to 8.5 miles northwest of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

§ 71.181 [Amended]

Muncie, IN

That airspace extending upward from 700 feet above the surface, within a 8.5-mile radius of Delaware County-Johnson Field (lat. 40°14'31" N., long. 85°23'47" W.).

Issued in Des Plaines, Illinois, on March 12, 1986.

Peter H. Salmon,
Acting Manager, Air Traffic Division

[FR Doc. 86-6412 Filed 3-24-86; 8:45 pm]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-6]

Proposed Alteration to Control Zone and Transition Area; Anderson, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Anderson, Indiana, control zone and transition area to accommodate increasing turbojet operations at Anderson Municipal Airport.

The intent of this action is to eliminate the extensions to the control zone and transition area.

DATE: Comments must be received on or before April 25, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-6, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The present control zone and transition area are being altered to eliminate all extensions of the control zone and transition area. The new control zone and transition area will consist of a 5-mile radius and a 8.5-mile radius, respectively. The extensions were found to be unwarranted in accordance with present control zone and transition area criteria and therefore are being eliminated.

This docket action is being processed simultaneously along with control zone/transition area alterations at Alexandria and Muncie, Indiana, Docket Nos. 86-AGL-5 and 86-AGL-7, respectively.

Aeronautical maps and charts will reflect the area returned to a non-controlled status and will depict the new control zone and transition area for Anderson, Indiana, to enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to §§71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to modify the designated control zone and transition area near Anderson, Indiana.

Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Part 71: Aviation safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

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

§§71.171 and 71.181 [Amended]

2. By amending Sections 71.171 and 71.181 as follows:

Control Zone

Anderson, IN

Within a 5-mile radius of Anderson Municipal Airport (lat. 40°06'32" N., long. 85°36'57" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Transition Area

Anderson, IN

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson Municipal Airport (lat. 40°06'32" N., long. 85°36'57" W.).

Issued in Des Plaines, Illinois, on March 12, 1986.

Peter H. Salmon,

Acting Manager, Air Traffic Division.

[FR Doc. 86-6411 Filed 3-24-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-10]

Proposed Alteration of Transition Area Rice Lake, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Rice Lake, Wisconsin transition area to accommodate a new VOR Runway 36 Standard Instrument Approach Procedure (SIAP) to Rice Lake Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before April 25, 1986

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-10, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The present transition area is being altered to accommodate a new VOR Runway 36 SIAP. The alteration consists of an 8.5 miles expansion to the south of the VOR from the 5 mile radius with a width of 3 miles each side of the VOR 174 radial.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition airspace area near Rice Lake, Wisconsin.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

§ 71.181 [Amended]

2. By amending Section 71.181 as follows:

Rice Lake, WI (Amended)

Add the words "; and within 3 miles each side of the Rice Lake VOR 174 radial extending from the 5 mile radius area to 8.5 miles south of the VOR." To the end of the present transition area description.

Issued in Des Plaines, Illinois, on March 12, 1986.

Peter H. Salmon,

Acting Manager, Air Traffic Division.

[FR Doc. 86-6414 Filed 3-24-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AGL-9]

Proposed Alteration of Transition Area, Bellaire, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Bellaire, Michigan, transition area to accommodate a new VOR Runway 2 Standard Instrument Approach Procedure (SIAP) to Antrim County Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATES: Comments must be received on or before April 25, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-9, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The present transition area is being altered to accommodate a new VOR Runway 2 SIAP. The alteration consists of a 27 miles expansion to the southwest of the airport from the 11 mile radius with a 4.75 miles width each side of the VOR 037 radial.

The development of the procedure requires that the FAA alter the designated airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will

enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition airspace area near Bellaire, Michigan.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that the proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety/Transition areas.

PART 71—[AMENDED]

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Admininstration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending Section 71.181 as follows:

Bellaire, MI

That airspace extending upward from 700 feet above the surface, within an 11 mile radius of Antrim County Airport (lat. 44° 59'19" N., long. 85° 11'54" W.) and within 3 miles each ide of the 198° bearing from the airport and extending from the 11 mile radius area to 14 miles south of the airport and within 4.75 miles each side of the Traverse City, MI VOR 037 radial, extending from the 11 mile radius to 27 miles southwest of the airport, excluding that portion which overlies the Traverse City, Michigan, transition area.

Issued in Des Plaines, Illinois, on March 12, 1986.

Peter Salmon,
Acting Manager, Air Traffic Division.

[FR Doc. 86-6413 Filed 3-24-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Dkt. 9192]

Prohibited Trade Practices; Decorating Products Dealers Association of Greater New York, Inc.; 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 Bayside, NY local affiliate of a wallcovering industry trade association, to cease any conduct having the effect of fixing prices, terms or conditions of sale of wallcoverings. Further, respondent would be prohibited from: (1) Coercing any seller or supplier of wallcovering to use or not use any prices, terms or conditions of sale, distribution methods or policy of choosing customers, and (2) assisting any affiliate or member who use any of the prohibited practices.

DATE: Comments must be received on or before May 27, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th Street and Pennsylvania Avenue NW., Washington DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/L-502, Edward F. Glynn, Jr., Washington, DC 20580. (202) 634-6608.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), 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 (FR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Trade practices, Wallcoverings.

Before Federal Trade Commission

[Docket No. 9192]

Agreement Containing Consent Order To Cease and Desist

In the matter of National Decorating Products Association, Inc., a corporation; Eastern Decorating Products Association, an unincorporated association; and Decorating Products Dealers Association of Greater New York, Inc., a corporation.

The agreement herein, by and between Decorating Products Dealers Association of Greater New York ("DPDA–NY"), a corporation, by its duly authorized officer, hereinafter sometimes referred to as respondent, and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent DPDA–NY is a corporation organized, existing and doing business under and by virtue of the laws of the state of New York, with its office and principal place of business located at 42–40 Bell Boulevard, Bayside, New York 11361.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act, *as amended*, and has filed answers to said complaint denying said charges.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. 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) any claim under the Equal Access to Justice Act.

5. This agreement shall not become a 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 will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding with respect to DPDA–NY.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

7. 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 § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondent, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding with respect to DPDA–NY, and (2) make information public in 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 decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right it might 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 in the agreement may be used to vary or to contradict the terms of the order.

8. Respondent has read the complaint and the order contemplated hereby. Respondent 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. 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 purposes of this order the following definitions shall apply:

A. "DPDA–NY" means the Decorating Products Dealers Association of Greater New York, Inc., its officers, directors, committees, representatives, agents, employees, successors and assigns.

B. "Wallcoverings" means flexible materials used to cover residential and commercial walls, such as simple wallpapers, vinyls, fabrics and foils.

II

It is further ordered that DPDA–NY, individually or in concert with any other person, directly or indirectly, or through any corporate or other device, shall cease and desist from:

A. Conduct having the purpose or effect of:

1. Fixing, maintaining, or stabilizing prices, terms or conditions of sale of wallcoverings;

2. Coercing any seller of wallcoverings to adopt, abandon, or refrain from adopting or abandoning any practice or policy concerning prices, terms or conditions of sale, or distribution methods or choice of customers.

B. Expressly or impliedly advocating, suggesting, advising, or recommending that any of DPDA–NY's members refuse to deal with any seller of wallcoverings on account of, or that any of DPDA–NY's members engage in any other act to affect, or to attempt to affect, the prices, terms or conditions of sale, or distribution methods or choice of customers of any seller of wallcoverings.

C. Publishing or circulating the results of any survey of, or otherwise identifying, prices, terms or conditions of sale, or distribution methods or choice of customers of any seller of wallcoverings in order to coerce, compel or induce any seller of wallcoverings to adopt or abandon or to refrain from adopting or abandoning any practice or policy concerning prices, terms or conditions of sale, or distribution methods or choice of customers.

D. Aiding or assisting any affiliates of the National Decorating Products Association or NDPA members in engaging in any of the acts prohibited by this Part II.

III

It is further ordered that this Order shall not be construed to prevent DPDA–NY from providing information or its members' views to other sellers of wallcoverings, provided, however, that the information or views are not presented in a manner constituting an actual or threatened refusal to deal.

IV

It is further ordered that DPDA–NY shall:

A. Within 30 days following service of this Order, mail a copy of this Order to each of its members.

B. Within 60 days following service of this Order, publish this Order in an issue of *Decorating Logic* in the same type size normally used for articles in *Decorating Logic*.

C. For a period of three years provide each new DPDA–NY member with a

copy of this Order at the time the new member is accepted into membership.

D. Terminate for a period of one year the membership of any DPDA-NY member within 60 days after learning or having reason to believe that said member has engaged, after the date this Order becomes final, in any act or practice that, if engaged in by DPDA-NY, would be prohibited by Part II of this Order.

V

It is further ordered that DPDA-NY shall:

A. Within 60 days following service of this Order, file a written report with the Commission, setting forth in detail the manner and form in which it has complied with this Order. Thereafter, additional reports shall be filed at such other times as the Commission may, by written notice to DPDA-NY, require.

B. For a period of 3 years following service of this Order, maintain in its files copies of all correspondence received from, or sent to, sellers of wallcoverings, associations of sellers of wallcoverings, or NDPA affiliates or members, and make such copies available for inspection by representatives of the Federal Trade Commission upon written request.

C. Notify the Commission at least 30 days prior to any proposed change in DPDA-NY's organization or operations, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change that may affect compliance obligations arising out of this Order.

Analysis of Proposed Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent Order from the Decorating Products Dealers Association of Greater New York, Inc. ("DPDA-NY").

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 Complaint

A complaint was issued against DPDA-NY and two other affiliated trade associations on April 29, 1985, charging DPDA-NY with various acts alleged to constitute unfair methods of competition or unfair or deceptive acts or practices in violation of Section 5 of the FTC Act, *as amended.*

Count I of the Complaint charges that DPDA-NY has combined or conspired with others to restrain price competition in the sale of wallcoverings, to fix prices at the retail level, and to prevent discounting from manufacturers' suggested retail prices by suppressing information concerning suggested prices.

Count II of the Complaint charges that DPDA-NY and others have combined or conspired to restrain competition and fix or restrain the prices paid to wallcovering suppliers by retailers through

(1) Threatening, or urging members to threaten, to refuse to deal with suppliers that charge for cutting a double roll of wallcovering into a single roll;

(2) Refusing, or urging members to refuse, to pay such cutting charges;

(3) Publishing and circulating to suppliers and others letters stating or implying that its members would refuse to deal with suppliers imposing such a charge or urging members to refuse to pay cutting charges.

The Complaint charges that the conduct described in Counts I and II had the effect of fixing or stabilizing prices, restraining competition, and depriving consumers of the benefits of additional price, quality, and service competition in the purchase or sale of wallcoverings.

The Proposed Order

The proposed Order is narrowly drawn to prevent DPDA-NY from engaging in the alleged conduct without unduly infringing on its exercise of First Amendment rights or its ability to represent the legitimate business goals of its members. The proposed Order requires DPDA-NY to refrain from engaging in conduct having the effect of fixing prices, terms or conditions of sale of wallcoverings or coercing any wallcovering seller's choice of prices, terms or conditions of sale, distribution methods or choice of customers. The proposed Order also prohibits certain tactics that appear to have been utilized by DPDA-NY to implement the alleged illegal conspiracy. To ensure that the Order is not circumvented through actions of others conducted with the tacit approval of DPDA-NY, the Order prohibits DPDA-NY from aiding or assisting any affiliates of the National Decorating Products Association or its members in engaging in any of the acts prohibited under the Order. The Order also specifically states that it is not to be constructed as preventing DPDA-NY from providing information or its members' views to other sellers of wallcovering provided that it does not do so in a manner constituting an actual or threatened refusal to deal. Other provisions of the Order require DPDA-NY to (1) notify current members of the association as well as new members for a specified period and publish the Order in its newsletter; (2) terminate, for a one year period, the membership of any DPDA-NY member within 60 days after learning or having reason to believe that the member has acted in a manner that is forbidden to DPDA-NY under Part II of the Order; (3) file reports with the Federal Trade Commission detailing the manner in which it has complied with the Order; (4) for a limited period, maintain records of specified correspondence for possible inspection by the Commission; and (5) notify the Commission prior to any organizational changes that may affect its compliance with the Order.

The purpose of this summary 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.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-6446 Filed 3-24-86; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 9192]

Prohibited Trade Practices; National Decorating Products Association, Inc., et al.; 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 St. Louis, Mo. wallcovering industry trade association and its New England regional affiliate based in Westport, Conn., to cease any conduct having the effect of fixing prices, terms or conditions of sale of wallcoverings. Further, respondents would be prohibited from: (1) Coercing any seller or supplier of wallcovering to use or not use any prices, terms or conditions of sale, distribution methods or policy of choosing customers, and (2) assisting any affiliate or member who use any of the prohibited practices.

DATE: Comments must be received on or before May 27, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/L-502, Edward F. Glynn, Jr., Washington, DC 20580. (202) 634-6608.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), 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

Trade practices, Wallcoverings.

Before Federal Trade Commission

[Docket No. 9192]

Agreement Containing Consent Order To Cease and Desist

In the matter of National Decorating Products Association, Inc., a corporation; Eastern Decorating Products Association, an unincorporated association; and Decorating Products Dealers Association of Greater New York, Inc., a corporation.

The agreement herein, by and between National Decorating Products Association, Inc. ("NDPA"), a corporation, and Eastern Decorating Products Association ("EDPA"), an unincorporated association, by their duly authorized officers, hereinafter sometimes referred to as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent NDPA is a corporation organized, existing and doing business under and by virtue of the laws of the state of New Jersey, with its office and principal place of business located at 1050 North Lindbergh Boulevard, St. Louis, Missouri 63132.

2. Respondent EDPA is an unincorporated association with its office and principal place of business located at 10 Bay Street, Suite 134, Westport, Connecticut 06880.

3. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violation of section 5 of the Federal Trade Commission Act, *as amended*, and have filed answers to said complaint denying said charges.

4. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

5. Respondents waive:

(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) any claim under the Equal Access to Justice Act.

6. This agreement shall not become a 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 will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding with respect to NDPA and EDPA.

7. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission.

8. 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 Section 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding with respect to NDPA and EDPA, and (2) make information public in 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 decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might 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 in the agreement may be used to vary or to contradict the terms of the order.

9. Respondents have read the complaint and the order contemplated hereby. Respondents understand that once the order has been issued they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they 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 purposes of this Order the following definitions shall apply:

A. "NDPA" means the National Decorating Products Association, Inc., its officers, directors, committees, representatives, agents, employees, successors and assigns.

B. "EDPA" means the Eastern Decorating Products Association, its officers, directors, committees, representatives, agents, employees, successors and assigns.

C. "Wallcoverings" means flexible materials used to cover residential and commercial walls, such as simple wallpapers, vinyls, fabrics and foils.

II

It is further ordered that NDPA and EDPA, individually or in concert with any other person, directly or indirectly, or through any corporate or other device, shall cease and desist from:

A. Conduct having the purpose or effect of:

1. Fixing, maintaining, or stabilizing prices, terms or conditions of sale of wallcoverings;

2. Coercing any seller of wallcoverings to adopt, abandon, or refrain from adopting or abandoning any practice or policy concerning prices, terms or conditions of sale, or distribution methods or choice of customers.

B. Expressly or impliedly advocating, suggesting, advising, or recommending that any of NDPA's or EDPA's members refuse to deal with any seller of wallcoverings on account of, or that any of NDPA's or EDPA's members engage in any other act to affect, or to attempt to affect, the prices, terms or conditions of sale, or distribution methods or

choice of customers of any seller of wallcoverings.

C. Publishing or circulating the results of any survey of, or otherwise identifying, prices, terms or conditions of sale, or distribution methods or choice of customers of any seller of wallcoverings in order to coerce, compel or induce any seller of wallcoverings to adopt or abandon or to refrain from adopting or abandoning any practice or policy concerning prices, terms or conditions of sale, or distribution methods or choice of customers.

D. Aiding or assisting any affiliates of NDPA or NDPA members in engaging in any of the acts prohibited by this Part II.

III

It is further ordered that this Order shall not be construed to prevent NDPA or EDPA from publishing written materials or sponsoring seminars, or otherwise providing information or its members; views on topics including but not limited to cost accounting principles, and suggested prices and product identification numbers in wallcovering sample books to other sellers of wallcoverings, provided, however, that the information or views are not presented in a manner constituting a violation of any provision contained in Part II of this Order.

IV

It is further ordered that NDPA shall:

A. Within 30 days following service of this Order, mail a copy of this Order to each of its members.

B. Within 60 days following service of this Order, publish this Order in an issue of *Decorating Retailer* in the same type size normally used for articles in *Decorating Retailer*.

C. For a period of three years provide each new NDPA member with a copy of this Order at the time the new member is accepted into membership.

D. Terminate for a period of one year its affiliation with any affiliate organization within 60 days after learning or having reason to believe that said affiliate organization has engaged, after the date this Order becomes final, in any act or practice that, if engaged in by NDPA, would be prohibited by Part II of this Order.

V

It is further ordered that NDPA and EDPA shall:

A. Within 60 days following service of this Order, file a written report with the Commission, setting forth in detail the manner and form in which they have complied with this Order. Thereafter, additional reports shall be filed at such other times as the Commission may, by written notice to NDPA and EDPA, require.

B. For a period of 3 years following service of this Order, maintain in their files copies of all correspondence received from, or sent to, sellers of wallcoverings, associations of sellers of wallcoverings, or NDPA affiliates or members, and make such copies available for inspection by representatives of the Federal Trade Commission upon written request. However, NDPA and EDPA need not maintain copies of press releases received from sellers of wallcoverings.

C. Notify the Commission at least 30 days prior to any proposed change in NDPA's or EDPA's organization or operations, such as dissolution, assignment, or sale resulting in the emergency of a successor corporation or association, or any other change that may affect compliance obligations arising out of this Order.

Analysis of Proposed Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent Order from the National Decorating Products Association, Inc. ("NDPA"), and the Eastern Decorating Products Association ("EDPA").

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 Complaint

A complaint was issued against NDPA, EDPA and one other affiliated trade association on April 29, 1985, charging NDPA and EDPA with various acts alleged to constitute unfair methods of competition or unfair or deceptive acts or practices in violation of Section 5 of the FTC Act, *as amended*.

Count I of the Complaint charges that NDPA and EDPA have combined or conspired with others to restrain price competition in the sale of wallcoverings, to fix prices at the retail level, and to prevent discounting from manufacturers' suggested retail prices by suppressing information concerning suggested prices.

Count II of the Complaint charges that NDPA and others have combined or conspired to restrain competition and fix or restrain the prices paid to wallcovering suppliers by retailers through

(1) Threatening, or urging members to threaten, to refuse to deal with suppliers that charge for cutting a double roll of wallcovering into a single roll;

(2) Refusing, or urging members to refuse, to pay such cutting charges;

(3) Publishing and circulating to suppliers and others letters stating or implying that its members would refuse to deal with suppliers imposing such a charge or urging members to refuse to pay cutting charges.

The Complaint charges that the conduct described in Counts I and II had the effect of fixing or stabilizing prices, restraining competition, and depriving consumers of the benefits of additional price, quality, and service competition in the purchase or sale of wallcoverings.

The Proposed Order

The proposed Order is narrowly drawn to prevent NDPA and EDPA from engaging in the alleged conduct without unduly infringing on their exercise of First Amendment rights or their ability to represent the legitimate business goals of their members. Part II of the proposed Order requires NDPA and EDPA to refrain from engaging in conduct having the effect of fixing prices, terms or conditions of sale of wallcoverings or coercing any wallcovering seller's choice of prices, terms or conditions of sale, distribution methods or choice of customers. Part II of the proposed Order also prohibits certain tactics that appear to have been utilized by NDPA or EDPA to implement the alleged illegal conspiracy. To ensure that the Order is not circumvented through actions of others conducted with the tacit approval of NDPA or EDPA, Part II of the Order prohibits NDPA and EDPA from aiding or assisting any affiliates of NDPA or its members in engaging in any of the acts prohibited under the Order. The Order also specifically states that it is not to be construed as preventing NDPA or EDPA from providing information or their members' views to other sellers of wallcovering provided that they do not do so in a manner constituting a violation of any provision contained in Part II of the Order. Other provisions of the Order require NDPA to (1) notify current members of the association as well as new members for a specified period and publish the Order in its newsletter; and (2) terminate, for a one year period, its affiliation with any component group within 60 days after learning or having reason to believe that the component group has acted in a manner that is forbidden to NDPA and EDPA under Part II of the Order. Other provisions of the Order require NDPA

and EDPA to (1) file reports with the Federal Trade Commission detailing the manner in which they have complied with the Order; (2) for a limited period, maintain records of specified correspondence for possible inspection by the Commission; and (3) notify the Commission prior to any organizational changes that may affect their compliance with the Order.

The purpose of this summary 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.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-6447 Filed 3-24-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 86-8]

Truck Size and Weight; Specialized Equipment—Boat Transporters

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Public comment is requested by the Federal Highway Administration in regard to a request to designate boat transporters as specialized equipment under provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA).

DATE: Comment on this docket must be received on or before May 9, 1986.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 86-8, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. E.E. Rugenstein, Office of Motor Carrier Transportation (202) 426-5370 or Mr. David C. Oliver, Office of the Chief Counsel (202) 426-0825, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The National Marine Manufacturers Association and Celebrity Boats, Inc., of Benton, Illinois, have requested that FHWA classify "boat haulers" as "specialized equipment" within the meaning of 411(d) of the STAA, 49 U.S.C. 2311(d), and that, similar to the rules pertaining to automobile transporters, they be subject to Federal rather than State regulation on the National Network. The petitioners indicate that the needs of the boat transporter industry are analogous to the needs of the automobile transporter industry which was afforded "specialized equipment" status as part of the 1982 STAA. The petitioners also claim that vehicles used to transport boats operate in a manner similar to the operation of vehicles used for automobile transport. The granting of "specialized equipment" designation for boat transporters and treatment analogous to that afforded to automobile transporters would entail the establishment of Federal minimum length specifications that would preclude States from imposing length maximums that are less than the Federal limit on the National Truck Network established by 23 CFR 658.9; grant boat transporters the ability to carry cargo on the power unit of a truck combination; and grant front and rear allowances for an overhanging load. The advantages of "specialized equipment" designation include greater cargo-carrying capacity and more eonomical use of boat transporter equipment.

Celebrity Boats presently transports its boats to dealers on truck-trailer combinations. Overall combination vehicle lengths vary from 63 to 68 feet including overhang. A normal load consists of five boats. Such a truck-trailer combination using a 45-foot trailing unit exceeds maximum State length requirements in a number of States if the cargo overhangs at either the front or rear.

The FHWA is requesting public comments relative to this request. FHWA is primarily seeking comments and information on the following issues relating to boat transporters: maneuvering characteristics, safety, control, offtracking, crosswind effects, and the need for overall length limits on boat transporters. In addition, information on similarities and dissimilarities between boat transporters and auto transporters would be most helpful as would information on the consistency of truck configurations used for hauling boats. FHWA would also appreciate comments regarding the need to preempt current State regulation of this vehicle. Finally, FHWA would appreciate proposals regarding an actual definition and description of "boat transporters."

As indicated earlier in another advance notice of proposed rulemaking published in the **Federal Register** on December 27, 1985 (50 FR 52940), the FHWA is also considering the adoption of a definition for "specialized equipment." Comments regarding the types of vehicles that should be considered as "specialized equipment" as well as proposals regarding an actual definition are being sought.

Those desiring to comment on this advance notice of proposed rulemaking are asked to submit their views in writing. Comments will be available for public inspection both before and after the closing date at the above address. All comments received to this advance notice will be considered before further rulemaking action is taken.

The FHWA has determined, at this time, that this document contains neither a major rule under Executive Order 12291, nor a significant regulation under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared if necessary based upon the data received in response to this notice.

Based upon the information available to FHWA at this time, the action taken in this rulemaking will not have significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation and Federal Programs and activities apply to this program.

(23 U.S.C. 315, 49 U.S.C. 2311(d); 49 CFR 1.48)

List of Subjects in 23 CFR Part 658

Grant programs—transportation, Highways and roads, Motor carriers—size and weight.

Issued on March 18, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-6524 Filed 3-24-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 906

Permanent State Regulatory Program of Colorado

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a proposed program amendment to the Colorado Permanent Regulatory Program (hereinafter referred to as the Colorado program) received by OSMRE pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment submitted by the State on January 27, 1986, would establish a program for the training, examination and certification of blasters.

This notice sets forth the times and locations that the Colorado program and proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment and information pertinent to the public hearing.

DATE: Written comments relating to Colorado's proposed modification of its program not received on or before 4:00 p.m. on April 24, 1986, will not necessarily be considered in the Director's decision to approve or disapprove the proposed program modifications.

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business April 14, 1986. If no one requests to comment at the public hearing, the hearing will not be held.

If requested, a public hearing will be held on April 21, 1986, beginning at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand-delivered to: Mr. Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue NW., Albuquerque, New Mexico 87102. Telephone: (505) 766-1486.

If a public hearing is held, its location will be at: OSMRE Western Technical Center, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Mr. Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue NW., Albuquerque, New Mexico; Telephone: (505) 766-1406.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Colorado program, the proposed amendment, and a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requestor may receive free of charge, one copy of the proposed amendment by contacting the OSMRE Albuquerque Field Office.

Office of Surface Mining Reclamation and Enforcement, Room 5315A, 1100 L Street NW., Washington, DC 20240

Office of Surface Mining Reclamation and Enforcement, Albuquerque Field Office, 219 Central Avenue NW., Albuquerque, New Mexico 87102.

Colorado Mined Land Reclamation Division, Department of Natural Resources, Centennial Building, Room 423, 1313 Sherman Street, Denver, Colorado 80203.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than Albuquerque, New Mexico, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business April 14, 1986. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Colorado Program

Information regarding the general background on the Colorado State Program, including the Secretary's Findings, the disposition of comments and detailed explanation of the conditions of approval of the Colorado program can be found in the December 15, 1980 **Federal Register** (45 FR 82173-82214.) Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 906.11, 906.15 and 906.16.

III. Discussion of the Proposed Amendment

On January 27, 1986, Colorado submitted to OSMRE pursuant to 30 CFR 731.17, a proposed State program amendment for approval. The proposed amendment to the Colorado program would establish a program for the training, examination and certification of blasters.

On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter VII, Subchapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12

months after the publication date of OSMRE's rule, or March 4, 1984. In Colorado's case, the applicable date is 12 months after the publication date of OSMRE's rule, or March 4, 1984.

On January 9, 1984, Colorado advised OSMRE that it was unable to meet the March 4, 1984 deadline and requested an extension. On April 30, 1984, OSMRE granted Colorado an extension to September 4, 1984 (49 FR 18296). On August 3, 1984, Colorado requested an additional six month extension to submit a blaster training program. On November 26, 1984, OSMRE announced its decision to extend Colorado's deadline to March 4, 1985 (49 FR 46372).

In accordance with a third request from Colorado for additional time, OSMRE granted the State another extension until January 31, 1986, to submit its blaster training program (50 FR 50788). Colorado has submitted its proposed blaster training and certification program at this time in compliance with the deadline.

Briefly, the proposed regulations and cites are:

1. Colorado proposes to add the definitions of "blaster certification program" and "certified blaster" to its rules at section 1.04.

2. Colorado proposes to add Section 6 to establish rules for the training, examination and certification of blasters. Rule 6.01 would establish the general requirements of section 6. Rule 6.02 would establish the requirements for an examination and applicant experience. Proposed Rule 6.03 would establish blaster training requirements. Rule 6.04 would cover suspension or revocation of certifications.

Colorado also submitted explanatory material for the basis and purpose of the blaster certification program and for the training program.

Therefore, the Director, OSMRE is seeking public comment on the adequacy of the proposed blaster certification program. Comments should specifically address the issue of whether the proposed amendments are in accordance with SMCRA and are not less effective than its implementing regulations.

IV. Procedural Matters

1. Compliance with the National Environmental Policy Act.

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 129(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 906

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

Dated: March 18, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

[FR Doc. 86-6448 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 123

[OW-4-FRL-2991-4] Public Notice No. 86TN007

Water Pollution Control; State Program Requirements; Tennessee; Modification of the National Pollutant Discharge Elimination System (NPDES) Program To Regulate Federal Facilities and To Issue General Permits

AGENCY: Environmental Protection Agency.

ACTION: Public notice of proposed modification of the Tennessee NPDES program to regulate Federal facilities and issue general permits.

SUMMARY: The State of Tennessee has submitted a request to the Environmental Protection Agency (EPA) for approval of a NPDES program modification which provides authorization to regulate Federal facilities and issue general permits. The Division of Water Pollution Control of Tennessee's Department of Health and Environment administers the NPDES program. This notice provides for a comment period and an opportunity for interested persons to request a public hearing. The Regional Administrator will approve or disapprove Tennessee's request after taking into consideration all requests received according to EPA regulations.

DATE: Comments must be received on or before April 24, 1986.

ADDRESSES: Comments should be addressed to: U.S. EPA, Region IV, Water Management Division, 345 Courtland Street NE., Atlanta, Georgia 30365, Attn: Earline Hanson.

Tennessee's proposed program modification may be examined and copied at the following locations:

U.S. EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Tennessee Department of Health and Environment, Division of Water Pollution Control, 150 Ninth Avenue North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: James Patrick, Chief, Permits Section, U.S. EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404/347-3012 or Paul Davis, Deputy Director, Division of Water Pollution Control, Tennessee Department of Health and Environment, 150 Ninth Avenue North, Nashville, Tennessee, 615/641-2275.

SUPPLEMENTARY INFORMATION: EPA's delegation of the NPDES program to the State of Tennessee in December 1977 did not include authorization to regulate Federal facilities and issue general permits. Tennessee has 124 permitted dischargers that are Federal facilities. There are 18 facilities classified as majors and 106 minors. All of the procedures that are currently used by the State for non-Federal discharges will be followed in the permitting process, including public notification. EPA regulations at 40 CFR 122.28 provide for the issuance of general permits to regulate discharges of waste-water which result from similar operations, are of the same type wastes, require the same effluent limitations, require similar monitoring, and are more appropriately controlled under a general permit rather than by individual permits. There are several industrial categories which could appropriately be regulated by general permits. This would significantly reduce the backlog of unissued NPDES permits and reduce the admininstrative burdens and costs of issuing individual permits. For this reason, Tennessee has requested a modification of their NPDES

program to provide for issuance of general permits. The industrial categories which have been proposed at this time for coverage under the general permit program include:

1. Coal Mining,
2. Oil and Gas Pipeline and other Hydrostatic Testing,
3. Water Treatment Plant Filter Backwash, and
4. Storm Water Dischargers.

Each general permit would be subject to EPA review and approval as provided by 40 CFR 123.44(a)(2). Public notice and opportunity to request a hearing must also be provided for each general permit.

At the close of the comment period the Regional Administrator of EPA will decide to approve or disapprove of the proposed modifications to Tennessee's NPDES program. This decision will consider all written comments received during the comment period. Upon approval or disapproval of the request, the Regional Admininstrator will notify the State of Tennessee and publish notice in the **Federal Register**.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of Tennessee's program modifications does not alter the regulatory control over any industrial category. It provides a simplified administrative process. No new substantive requirements are established by this action. Therefore, since this Notice does not have a significant impact on a substantial number of small entities, a Regulatory Flexibility Analysis is not needed.

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

Dated: March 17, 1986.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 86-6501 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 431

General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project AZ/NV

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public workshop.

SUMMARY: The Bureau of Reclamation published proposed "General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project" in the **Federal Register** (51 FR 7833-7835) on March 6, 1986. This notice is to announce that a public workshop on the General Regulations will be held.

DATE: April 3, 1986, beginning at 10:00 a.m.

ADDRESS: The Lower Colorado Region Administration Conference Room, Nevada Highway and Park Street, Boulder City, Nevada.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCullough, Regional Supervisor of Power, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, (702) 293-8104.

SUPPLEMENTARY INFORMATION: In order to provide an opportunity for discussion of the General Regulations and exchange of information, the workshop will be held on April 3, 1986. A further purpose is to expedite completion of the General Regulations concurrent with the Western Area Power Administration (Western) "General Regulations for the Charges for the Sale of Power from the Boulder Canyon Project," which are the subject of a separate rulemaking by the Secretary of Energy, acting through the Administrator of Western under 10 CFR Part 904.

Dated: March 20, 1986.

Joseph B. Marcotte, Jr.,

Acting Commissioner.

[FR Doc. 86-6561 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-09-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 86-02; Notice 1]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes amendments to Safety Standard No. 108 that would allow motor vehicles including motorcycles to be equipped with Type A and Type E headlamps with a simplified mounting system intended to improve the incidence of correct headlamp aim. The headlamps would be designated Type G and Type H. The retaining ring and mounting ring assembly used to hold the headlamp in place would be eliminated. The new mounting system would incorporate integral mounting/aiming tabs on the body of the headlamp and permit the headlamp to attach directly to the aiming screws, and thus the car body. The notice implements the grant of a rulemaking petition submitted by Chrysler Corporation.

DATES: Comment closing date for the proposal is May 9, 1986. Any request for an extension of time in which to comment must be received not later than 10 days before that date (49 CFR 553.19). The effective date of the amendment is proposed to be July 1, 1986.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 8 a.m. to 4 p.m.).

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, DC 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On December 20, 1984, Chrysler Corporation petitioned the National Highway Traffic

Safety Administration for rulemaking to amend 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* to allow the use of a new mounting system it had developed for plastic headlamps. According to Chrysler, its new system reduces vehicle weight, is less costly, and simplifies headlamp aim and replacement. The headlamps and their mounting system continue to meet all applicable performance requirements of Standard No. 108, including vibration, corrosion, and photometrics. After review, the agency found that some clarifications were needed and asked the petitioner on March 19, 1985, to provide them. Chrysler replied on May 14, 1985, and after further review, the agency has decided to grant Chrysler's petition.

Until 1983, headlamp systems specified by Standard No. 108, consisted of sealed beam headlamps, rings for mounting and aiming purposes, and rings for retaining the headlamps. At that time Standard No. 108 was amended to permit the replaceable bulb headlamp in which the size and shape are left to the manufacturer's design and thereby vary significantly from that of traditional sealed beam lamps. Attendant with this styling freedom was the freedom to mount the lamps in whatever manner the designer chose though continuing to meet aim performance requirements. The method that has evolved is the placement of mounting tabs and ball joints on the rear of the reflector area. These integral mounting tabs attach to the screws and pivots which are the headlamp's aim adjustment mechanism, and the traditional metal mounting and retaining rings are eliminated.

Chrysler's petition expands the use of such integral mounting/aiming systems from replaceable bulb headlamps to two types of sealed beam headlamps. The new mounting system, which Chrysler calls the "Integral Mount Sealed Beam Headlamp System" eliminates the traditional metal retaining ring and metal mounting ring assembly used to hold a sealed beam headlamp in the vehicle. This simplified mounting system incorporates integral mounting/aiming tabs on the body of the sealed beam headlamp and permits the headlamp to attach directly to the aiming screws, and thus the car body. Chrysler wishes to introduce this integral mounting system on headlamps which are physically and functionally similar to the Type A, the four lamp, small rectangular, headlamp system, and the Type E, to two lamp, small rectangular headlamp system. Because the mounting system would be an integral part of the headlamp, the headlamps so manufactured would not be interchangeable with Type A or Type E sealed beam headlamps. Therefore, Type A and Type E headlamp systems incorporating such an integral mount would be considered a "new" system and would need a designation to differentiate them from standard Type A and Type E systems. Therefore, Chrysler has proposed Type G and Type H as the new designations.

The two major changes to the standard desired by Chrysler deal with the dimensional aspects of sealed beam headlamp design related to interchangeability features and the lamp system nomenclature. Chrysler proposes a new paragraph S4.1.1.46 to permit vehicles to be equipped with two Type 1G1, and two Type 2G1, or two Type 2H1 headlamps, designed to conform to the dimensional requirements (Figures 17 and 18) and the applicable performance requirements normally required of existing sealed beam headlamps and headlamp systems.

Chrysler attributes the following benefits to the simplified mounting system:

- Weight savings of one half pound per headlamp over existing plastic sealed beam headlamp systems. This will enhance fuel economy.
- Simplified headlamp replacement; only two screws (instead of four) required to remove the lamp and install its replacement.
- Lamp re-aim upon replacement is unnecessary if the aiming screws are not disturbed. Chrysler claims that, because it has specified a certain close relationship between the aiming pads and the mounting tabs/mounting ball, lamp aim will be unaffected by replacement.
- Simplified aiming process because fewer adjustments are necessary for proper aim than current aiming systems. Chrysler also claims that headlamp aiming, when re-aiming is necessary, will be performed better, faster and more willingly.

In support of some of those claims, Chrysler provided pertinent data. For example, to demonstrate the improvement in aimability, Chrysler performed an aim deviation test where integral mount lamp assemblies were exercised through the full range of aim adjustment, vertically or horizontally. Chrysler found that the mean vertical aim deviation with the integral mount system was 32 percent of that of the standard Chrysler headlamp mounting system and 14 percent of the mean deviation in the horizontal axis.

Chrysler has specified a close relationship in the aiming and mounting planes so that replacement lamps will achieve essentially the same aim as the originals. Chrysler offered data which shows the variability in aim when standard sealed beam lamps are replaced, and when integral mount sealed beam lamps are replaced. The standard lamps had a mean aim deviation of 1.262 inches horizontal and 3.374 inches vertical. The integral mount lamps had a mean air deviation of 0.799 inch horizontal and 0.879 inch vertical. This shows a replacement aim error improvement of 31 percent horizontal and 74 percent vertical for the samples tested. Based on the results, Chrysler believes that the new system can be replaced without reaim. This is in distinct contrast to most existing sealed beam lamps which often require reaim upon replacement.

To assure that proper interchangeability occurs with sealed beam headlamps incorporating the integral mounting system, Chrysler has submitted drawings which prescribe the necessary interchangeability dimensions and features (proposed Figures 17 and 18). These figures also require that the nearly-identical Type 2G1 and the 1G1, be designed with a different spacing on the mounting tabs to assure non-interchangeability since one is a lower beam lamp and the other is an upper.

Additionally, Chrysler states that the new headlamp systems will be designed to conform to all applicable tests as met by existing sealed beam lamps. This would include lamp retention, torque deflection, aim adjustment, inward force, connector tests, and photometry tests.

After review of the new mounting system, NHTSA has concluded that it offers the potential for improved headlamp aim at the time of the vehicle's manufacture with the possibility of no further reaim during the life of the vehicle, even upon headlamp replacement. This would provide an enhancement of motor vehicle safety, though the benefits cannot be quantified. To achieve these benefits, when the lamp systems go into production, they must achieve the same level of aim performance that the prototypes achieved. If production tolerances closely approximate those of the prototypes, the system will be likely to remain properly aimed over the vehicle's life, and fulfill Chrysler's expectations for it.

Therefore, NHTSA is proposing amendments of the nature Chrysler requested, however, the system would be a modification of all Type A and

Type E headlamps and not just those with plastic lenses. NHTSA is also proposing that Type G and type H be available for use on motorcycles, though benefits for that application are less clear.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures. The economic impact is expected to be minimal and therefore, a regulatory evaluation has not been prepared. Since use of the proposed headlamps is optional, the proposal would not impose additional requirements or costs but would permit manufacturers greater flexibility in use of headlighting systems.

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. the proposal may have a small positive effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would be reduced.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. I certify that this proposal would not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the proposal, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles, headlamps, and aimer adjusters will be minimally impacted.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Because of the necessity of vehicle, headlamp, and bulb manufacturers to plan production and distribution on an orderly basis, it is tentatively found that an effective date earlier than 180 days after issuance would be in the public interest.

The engineer and lawyer primarily responsible for this proposal are Richard Van Iderstine and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARD

The authority citation for Part 571 would continue to read:

Authority: 15 U.S.C. 1392, 1401, 1403, 1417; delegation of authority at 49 CFR 1.50 and 501.8.

§ 571.108—[Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.108 Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* be amended as follows:

1. In paragraph S4.1.1.34 the following would be added to the chart of headlighting types.

System	Headlamp type	Number of headlamps
*	*	*
7	Type 1Gl and type 2Gl	1 lamp each.
8	Type 2Hl	1 lamp.

2. New paragraphs S4.1.1.46 and S4.1.1.47 would be added to read:

S4.1.1.46—Instead of being equipped with a headlamp system specified in Table I and Table III, a passenger car, multipurpose passenger vehicle, truck, or bus manufactured on or after July 1, 1986, may be equipped with a Type G headlamp system consisting of two type 1Gl and two type 2Gl headlamps or a Type H headlamp system consisting of two type 2Hl headlamps that are designed to conform to the following requirements:

(a) The dimensions specified in figures 17 and 18.

(b) The requirements of SAE Standard J579c, "Sealed Beam Headlamp Units for Motor Vehicles," December 1978.

(c) The requirements of SAE Standard J580 AUG79, "Sealed Beam Headlamp Assembly," with the following exceptions:

(1) Sections 2.2, 2.3, 4, 6.3, and 6.5

(2) In place of Sections 6.3 and 6.5, the following requirements shall be met:

(i) *Retention Test.* The sealed beam unit shall remain held securely in its design position after 20 replacements.

(ii) *Torque Deflection Test.* The headlamp assembly to be tested shall be mounted in the designed vehicle position and set at nominal aim (0.0). A special adaptor (Figure 19) for the deflectometer of Figure 3 shall be clamped onto the headlamp assembly. A torque of 20 lb.-in. (2.25 N-m) shall be applied to the headlamp assembly though the deflectometer, and a reading on the thumb wheel shall be taken. The difference between the two readings shall not exceed 0.30 degree.

S4.1.1.47—The lens of each headlamp designed to conform with paragraph S4.1.1.46 shall be marked with the symbol "DOT" (either horizontally or vertically) which shall constitute certification that the headlamp conforms to applicable Federal motor vehicle safety standards, and with one of the following designations as appropriate:

(a) A lens for a headlamp, nominal size 100 x 165 mm, incorporating an upper beam only and meeting the upper beam performance requirement of SAE J579c December 1978, Table 2, Upper Beam, shall be labeled 1Gl.

(b) A lens for a headlamp, nominal size 100 x 165 mm, incorporating both an upper beam and a lower beam meeting the performance requirements of SAE J

579c December 1978, Table 2 Upper Beam and Lower Beam shall be labeled 2G1.

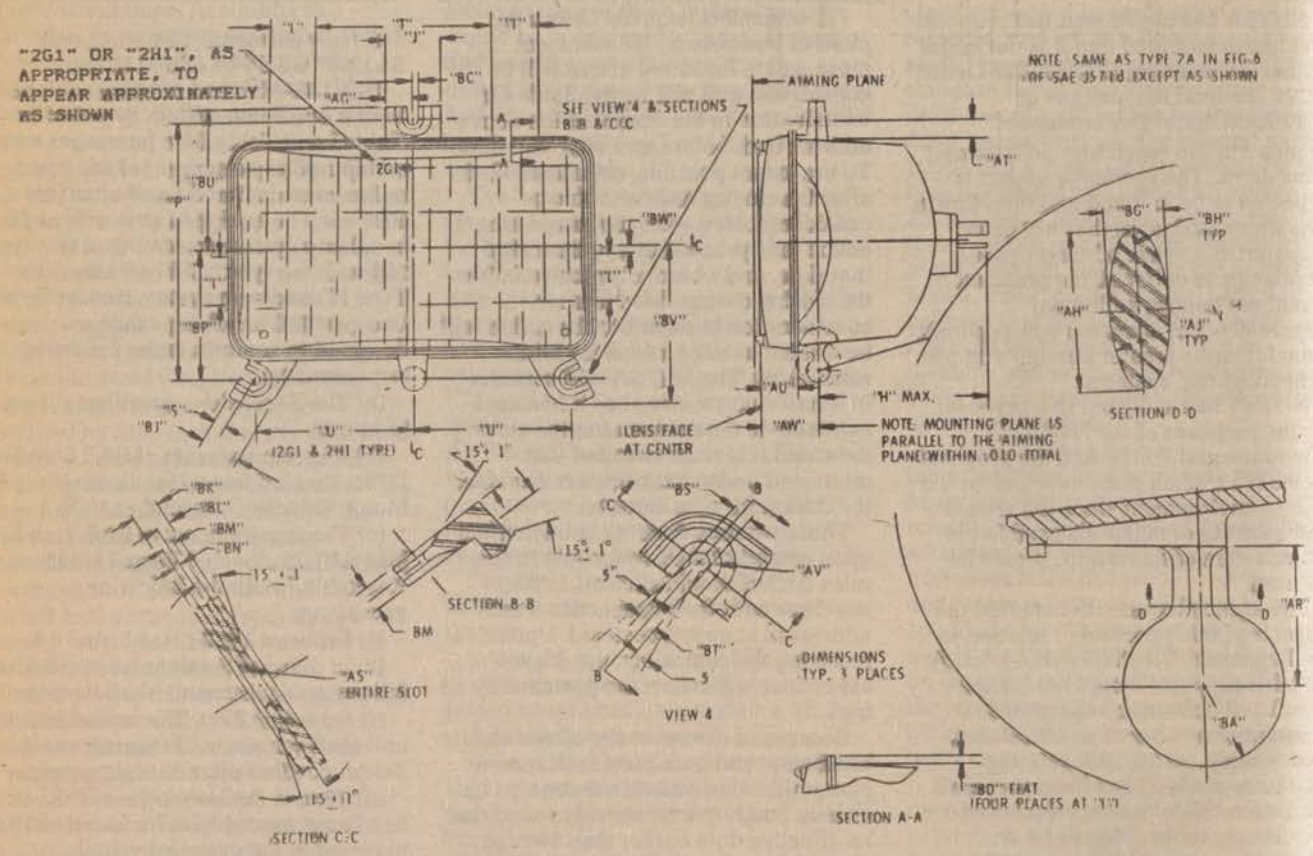
(c) A lens for a headlamp, nominal size 100 x 165 mm, incorporating both an upper beam and a lower beam meeting the performance requirements of SAE J 579c December 1978, Table 1 shall be labeled 2H1.

3. Figures 17, 18, and 19 would be added to § 571.108 as follows:

Issued on March 19, 1986.

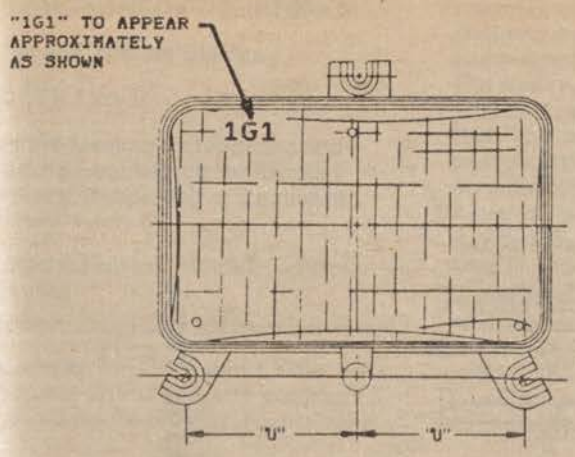
Barry Felrice,

Associate Administrator for Rulemaking.

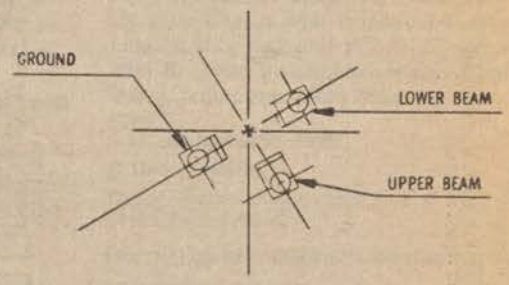


LETTER	IN	mm	LETTER	IN	mm
H MAX	3.499 ± 0.015	88.868 ± 0.381	BA	0.220 SPHER. R	5.59 SPHER. R
J	1.00 ± 0.015	25.40 ± 0.381	BC	0.197 ± 0.005	5.004 ± 0.127
L	1.25 MIN	31.75	BD	0.040 MIN	1.016 MIN
P	4.80 ± 0.026	121.92 ± 0.660	BG	0.150 ± 0.010	3.81 ± 0.254
S	0.250 ± 0.005	6.35 ± 0.127	BH	0.032R	0.813 R
T	2.26 ± 0.01	57.40 ± 0.25	BJ	0.720 ± 0.015	18.288 ± 0.381
U	2.82 ± 0.015	71.63 ± 0.381	BK	0.125 ± 0.005	3.175 ± 0.127
AG	0.500 ± 0.01	12.70 ± 0.25	BL	0.062 ± 0.005	1.575 ± 0.127
AH	0.410 ± 0.010	10.414 ± 0.254	BM	0.064 ± 0.004	1.62 ± 0.102
AJ	0.42 ± 0.010	10.668 ± 0.254	BN	0.032 ± 0.004	0.813 ± 0.102
AR	0.37 MIN	9.40 MIN	BP	2.45 ± 0.015	62.23 ± 0.381
AS	0.03R + 0.0, −0.03	0.76R + 0.0, −0.76	BS	0.178, 0.181 DIA	4.521, 4.597 DIA
AT	0.230 MIN	5.84 MIN	BT	0.174, 0.176	4.420, 4.470
AU	0.66 ± 0.040	16.76 ± 1.02	BU	2.73 ± 0.015	69.342 ± 0.381
AV	0.20 ± 0.01R	5.08 ± 0.254	BV	2.980 ± 0.015	75.692 ± 0.381
AW	1.100 ± 0.040	27.94 ± 1.02	BW	0.160 ± 0.01	4.06 ± 0.25

Fig. 17 - Dimensional Specifications for Integral Mount Sealed Beam Headlamps, Types G and H

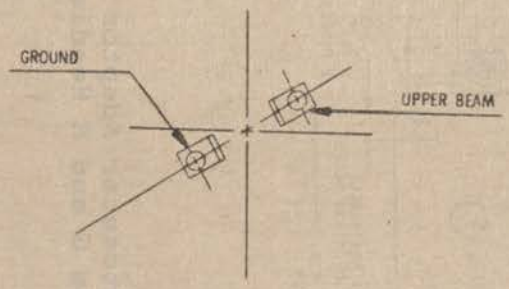


U (1G1 TYPE) = 2.57 ± 0.015

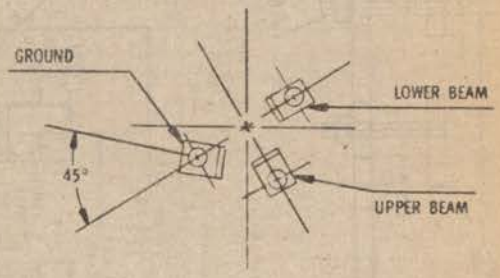


SAME ORIENTATION AS A TYPE 2A1.

NOTE: FOR TERMINAL DIMENSIONS SEE FIG. 6 OF SAE J571d.



SAME ORIENTATION AS A TYPE 1A1.



SAME ORIENTATION AS A TYPE 2E1.

Fig. 18 - Non-Interchangeability Configurations for Integral Mount Sealed Beam Headlamps, Types G and H

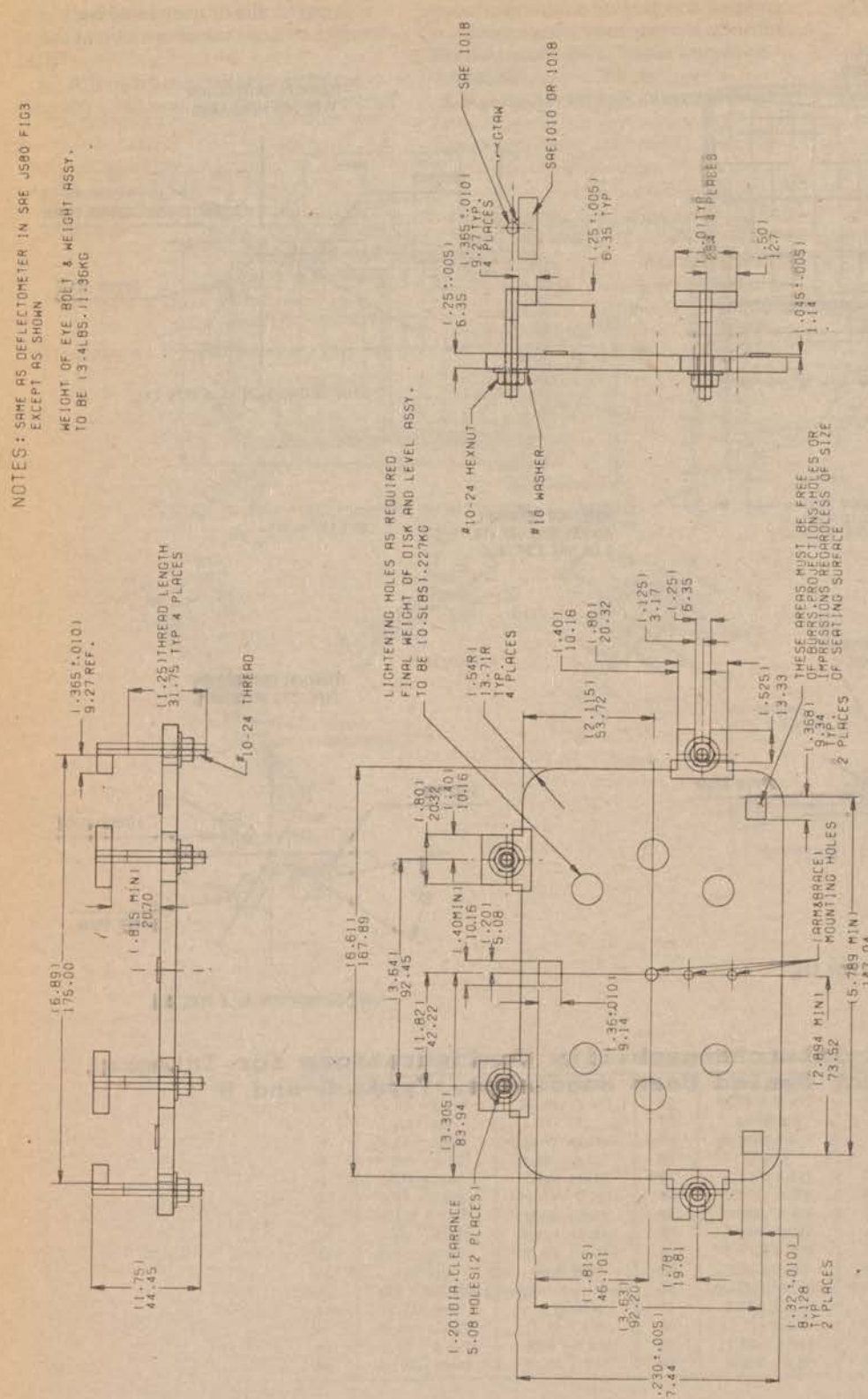


Fig. 19 - Deflectometer Adaptor for Torque Deflection Tests on Type G and H Headlamp Systems

[FR Doc. 86-6439 Filed 3-24-86; 8:45 am]

BILLING CODE 4910-59-C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Reporting and Sealing Regulations for Alaskan Natives, Reopening of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of Comment Period.

SUMMARY: On December 3, 1985, the Fish and Wildlife Service proposed regulations (50 FR 49577) concerning reporting and sealing requirements for marine mammals (polar bear, sea otter and walrus) taken by Alaskan Natives. The 90-day comment period for the proposed regulations closed on March 3, 1986. This notice reopens the comment period until March 31, 1986, in order to accommodate requests from several Alaskan Native villages.

DATES: Comments must be received not later than March 31, 1986.

ADDRESS: Written comments may be mailed or delivered in person to: Robert E. Gilmore, Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503. Comments and materials received in response to this proposal will be available for public inspection at the above address during normal working hours from 8:00 a.m. until 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Dale Taylor, Marine Mammal Project Leader, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503, telephone: (907) 786-3443.

Dated: March 11, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-6417 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 57
Tuesday, March 25, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs; Free and Reduced Price Meals and Free Milk; Income Eligibility Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 1986—June 30, 1987. These guidelines are used by schools, institutions and centers participating in the National School Lunch and School Breakfast Programs, Special Milk Program for Children, Child Care Food Program and by commodity schools. The annual adjustments are made pursuant to section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for increases in the Consumer Price Index.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Lou Pastura, Branch Chief, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This Notice has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the executive order. The action announced in the notice will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices and will not have a significant impact 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.

This Notice is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See 7 CFR 3015, Subpart V (48 FR 29112, June 24, 1983).

This Notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The Administrator of the Food and Nutrition Service has certified that this action will not have a significant adverse economic impact on a substantial number of small entities.

This Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction act of 1980 (44 U.S.C. 3501-3520).

Background

Pursuant to sections 9 and 17 of the National School Lunch Act (42 U.S.C. 1758 and 42 U.S.C. 1766), and sections 3 and 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1772 and 1773(e)), the Department annually issues the Income Eligibility Guidelines for *free and reduced price meals* in the National School Lunch Program (7 CFR Part 210), School Breakfast Program (7 CFR Part 220), Child Care Program (7 CFR Part 226), commodity schools (7 CFR Part 210), and the guidelines for *free milk* in the Special Milk Program (7 CFR Part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to serve *free meals* to all children from any household with income at or below *130* percent of the poverty guidelines. The Department also requires such schools and institutions to serve *reduced price meals* to all children from any household with income higher than *130* percent of the poverty guidelines, but at or below *185* percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program may, at local option, serve free milk to all children from any household with income at or below 130 percent of the poverty guidelines.

Definition of Income

"Income," as the term is used in this Notice means income before any deductions such as income taxes, social security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) social security; (5) dividends or interest on savings or bond or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

"Income", as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs due to prohibitions in the National School Lunch Act and the Child Nutrition Act of 1966.

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1986 through June 30, 1987. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the Federal income poverty guidelines by *1.30* and *1.85* respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12 respectively, and by rounding upward to the next whole dollar.

BILLING CODE 3410-30-M

INCOME ELIGIBILITY GUIDELINES

(Effective From July 1, 1986 to June 30, 1987)

Household size	Reduced Price Meals - 185%			Free Meals - 130%			Federal Poverty Guidelines		
	Year	Month	Week	Year	Month	Week	Year	Month	Week
48 CONTIGUOUS UNITED STATES, DISTRICT OF COLUMBIA, GUAM AND TERRITORIES									
1	9,916	827	191	6,968	581	134	5,360	447	104
2	13,394	1,117	258	9,412	785	181	7,240	604	140
3	16,872	1,406	325	11,856	988	228	9,120	760	176
4	20,350	1,696	392	14,300	1,192	275	11,000	917	212
5	23,828	1,986	459	16,744	1,396	322	12,880	1,074	248
6	27,306	2,276	526	19,188	1,599	369	14,760	1,230	284
7	30,784	2,566	592	21,632	1,803	416	16,640	1,387	320
8	34,262	2,856	659	24,076	2,007	463	18,520	1,544	357
For each additional family member add.	+3,478	+290	+67	+2,444	+204	+47	+1,880	+157	+37
ALASKA									
1	12,395	1,033	239	8,710	726	168	6,700	559	129
2	16,743	1,396	322	11,765	981	227	9,050	755	175
3	21,090	1,758	406	14,820	1,235	285	11,400	950	220
4	25,438	2,120	490	17,875	1,490	344	13,750	1,146	265
5	29,785	2,483	573	20,930	1,745	403	16,100	1,342	310
6	34,133	2,845	657	23,985	1,999	462	18,450	1,538	355
7	38,480	3,207	740	27,040	2,254	520	20,800	1,734	400
8	42,828	3,569	824	30,095	2,508	579	23,150	1,930	446
For each additional family member add.	+4,348	+363	+84	+3,055	+255	+59	+2,350	+196	+46
HAWAII									
1	11,415	952	220	8,021	669	155	6,170	515	119
2	15,411	1,285	297	10,829	903	209	8,330	695	161
3	19,407	1,618	374	13,637	1,137	263	10,490	875	202
4	23,403	1,951	451	16,445	1,371	317	12,650	1,055	244
5	27,399	2,284	527	19,253	1,605	371	14,810	1,235	285
6	31,395	2,617	604	22,061	1,839	425	16,970	1,415	327
7	35,391	2,950	681	24,869	2,073	479	19,130	1,595	368
8	39,387	3,283	758	27,677	2,307	533	21,290	1,775	410
For each additional family member add.	+3,996	+333	+77	+2,808	+234	+54	+2,160	+180	+42

BILLING CODE 3410-30-C

Authority: 42 U.S.C. 1758 Sec. 803 Pub. L. 97-35, 95 Stat. 521-535.

Dated: March 19, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 86-6436 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Determination Not To Designate Situk River in Alaska as a Wild and Scenic River

AGENCY: Forest Service, USDA.

ACTION: Notice of decision.

SUMMARY: As provided for by section 7(b)(i) of the Wild and Scenic Rivers Act (16 U.S.C. 1278(b)(i)), I have determined that the Situk River in Alaska, a congressionally designated study river, should not be included in the National Wild and Scenic Rivers System. This determination and the detailed study report upon which the recommendation for the Situk River is based were transmitted to the appropriate Committees of the United States Congress on April 26, 1985, and to the Environmental Protection Agency on August 19, 1985. In accordance with this determination, the Situk River is no longer subject to the provisions of section 7(b) of the Act relating to the construction of water resource projects.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86-6441 Filed 3-24-86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 11-86]

Foreign-Trade Zone 9—Honolulu, HI; Application for Subzone Relocation Dole Pineapple Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) on behalf of the State of Hawaii, grantee of Foreign-Trade Zone 9, by the Hawaii State Department of Planning and Economic Development, requesting authority to relocate Subzone 9C for the pineapple cannery of Dole Processed Foods Company, a division of Castle & Cooke, Inc., within his Honolulu, Hawaii Customs port of entry area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 14, 1986.

The Board approved subzone status for Dole's existing pineapple cannery on July 26, 1985 (50 FR 21210, 8-1-85). The 55-acre facility is located at 650 Iwilei Road, Honolulu.

A decision has been made to relocate the plant to a more rural location. The new site is in the Kipapa Gulch area of Central Oahu, southeast of Mililoni Town, and 2.3 miles north of the interchange of highways H-1 and H-2. The relocation would not result in a change in the nature of activity conducted under zone procedures, which allow Dole to take advantage of the same duty-free treatment on tin plate/tin cans that is available to foreign producers of canned pineapple.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; George Roberts, District Director, U.S. Customs Service, Pacific Region, 335 Merchant, 228 Federal Building, P.O. Box 1641, Honolulu, Hawaii 96808; and Colonel Michael M. Jenks, District Engineer, U.S. Army Engineer District Honolulu, Building 290, Fort Shatter, Hawaii 96858.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and post marked on or before April 24, 1986.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. Commerce, District Office, 4106 Federal Building, 300. Ala Moana Boulevard, P.O. Box 50026, Honolulu, Hawaii 96850.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th And Pennsylvania Avenue, NW., Washington DC 20230.

Dated: March 20, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-6527 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 10-85]

Foreign-Trade Zone 22—Chicago, IL; Application for Subzone Foster Loudspeaker Plant, Schaumburg

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Illinois International Port District, successor to the Chicago Regional Port District, grantee of Foreign-Trade Zone 22, requesting special-purpose subzone status for the automobile loudspeaker plant of Foster Electric (U.S.A.), Inc. (Foster), located in Schaumburg, Illinois, within the Chicago Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 25, 1986.

The 4.8-acre facility, located at 1751 Wilkening Court, Schaumburg, imports, inspects, tests, labels, and packages loudspeakers for automobile stereo systems. The company plans to expand operations to include light assembly, adding some domestic material to the foreign components. Most of the speakers are shipped to U.S. auto assembly plants. Some 11 percent are exported.

Zone procedures would allow Foster to export finished components without paying Customs duties on foreign materials. On the products shipped to U.S. auto assembly plants with subzone status, the company would be able to take advantage of the same duty rate available to importers of finished autos. The duty rate on the loudspeakers and components imported by Foster is 5.6 percent, whereas the rate for finished autos is 2.6 percent. The savings from subzone status would contribute to the cost-saving efforts at U.S. auto plants, helping U.S. facilities become more competitive with plants abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Richard Roster, District Director, U.S. Customs Service, North Central Region, 610 South Canal Street, Chicago, Illinois 60607; and Lt. Colonel Frank R. Finch, District Engineer, U.S. Army Engineer District Chicago, 219 S. Dearborn Street, Chicago, Illinois 60604.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 24, 1986.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 1406 Mid Continental Plaza Bldg., 55

East Monroe Street, Chicago, Illinois 60603.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230.

Dated: March 20, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-6526 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-570-503]

Antidumping; Steel Wire Nails From the People's Republic of China; Final Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that certain steel wire nails (nails) from the People's Republic of China (PRC) are being sold in the United States at less than fair value. The United States International Trade Commission (ITC) will determine within 45 days of publication of this notice whether these imports are materially injuring or threatening material injury to a United States industry.

EFFECTIVE DATE: March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Arthur J. Simonetti or Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; Telephone (202) 377-4929 or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Final Determination

Based on our investigation, we have determined that nails from the PRC are being sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The weighted-average margin of sales at less than fair value is listed in the "Suspension of Liquidation" section of this notice.

Case History

On June 5, 1985, we received a petition from Atlantic Steel Company, Atlas Steel & Wire Corporation, Continental Steel Corporation, Dickson Weatherproof Nail Co., Florida Wire & Nail Co., Keystone Steel & Wire Company, Northwestern Steel & Wire Co., Virginia Wire & Fabric Company, and Wire Products Company, filed on behalf of the domestic producers of nails. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioners alleged that imports of nails from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Act, and that these imports materially injure, or threaten material injury to, a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on June 25, 1985 (50 FR 27479). On July 31, 1985, the ITC detemined that there is a reasonable indication that imports of nails are materially injuring a U.S. industry (50 FR 31057).

On July 5, 1985, a questionnarie was presented to counsel for China National Metals and Minerals Import and Export Corporation (Minmetals), and on August 12, 1985, we received Minmetal's response. Minmetals submitted a supplemental response on August 22, 1985. On November 6, 1985, the preliminary determination was extended at the request of the petitioner.

We verified the respondent's questionnaire response on January 20 through January 24, 1986.

We conducted a public hearing on February 12, 1986.

As discussed under the "Foreign Market Value" section of this notice, we have determined that the PRC is a state-controlled-economy country for the purpose of this investigation.

Scope of Investigation

The products covered by this investigation are certain steel wire nails from the PRC. These nails are: one-piece steel wire nails as currently provided for in the *Tariff Schedules of the United States* (TSUS) under item numbers of 646.25 and 646.26, and similar steel wire nails of one-piece construction, whether at, over or under 0.065 inch in diameter as provided for in item number 646.3040 of the *Tariff Schedules of the United States Annotated* (TSUSA); two-piece steel wire nails provided for in item number 646.32 of the TSUS; and steel wire nails with lead heads provied for in item number 646.36 of the TSUS.

Because Minmetals accounted for all exports of this merchandise to the United States, we limited our investigation to that firm. We investigated approximately 70 percent of sales of nails for the period January 1, 1985 through June 30, 1985.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we calculated the purchase price of nails based on the C & F packed price to unrelated United States purchasers shown in the response submitted by Minmetals. We made deductions, where appropriate, for foreign inland freight and ocean freight. We used inland freight rates from the Republic of Korea (Korea) as free-market surrogate rates to replace yuan-denominated inland freight rates in purchase price transactions.

Foreign Market Value

In accordance with section 773(c) of the Act, we used prices of nails imported into the United States from Korea as the basis for determining foreign market value.

Petitioners alleged that the PRC is a state-controlled-economy country and that sales of the subject merchandise from that country do not permit a determination of foreign market value under section 773(a). After an analysis of the PRC economy, and consideration of the briefs submitted by the parties, we concluded that the PRC is a state-controlled-economy country for the purpose of this investigation. Central to our decision on this issue is the fact that the central government of the PRC controls the prices and levels of production of nail or steel products as well as the internal pricing of the factors of production.

As a result, section 773(c) of the Act requires us to use either the prices of or the constructed value of such or similar merchandise in a non-state-controlled-economy country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a non-state-controlled-economy country at a stage of economic development comparable to the state-controlled-economy country.

After an analysis of countries producing wire nails, we determined that Egypt, India, Indonesia, Morocco, Pakistan, the Philippines, Sri Lanka, and Thailand were the countries at the most comparable stages of economic development and it would, therefore, be

appropriate to base foreign market value on their prices. However, the Indian Embassy advised us that the companies which we contacted in India would not provide data for this investigation, and the companies contacted in Egypt, Indonesia, Morocco, Pakistan, the Philippines, Sri Lanka, and Thailand have not responded.

Lacking information from countries at a level of economic development comparable to that of the PRC, we have based foreign market value on th prices of imports of the same class or kind of merchandise into the United States. Of the countries exporting nails to the United States, Korea was at the cost comparable level of economic development to the PRC. Therefore, we have based foreign market value on the weighted-average ex-mill price of nails from Korea for export to unrelated purchasers in the United States. We gathered weighted-average price information from Special Summary Steel Invoice (SSSI) statistics, which was the best information available. We made deductions for inland freight and for ocean freight. We made comparisons of merchandise based upon product subgroups selected by Department of Commerce industry experts.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of the company. We used standard verification procedures including examination of accounting records and other selected documents containing relevant information.

Petitioners' Comments

Comment #1: Petitioners argue that the Department should not resort to the price of nails imported into the United States as the basis for calculating foreign market value, because these prices are distorted by unfair trading practices and voluntary export restraints. Given this, the Department should use the constructed value of U.S. nails adjusted, as required, to take account of known differences.

DOC Position: The Department's regulations express a preference for use of prices over costs as the basis for calculating foreign market value in antidumping duty investigations of products from state-controlled-economy countries. Therefore, we generally attempt to use prices of imports before constructed value. Regarding the possible distortions to these prices caused by voluntary export restraints, we would expect that if the restraints had any effect, it would be to raise the prices of the restrained imports. However, no evidence has been provided in this investigation which documents such an increase.

Comment #2: Petitioners argue that, assuming the Department uses the prices of imports into the United States for calculating foreign market value, it should not rely on imports from Korea and Israel. The Department has taken the position that countries engaged in dumping and those that have entered into export restraint agreements should be excluded from consideration. Korean nails were found to have been dumped and are presently covered by an export restraint agreement. Petitioners disagree with respondent's contention that the effect of the dumping finding and the export restraint was to increase Korean prices.

Israel, which constituted less than one percent of the volume of U.S. imports during the period of investigation, provided insufficient coverage to conduct a proper investigation and, therefore, cannot be used singly. Finally, petitioners contend that Korea and Israel are not comparable to the PRC in terms of economic development.

DOC Position: We are excluding Israel from our determination of foreign market value because of the possibility that such imports are benefitting from export subsidies, and are instead using only Korea.

The Korean merchandise in question is not presently covered by an antidumping duty order, as it was revoked, retroactive to October 1, 1984.

While we would prefer not to use countries that have entered into export restraint agreements because of the uncertain effects of those restraints, no persuasive evidence that the restraints have affected prices has been put forth.

Finally, the Department never stated that Korea and Israel were "comparable" to the PRC. What the Department has determined is that "of the countries exporting nails to the United States, not subject to antidumping duty or countervailing duty orders, Korea and Israel are the most comparable."

Comment #3: Petitioners contend that, assuming the Department does not use constructed value, it should use a "basket" for foreign market value, i.e., the average ex-mill price of imports from a number of countries, excluding those covered by antidumping duty or countervailing duty orders, those subject to export restraint agreements, and imports from state-controlled-economy countries. The countries that exported during the period of investigation meeting these criteria are: Canada, Taiwan, Israel, Switzerland, Hong Kong, Kenya and Colombia.

DOC Position: Where we have a country at a level of economic development that can reasonably be compared to the level of economic development of the state-controlled-economy country in question, we prefer to use that country's export prices. Therefore, so long as Korea provides adequate coverage, employing it for purposes of determining foreign market value is preferable to the "basket" of non-comparable countries approach advocated by the petitioners.

Respondent's Comments

Comment #1: Respondent contends that Canadian production facilities are comparable to PRC facilities. Therefore, respondent advocates the use of Canadian home market prices for purposes of determining foreign market value.

DOC Position: Generally, the Department places greater reliance on general macro-economic criteria (*e.g.*, per capita GDP and labor statistics) than sectoral comparability. We have only used home market prices in a non-comparable country once (*Carbon Steel Plate from Romania*, in which we used home market prices from Finland). Respondent has not provided evidence to persuade us that sectoral comparability is more important than macro-economic comparability.

Comment #2: Respondent feels that the use of Korean and Israeli export prices to the U.S. is reasonable. Respondent further asserts that, because the presumed effect of an antidumping duty order or an export restraint agreement is to drive prices upward, the Department should adjust the Korean prices downward accordingly.

DOC Position: The respondent has not provided us with sufficient evidence to warrant a downward adjustment to Korean prices.

Comment #3: Respondent contends that, while petitioners suggest a "basket" approach which includes non-comparable countries, petitioners also urge the Department to reject Korea and Israel on the grounds that they are not comparable to the PRC. Respondent also notes that if we were to use petitioners' suggestion of a "basket" approach, the predominant price would be the Canadian price. Therefore, respondent asserts instead that it would be just as reasonable to use Canadian home market prices.

DOC Position: As the Department determined that Canada is not at a level of economic development comparable to that of the PRC, neither Canadian home

market prices nor export prices to the United States would be used.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of nails from the PRC, which are entered, or withdrawn from warehouse, for consumption on or after January 9, 1986. The United States Customs Service will require the posting of a cash deposit, bond, or other security in amounts based on the following weighted-average margin.

Company	Weighted-average margin (percent)
All producers, manufacturers and exporters	6.33

ITC Notification

Pursuant to section 733(f) of the Act, we will notify the ITC and make available to it all non-privileged and non-confidential information relating to this determination. We will allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the date of this determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on certain steel wire nails from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States prices.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 18, 1986.

[FR Doc. 86-6483 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-505]

Extension of the Deadline for Final Countervailing Duty Determination and Rescheduling of the Public Hearing; Procelain-on-Steel Cooking Ware From Mexico

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioners, the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation, the Department of Commerce is extending the deadline for its final determination in the countervailing duty investigation of procelain-on-steel cooking ware from Mexico to correspond to the date of the final determination in the antidumping investigation of the same product pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573). In addition, the Department of Commerce is rescheduling the public hearing.

EFFECTIVE DATE: March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Betsy Killian or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20203; telephone: (202) 377-1673 or 377-2830.

SUPPLEMENTARY INFORMATION:

Case Histories

On December 4, 1985, we received antidumping and countervailing duty petitions filed by the Porcelain-On-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation on porcelain-on-steel cooking ware from Mexico.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petition alleged that imports of porcelain-on-steel cooking ware from Mexico are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Mexico of porcelain-on-steel cooking ware directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate antidumping and countervailing duty investigations, and on December 24, 1985, we initiated such investigations (50 FR 53352 and 50 FR 53355). On February 27, 1986, we issued an affirmative preliminary determination in the countervailing duty investigation (51 FR 7978). The preliminary determination in the antidumping investigation will be made on or before May 13, 1986.

On March 10, 1986, petitioners filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an [antidumping] investigation * * * which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination [in the countervailing duty investigation] to the date of the final determination" in the antidumping investigation (19 U.S.C. 167d(a)(1)). Pursuant to this provision, the Department is granting an extension of the deadline for the final determination in the countervailing duty investigation of porcelain-on-steel cooking ware from Mexico to July 28, 1986, the current deadline for the final determination in the antidumping investigation.

In addition, due to the extension of the final determination in the countervailing duty investigation, the Department of Commerce is rescheduling the date of the public hearing, originally set for April 3, 1986. This hearing, which was requested by the petitioners, will now be held at 10:00 a.m. on April 28, 1986, at the U.S. Department of Commerce, Room 1413, 14th Street and Constitution Ave., NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by April 18, 1986. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received within 10 days after the hearing transcript is available.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

March 19, 1986.

[FR Doc. 86-6484 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-DS-M

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Telecommunications Equipment Technical Advisory Committee will be held April 14, 1986, 9:30 a.m., Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue NW., Washington DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to telecommunications and related equipment or technology.

Agenda

1. Introduction of members and attendees.
2. Approval of the minutes of March 4, 1986 meeting.
3. Presentation of papers or comments by the public.
4. Discussion of local and wide area networks.
5. Presentation by Harris Corporation/ Digital Telephone Systems Division.

Executive Session

6. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes, contact Liga L. Hagenah, (202) 377-4959.

Dated: March 20, 1986.

Margaret A. Cornejo,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-6485 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Workshop on the Software Standards Testing Program

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces a two-day workshop to discuss the ways in which producers of computer software can participate in the design, development, and evaluation of test methods for software standards. These test methods will be used to determine whether software products conform to emerging national and international standards. The emerging standards include database management systems, data dictionary systems, data interchange, computer graphics, operating systems, and office systems/ document interchange. The workshop will be held on June 9-10, 1986, at the National Bureau of Standards, Gaithersburg, Maryland.

Attendance at the workshop is limited due to the size of the conference facility; therefore, a registration is on a first come, first served basis. A registration fee of $55 will be charged for attending the workshop. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should telephone (301) 921-3553 or send a request on company letterhead to: Software Standards Testing Program Workshop, Attn: Candy Leatherman, National Bureau of Standards, Building 225, Room A266, Gaithersburg, MD 20899.

The registraion request must name the company representatives(s) and specify the business address and telephone number for each participant. Registration requests must be received by close of business May 9, 1986. An NBS representative will confirm workshop registration reservations. For additional information, contact Patricia Konig (301) 921-3491.

Dated: March 20, 1986.

Ernest Ambler,

Director.

[FR Doc. 86-6475 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-CN-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing an Import Limit for Certain Man-Made Fiber Products Produced or Manufactured in the People's Republic of China

March 20, 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 27, 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 January 31, 1986, a notice was published in the **Federal Register** (51 FR 3999), which established an import restraint limit for man-made fiber infants' sets in Category 659pt. (only T.S.U.S.A. numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 394.9365), produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on December 27, 1985 and extends through March 26, 1986. The notice also stated that the Government of the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, if no mutually satisfactory solution is reached on a level for this category during consultations, to limit

its exports during the twelve-month period immediately following the ninety-day consultation period to 1,001,981 pounds.

No solution has been reached in consultations on a mutally satisfactory limit. The United States Government has decided, therefore, to control imports of man-made fiber infants' sets in Category 659pt., exported during the twelve-month period beginning on March 27, 1986 at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

In the event the limit established for the ninety-day period has been exceeded, such excess amount, if allowed to enter, will be charged to the level established for the designated twelve-month period.

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 20, 1986.

Committee For the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 27, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 659pt.,[1] produced or manufactured in China and exported during the twelve-month period beginning on March 27, 1986 and extending through March 26, 1987, in excess of 1,001,981 pounds.[2]

Textile products in Category 659pt. which are in excess of the ninety-day limit previously established shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-6482 Filed 3-24-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] In Category 659pt. only T.S.U.S.A. numbers 384.2105, 384.2115, 384.2120, 384.2125, 384.2646, 384.2647, 384.2648, 384.2649, 384.2652, 384.8651, 384.8652, 384.8653, 384.8654, 384.9356, 384.9357, 384.9358, 384.9359, 384.9365.

[2] The restraint limit has not been adjusted to account for any imports exported after March 26, 1986.

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; Meeting

This is to given notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, 10(a) and 41 CFR 101-6.1016(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C. office located at 2033 K Street, NW., Washington, DC 20581, on April 10, 1986, beginning at 10:30 a.m. and lasting until 4:00 p.m. The agenda will consist of:

1. Discussion and recommendations concerning the appropriate distinction between financial futures contracts and related financial forward contracts.

2. Discussion on trading in foreign currencies for futures delivery as it relates to section 2(a)(1)(A) of the Commodity Exchange Act and the Commission's statutory Interpretation on Trading in Foreign Currencies for Future Delivery, 50 FR 42983 (Oct. 23, 1985).

3. Discussion and recommendations concerning the Commission's hedging definition and its applicability to financial futures and options.

4. Other Committee business: a. Discussion of agenda items and scheduling for future Committee meetings; and b. Any other business which may properly come before the Committee.

The purpose of this meeting is to solicit the views of the Committee on the above listed agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on financial products issues. The purposes and objectives of the Advisory Committee are more fully set forth at 50 FR 21332 (May 23, 1985).

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Robert R. Davis, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Commodity Futures Trading Commission Financial Products Advisory Committee c/o Maureen A. Donley-Hoopes, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, to be received prior to the date of the meeting. Members of the public who wish to make oral statements should also inform Ms. Donley-Hoopes in writing at the above address at least three days prior to the meeting. Provision will be made, if time permits, for an oral presentation of reasonable duration.

Issued in Washington, DC the 19th day of March, 1986 by the Commission.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 86-6431 Filed 3-24-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel; Contract Surgeons, World War II

Under the provisions of section 401 of Pub. L. 95–202 and DOD Directive 1000.20, "Determinations of Active Military Service and Discharge: Civilian or Contractural Personnel," the Secretary of the Air Force, acting in accordance with authority delegated to him by the Secretary of the Defense, determined on March 5, 1986, that the service of the group known as "Contract Surgeons in World War II" not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans Administration.

FOR FURTHER INFORMATION CONTACT: Lt. Col. Michael Dandar or Lt. Col. Todd: (202) 692–4744, Office of the Secretary of the Air Force, Personnel Council (SAF/MIPC), the Pentagon, Washington, DC 20330–1440.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–6451 Filed 3–24–86; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

March 13, 1986.

The USAF Scientific Advisory Board Aerospace Medical Division Advisory Group will meet at Williams AFB, AZ on May 1, 1986 from 8:00 a.m. to 4:00 p.m. and on May 2, 1986 from 8:00 a.m. to 1:00 p.m. in the Operational Training Division, Air Force Human Resources Laboratory main conference room.

The purpose of the meeting will be discussions on selected programs and projects relating to the mission of the Aerospace Medical Division.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–6450 Filed 3–24–86; 8:45 am]

BILLING CODE 3910-01-M

Community College of the Air Force (CCAF Board of Visitors); Meeting

The Community College of the Air Force Board of Visitors will hold a meeting on April 29, 1986 at 8:00 a.m. in the Conference Room, Room 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public.

Agenda items include: Review of new CCAF Degree Programs and changes to or mergers of existing Programs, new CCAF Bylaws and Academic Policies, the 1987–88 *CCAF General Catalog*, and a report on the Affiliated Schools Advisory Panel.

For further information, contact Major Peter Macchia, Jr., (205) 293–7937, Community College of the Air Force, Maxwell Air Force Base, Alabama 36112–6655.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–6449 Filed 3–24–86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Supplement to the Buford Dam and Lake Sidney Lanier, GA; Environmental Impact Statement

AGENCY: Army Corps of Engineers, DOD.

ACTION: Intent to prepare a DSEIS.

SUMMARY:

1. *Description of Proposed Action:* The proposed action is to prepare a DSEIS to evaluate the environmental impacts of proposed revisions to the existing Lakeshore Management Plan for Lake Sidney Lanier, Georgia. The EIS being supplemented is dated December 1974.

2. *Alternatives to the Proposed Action:* The following basic alternatives will be evaluated:

a. No action. This alternative, which considers the existing Lakeshore Management Plan, will be the "without" project conditions against which impacts will be measured.

b. Additions or deletions to the existing Lakeshore Management Plan.

3. *Description of the Scoping Process:*

a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, "National Environmental Policy Act—Regulations", will be utilized to involve Federal, State and local agencies and other interested persons. Identification of significant issues to be addressed in the DSEIS will be determined through the scoping process. The views and concerns of agencies and individuals will be obtained through personal, telephone and mail contacts in lieu of a formal scoping meeting. Information will also be derived from an extensive public involvement program including workshops on various issues and concerns. Public meetings will be held after the filing of the DSEIS. Notices informing the public as to time and locations of the meetings will be issued.

b. Coordination with the U.S. Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DSEIS Preparation:* It is estimated that the DSEIS will be available to the public in February 1987.

ADDRESS: Questions about the proposed action and DSEIS can be answered by: Mr. Gary L. Melton, PD–EI, U.S. Army Engineer District, Mobile, Post Office Box 2288, Mobile, Alabama 36628, Phone: 205/694–3883.

Dated: March 14, 1986.

C. Hilton Dunn, Jr.,

Colonel, CE, District Engineer.

[FR Doc. 86–6455 Filed 3–24–86; 8:45 am]

BILLING CODE 3710-CR-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before April 24, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public coment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: March 19, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Extension
Title: State Student Incentive Grant Program (Recordkeeping Requirements)
Agency Form Number: NA
Frequency: Recordkeeping
Affected Public: State or local governments
Reporting Burden: Responses: 114, Burden Hours: 371
Recordkeeping Burden: Recordkeepers: 57, Burden Hours: 29
Abstract: In each state, the designated agency responsible for the State Student Incentive Grant Program must maintain certain records to ensure proper administration of program grants.

Office of Postsecondary Education

Type of Review: Extension
Title: Certification Form for the Endownment Grant Program
Agency Form Number: E40-3P
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 50, Burden Hours: 25
Recordkeeping Burden: Recordkeepers: 50, Burden Hours: 100
Abstract: The Department of Education uses this form to collect matching fund information from colleges and universities that apply for grants under the Endowment Grant Program.

[FR Doc. 86-6471 Filed 3-24-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA86-14-000]

Conoco, Inc.; Petition for Waiver of Btu Refund Payment

March 19, 1986.

Take notice that on March 3, 1986, Conoco, Inc. (Conoco) filed a petition pursuant to 502(c) of the Natural Gas Policy Act (NGPA) for a waiver of payment of Btu refund obligations attributable to payments made to the State of Louisiana with respect to royalty interest under state leases.

Conoco argues that there is a conflict between the activities of the Louisiana Department of Natural Resources and the Federal Energy Regulatory Commission regarding rules and regulations implementing Btu refunds. Conoco declares that it will be irreparably injured unless the Commission waives any Btu refund obligations attributable to payments made to the State of Louisiana for its proportionate interest in the gas production at issue and grants such other and further relief as will cause the State of Louisiana and other royalty owners to comply with Commission Order Nos. 93 and 93-A. Conoco also requests the Commission to set this matter for hearing at the earliest possible date.

The procedures applicable to the conduct of this waiver proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. 18 CFR Part 385, Subpart K (1985). Any person desiring to participate in this waiver proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within fifteen (15) days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6464 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-59-000]

East Tennessee Natural Gas Co.; Tariff Revisions

March 19, 1986.

Take notice that on March 13, 1986, East Tennessee Natural Gas Company (East Tennessee) tendered for filing First Revised Sheet No. 123 and Original Sheet No. 123A to Original Volume No. 1 of its FERC Gas Tariff to be effective on April 12, 1986.

East Tennessee states that the revised tariff sheets add a new section 22.4 to its PGA provision to permit it to revise its rates on an interim basis in between its regular semi-annual PGA filings. East Tennessee states that the competitive situation in its markets often require it to obtain gas supplies at rates below those reflected in its then current PGA filings but the traditional PGA prevents it from quickly passing these rate changes along to its customers. The new section 22.4 is designed to remedy this situation according to the Company.

East Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 26, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6457 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-42-001]

El Paso Natural Gas Co.; Compliance Tariff Filing

March 19, 1986

Take notice that on March 14, 1986, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, Second Revised Sheet

Nos. 250 and 251 and Third Revised Sheet No. 252 to its FERC Gas Tariff, First Revised Volume No. 1.

El Paso states that the tendered tariff sheets, submitted in compliance with the Commission's February 28, 1986 order conditionally accepting certain tariff sheets, effective February 1, 1986, filed by El Paso on January 30, 1986 in this proceeding, serve to specify that the percentage of Base Quantities used to determine Monthly Threshold Quantities shall be the same for Buyers eligible for service under Rate Schedule INC-1 and that any difference between the rates under El Paso's Rate Schedule INC-1 (Incentive Sales Rate) and El Paso's otherwise effective sales rates shall be the same amount in dollars per dth for Rate Schedules ABD-S, ABD-L, G, A-1-X and X-1.

El Paso requests that the tendered tariff sheets be accepted by the Commission and permitted to become effective February 1, 1986, as provided for in the Commission's February 28, 1986 order.

El Paso states that copies of the filing have been served upon all parties of record in Docket No. RP86-42-000, and, otherwise, upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC., 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before March 26 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6458 Filed 2-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-10-000]

Endevco Pipeline Co.; Petition for Adjustment

March 19, 1986.

On January 23, 1986, Endevco Pipeline Company (Endevco) filed with the Commission a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA). Endevco Seeks an adjustment that will allow the company to collect a rate for section 311 transportation transactions which Endevco states is comparable to but not based on a city-gate rate. The proposed rate is currently on file with the Railroad Commission of Texas.

Endevco, an intrastate pipeline, states that it has negotiated and is performing sales services on behalf of Mississippi River Transmission Corporation pursuant to section 311(b) of the NGPA, and anticipates performing future sections 311(a)(2) and 311(b) service on behalf of other interstate pipelines. Endevco intends to use rates not inexcess of the transportation component of the rate set forth in Endevco's Tariff Sheet No. 12 for sales service to Texas Utilities Fuel Company, an industrial end-user. Endevco asserts that the transportation component of the sales rate charged by Endevco under its Tariff Sheet No. 12 is comparable to its section 311 service. The Commission has stated, however, that the word "comparable" in § 284.123(b)(ii) of its regulations is intended to refer to city-gate service; a delivery of natural gas directly to an industrial user would not qualify as a "comparable" service. *See* Order on Rehearing on Order No. 46, FERC Stats & Regs. [Regs. Preambles 1977-1981] ¶ 30,104, n.e at 30,736 (Nov. 21, 1979). Endevco argues an adjustment from the Commission's regulations is necessary for Endevco to use its existing intrastate transportation rate and to prevent special hardship and inequity. If the adjustment is denied, a rate proceeding will be required for each section 311 transaction pursuant to § 284.123(b)(2) of the Commission's regulations.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure (18 CFR 385.1101 et seq. (1985)). Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of subpart K within 15 days after publication of this notice in the **Federal Register.** Endevco's petition is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6465 Filed 2-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-258-000, ER85-461-001, and ER85-521-001]

Kansas Gas and Electric Co.; Order Accepting for Filing and, Suspending Rates, Noting Intervention, Establishing Hearing Procedures, and consolidating Dockets.

Issued March 20, 1986

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

On January 24, 1986, Kansas Gas & Electric Company (KG&E) tendered for filing a proposed Generating Municipal Electric Service Agreement for service to the City of Fredonia, Kansas (Fredonia).[1] The agreement is intended to supersede KGE's current Interconnection Contract With Fredonia, which expires on March 27, 1986. The proposed rates are identical to those which KG&E is collecting subject to refund in Docket No. ER85-461. The effect of the proposed agreement would be to increase Fredonia's rates and place it on KG&E's standard service contract which, unlike the present fixed rate arrangement, permits unilateral changes in the rates to Fredonia. KG&E proposes an effective date of march 26, 1986.

Notice of KG&E's filing was published in the **Federal Register,** with comments due on or before February 13, 1986.[2] Fredonia filed a timely motion to intervene in which it requests that the Commission suspend the rates for five months and consolidate the docket with KG&E's current proceeding in Docket Nos. ER85-461-001 and ER85-521-001. In support of its request, Fredonia claims that the various rates and terms of the proposed agreement are substantially excessive, unreasonable, and anticompetitive.[3]

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[1] The proposed agreement includes new service schedules for Emergency Energy and Supplemental Energy, a revised service schedule for Firm Power Service, and a continuation of current schedules for Transmission Service and System Control and Dispatching. *See* Attachment for rate schedule designations.

[2] 51 FR 4532 (1986).

[3] Fredonia specifically objects to KG&E's proposals to: (a) Charge for supplemental and emergency service at incremental cost; (b) incorporate provisions allowing the company to make unilateral rate change filings; (c) increase the amount of Schedule A (Firm power) demand charges, and impose Schedule SC (System Control and Dispatching) charges; (d) require Fredonia to maintain a 95% power factor; (e) impose MOKAN and SWPP Power Pool requirements on Fredonia; (f) allegedly limit Fredonia's right to acquire power from outside sources by requiring that KG&E approve the underlying contracts; and (g) terminate

Continued

On February 25,1986, KG&E filed an answer to Fredonia's motion to intervene. While not objecting to the city's intervention, the company opposes the request for a five month suspension. KG&E further contends that the terms and conditions of its proposed agreement are reasonable. Finally, the company opposes the request for consolidation, stating that several of the issues raised by Fredonia are unique to Docket No. ER85-461, and the consolidation would delay the ongoing proceedings. The company suggests that the Commission order that issues common to this docket and Docket No. ER85-461 be resolved on the basis of the latter, and that litigation of fredonia's contract complaints be accomplished in a separate proceeding.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 385.214), the timely motion to intervene serves to make Fredonia a party to this proceeding.

Our review of the company's filing and the pleadings indicates that the submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept KG&E's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the proposed rates may not yield substantially excessive revenues.[4] KG&E has proposed a March 26, 1986 effective date for its proposed filing. However, the company's submittal cannot become effective until March 27, 1986, when its prior agreement with Fredonia has expired. In order to provide continuity of service, and in light of our conclusion that the rates may not be substantially excessive, we shall impose a nominal suspension of KG&E's filing, and order it to become effective on March 27, 1986, subject to refund.

Notwithstanding the company's opposition to consolidation, we find that common questions of law and fact may be presented in this docket, Docket No. ER85-461-001, and Docket No. ER85-521-001, and that these similarities outweight any potential differences in circumstances. As a result, we shall consolidate the three dockets for purposes of hearing and decision.

The Commission orders

(A) KG&E's proposed rates are hereby accepted for filing and are suspended, to become effective, subject to refund, on March 27, 1986.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of KG&E's rates.

(C) Subdocket 000 of Docket No. ER86-258 is hereby terminated. The evidentiary hearing ordered herein is assigned Docket No. ER86-258-001.

(D) Docket No. ER86-258-001 is hereby consolidated with Docket Nos. ER85-461-001 and ER85-521-001 for purposes of hearing and decision.

(E) The administrative law judge designated to preside in Docket Nos. ER85-461-001 and ER85-521-001 shall determine procedures best suited to accommodate consolidation of this docket with the pending proceeding.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

Kansas Gas and Electric Company, Docket No. ER86-258-000, Rate Schedule Designations

Designation and Description

(1) Rate schedule FERC No. 161 (Supersedes Rate Schedule FERC No. 87); Terms of agreement.
(2) Supplement No. 1 to Rate Schedule FERC No. 161; Service schedule A, firm power service.
(3) Supplement No. 2 to Rate Schedule FERC No. 161; Service schedule B, emergency service.
(4) Supplement No. 3 to Rate Schedule FERC No. 161; Service schedule C, supplemental energy.
(5) Supplement No. 4 to Rate Schedule FERC No. 161; Service schedule E, transmission service.
(6) Supplement No. 5 to Rate Schedule FERC No. 161; Service schedule SC, System control service.
(7) Supplement No. 6 to Rate Schedule FERC No. 161; FAC rider.

[FR Doc. 86-6459 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

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the service agreement if any provision is disapproved. With respect to the last objection, we note that the unilateral cancellation clause in § 10.2 of the agreement cannot operate absent a further filing and appropriate review by the Commission under the Federal Power Act and associated regulations.

[4] *Accord, Kansas Gas and Electric Co.*, 31 FERC ¶ 61,379 (1985). In support of its claim that KG&E's proposed rates are substantially excessive, Fredonia claims that the Commission's trial staff has filed testimony and exhibits suggesting substantial excess in the firm power rates pending in Docket No. ER85-461-001, which are the same as the firm power rate submitted in this docket. No final determination has been made, however, by the Commission with respect to the rates at issue in Docket No. ER85-461-001.

[Docket No. TA86-1-14-003]

Lawrenceburg Gas Transmission Corp.; Proposed Change in FERC Gas Traiff

March 19, 1986.

Take notice that on March 10, 1986 Lawrenceburg Gas Transmission Corporation (Lawrenceburg) tendered for filing two (2) second substitute revised gas tariff sheets to its FERC Gas Traiff, First Revised Volume No. 1, both of which are dated as issued on March 7, 1986 proposed to become effective February 1, 1986 and, identified as follows:

Second Substitute Thirty-eight Revised Sheet No. 4
Second Substitute Thirty-fourth Revised Sheet No. 18

Lawrenceburg states that its second substitute revised tariff sheets were filed under its Purchased Gas Adjustment (PGA) Provision and to comply with the Commission's January 27, 1986 order in this docket that required Lawrenceburg to track any reduction in the rates being tracked of its pipeline suppler. On February 6, 1986, Texas Gas Transmission Corporation filed to reduce its February 1, 1986 PGA, prompting Lawrenceburg to refile on February 10, 1986 its previously approved February 1, 1986 PGA. On March 4, 1986, Texas Gas filed to further reduce its proposed February 1, 1986 PGA, thus prompting the instant filing by Lawrenceburg.

Copies of this filing were served upon Lawrenceburg's jurisdictional customers and interested state commissions.

Lawrenceburg has also filed a petition requesting that the Commission waive the prescribed filing fee applicable to this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214,

385.211 (1985)). All such motions or protests should be filed on or before March 26, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6460 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-58-000]

Midwestern Gas Transmission Co.; Tariff Revisions

March 19, 1986.

Take notice that on March 13, 1986, Midwestern Gas Transmission Company (Midwestern) tendered for filing First Revised Sheet No. 164, Second Revised Sheet No. 165 and Original Sheet No. 165A to Original Volume No. 1 of its FERC Gas Tariff to be effective on April 12, 1986.

Midwestern states that the revised tariff sheets add a new section 4 to its PGA provision to permit it to revise its rates on an interim basis in between its regular semi-annual PGA filings. Midwestern states that the competitive situation in its markets often require it to obtain gas supplies at rates below those reflected in its then current PGA filings but the traditional PGA prevents it from quickly passing these rate changes along to its customers. The new section 4 is designed to remedy this situation according to the company.

Midwestern states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFP 385.211, 385.214). All such motions or protests should be filed on or before march 26, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6461 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5688-001]

Modesto Irrigation District; Surrender of Exemption

March 19, 1986.

Take notice that Modesto Irrigation District, Permitee for the proposed Jose and Mills Creek Project No. 5688, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 20, 1985, and would have expired on November 30, 1988. The project would have been located on Jose and Mills Creeks in Fresno County, California. The Permittee states that a preliminary study found that the project would not be economically feasible to develop at this time.

The Permittee filed the request on February 21, 1986, and the exemption for Project No. 5688 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6466 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-37-002]

Northwest Pipeline Corp.; Amendment to Purchased Gas Cost Adjustment Filed February 14, 1986

March 19, 1986.

Take notice that on March 17, 1986, Northwest Pipeline Corporation ("Northwest") filed a proposed amendment to its regular Purchased Gas Cost Adjustment which was filed on February 14, 1986. The proposed amendment reflects a decrease of approximately $70 million in annualized purchased gas costs resulting from continued declines in the cost of Canadian purchases and further market out reductions on domestic purchases. Northwest's filing also reflects a correction to the method of calculating the adjustment for concurrent exchange imbalances required under recently adopted Commission procedure.

Northwest tendered Substitute Twenty-Sixth Revised Sheet No. 10 (consenting parties) and Revised Eighth Amended Substitute Nineteeth Revised Sheet No. 10 (nonconsenting parties) to reflect the proposed amendment.

Northwest included Fifth Revised Sheet No. 127-A in its February 14 filing which revised the General Terms and Conditions of Northwest's Volume No. 1 Tariff to provide for the elimination of concurrent exchange imbalances. Inadvertently this tariff sheet was printed on Volume No. 2 tariff paper. Substitute Fifth Revised Sheet No. 127-A is resubmitted herewith to correct this error.

Northwest has requested waivers and expedited consideration to allow an effective date of April 1, 1986. A copy of this filing has been served on all jurisdictional customers and affected state commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 26, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6462 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-40-000, 001]

Raton Gas Transmission Co.; Change in Rates

March 19, 1986.

Take notice that Raton Gas Transmission Company (Raton), on March 13, 1986, tendered for filing, proposed changes in its FERC Gas Tariff, Volume No. 1, consisting of Thirty-sixth Revised Sheet No. 3a. The change in rates is for jurisdictional gas service. The proposed effective date is April 1, 1986. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii), the date of filing is the date on which the Commission received the appropriate filing fee, which in the instant case was not until March 4, 1986.

Raton states that the instant notice of change in rates is occasioned solely for changes in cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG Gas Cost Change results in increase of $0.12 per Mcf Demand Charge and decrease of 13.84¢ per Mcf in Commodity Charge. On an annual basis the changes result in a revenue decrease of $190,603.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 26, 1986. (18 CFR 385.214, 385.211) Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6463 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-17-000,001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

March 17, 1986.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on March 13, 1986 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies each of the following tariff sheets:

Substitute Seventy-eighth Revised Sheet No. 14
Seventy-eighth Revised Sheet No. 14A
Seventy-eighth Revised Sheet No. 14B
Seventy-eighth Revised Sheet No. 14C
Seventy-eighth Revised Sheet No. 14D

The above tariff sheets are being issued to reflect in Texas Eastern's rates the impact of Texas Eastern's latest exercise of "market-out" provisions in certain of its gas purchase contracts. Texas Eastern has exercised such market-out provisions to reduce the price under those certain gas purchase contracts to $2.25 per mmbtu plus taxes effective April 1, 1986.

On December 31, 1985, Texas Eastern filed its regular Semiannual PGA tracking filing to be effective February 1, 1986. By order issued January 31, 1986 in Docket No. TA86-2-17, et al. The Commission accepted such December 31, 1985 filing subject to modification for adoption of the new Commission approved methodology for treatment of concurrent exchange imbalances. On February 28, 1986 Texas Eastern filed to comply with such Commission directive as well as to reflect a reduction in rates from one of its major pipeline suppliers below the level included in the December 31, 1985 filing. The above-listed tariff sheets are based upon the current cost of gas adjustment and surcharge adjustment as proposed to be effective on February 1, 1986 in Texas Eastern's filing of revisions to its PGA rates on February 28, 1986, adjusted only to reflect the cost reduction resulting from Texas Eastern's exercise of market-out provisions effecitve April 1, 1986. The impact on Texas Eastern's rates of the instant proposal is a reduction of $.1176/dth in the commodity component of Texas Eastern's sales rates.

On March 6, 1986 Texas Eastern filed tariff sheets to be effective April 1, 1986 for the purpose of incorporating new Rate Schedule SS-III as a part of its FERC Gas Tariff pursuant to the certificate issued by the Commission by order dated October 3, 1984 in Docket No. CP84-419-000. The above Substitute Seventy-eighth Revised Sheet No. 14 includes the new Rate Schedule SS-III rates and is filed in substitution for the corresponding tariff sheet contained in the March 6, 1986 filing.

The proposed effective date of the above tariff sheets is April 1, 1986.

Texas Eastern respectfully requests waiver of the provisions of its tariff and any Regulations that the Commission may deem necessary to accept the above tariff sheets to be effective on April 1, 1986, coincidently with the effectiveness of Texas Eastern's exercise of market-out provisions, consistent with prior waiver orders by the Commission for such out-of-time market-out PGA rate reductions.

Copies of the filings were served on Texas Eastern's jurisdictional customers and interested parties state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before March 24, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-6467 Filed 3-24-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-4-FRL-2991-3]

Air Quality PSD Permit for Transgulf Pipeline Company, Kissimmee, FL; Region IV

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given that a Prevention of Significant Deterioration (PSD) permit extension has been granted to the Transgulf Pipeline Company. This action extends the expiration date of their permit (PSD-FL-013) until August 14, 1987, for the commencement of construction of a petroleum products and bulk loading terminal in Kissimmee, Florida.

DATES: This extension is effective as of March 3, 1986, and grants an 18-month permit extension beginning February 14, 1986, and expiring on August 14, 1987.

ADDRESSES: Copies of the PSD permit, permit application, preliminary determination, and justification for the permit extension granted on March 3, 1986, are available for public inspection at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, Air, Pesticides, and Toxic Management Division, Atlanta, Georgia 30365.

Bureau of Air Quality Management, Florida Department of Air Quality Management, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301.

FOR FURTHER INFORMATION CONTACT: Michael Brandon of the EPA-Region IV, Air Programs Branch at the Atlanta address given above, telephone 404/347-4901 (FTS: 257-4901).

SUPPLEMENTARY INFORMATION: On August 18, 1981, the EPA Region IV Administrator issued a Prevention of Significant deterioration (PSD) permit to Transgulf Pipeline Company which became effective on February 14, 1983. The permit was extended on November 20, 1984, to expire on February 14, 1986, which is 18 months from the original expiration date (August 14, 1984). However, due to the same reasons as presented in the preliminary

determination for a permit extension by the Florida Department of Environmental Regulation (October 16, 1984), the company requested an additional 18-month extension on February 14, 1986. In accordance with the public notice published with the aforesaid determination and the extension of the State permit through August 14, 1987, EPA Region IV has granted an extension validating the Transgulf Pipeline Company PSD permit through August 14, 1987, for the commencement of construction. In addition to the extension, the company was notified of the applicability of the New Source Performance Standards for Bulk Gasoline Terminals (40 CFR Part 60, Subpart XX), and that the more restrictive limitations of these regulations or the PSD permit would apply to the construction, maintenance and operation of the facility.

If construction does not commence within 18 months after the effective date February 14, 1986), or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time, the federal PSD permit PSD-FL-013 shall expire and authorization to construct shall become invalid.

(Sections 160-169 of the Clean Air Act (42 U.S.C. 7470-7479)).

Dated: March 13, 1986.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 86-6506 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2990-5]

Chesapeake Bay Executive Council; Open Meeting

The Chesapeake Bay Executive Council established in accordance with the Chesapeake Bay Agreement of December 1983, will be held from 10:30 a.m. to 5:00 p.m. on April 10, 1986, at the Tidewater Inn, Easton, Maryland. This notice is published pursuant to Section 10(a)(2) of Pub. L. 92-463, "The Federal Advisory Committee Act."

Comments from the public will be welcomed at the end of the meeting as time permits. Questions about the meeting may be directed to Ms. Patricia Bonner, U.S. EPA, Chesapeake Bay Liaison Office, Annapolis, Marina, Suite 109-110, Annapolis, Maryland 21403.

Hank Zygmunt,

Acting Director, Chesapeake Bay Liaison Office.

Joint Session of the Chesapeake Executive Council, Scientific and Technical Advisory Committee and Citizens Advisory Committee

9:00 a.m.

1. Welcome the Citizens Advisory Committee and the Scientific and Technical Advisory Committee (CAC and STAC)—Seif
2. Presentation of the STAC Annual Report—Lynch
3. Presentation of the CAC report and discussion of the results of the March 5 meeting of CAC members with Chairman Seif—Bauereis
4. Advisory Committee members leave to begin their separate meetings

Executive Council Meeting

5. Minutes of the January 16, 1986 Meeting—Seif
6. Action Items from the January 16, 1986 Meeting, including status of resolutions—Seif
7. Implementation Committee Reports—Morris
   - Implementation Grants status
     - —Progress to date (accomplishments of each jurisdiction)
     - —Schedule for next grant awards
     - —Jurisdictions' plans for 1986-87 grant projects
   - Documentation plans
     - —Update Chesapeake Bay Restoration & Protection Plan
     - —Second Annual Report
     - —State of the Bay Report (Monitoring Subcommittee document)
   - Modeling status report
8. Frequency of Executive Council Meetings
9. Briefing on Joint Agenda of the Council, CAC and STAC meeting to follow—Morris
10. Adjourn

Noon 11. Luncheon

1:30 p.m. Reconvene Meeting of Three Groups (EC, CAC, STAC)

1:30 Progress Since Signing the Chesapeake Bay Agreement—Morris

2:15 Program Overview, Phase I and Phase II—Morris

2:45 Panel Discussion of participation in the Phase II Process—Seif

4:15 Summary of the discussion—Flanigan

4:30 Charges to the Implementation Committee to Carry Out Chesapeake Bay Program Activities Phases I and II—Seif

5:00 Adjourn.

FR Doc. 86-6511 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

(OW-FRL-2990-7)

National Drinking Water Advisory Council; Open Meeting

Under section (10)(a)(2) of Pub. L. 92-423, "The Federal Advisory Committee Act," notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*), will be held at 9:00 a.m. on April 24, 1986, and at 8:30 a.m. on April 25, 1986, at the Stephen F. Austin State Office Building, Room 118, 1700 Congress Avenue, Austin, Texas 78711. Council Subcommittees will be meeting at the same location on April 22, 1986.

The main purpose of the meeting is to discuss EPA's upcoming proposal for restrictions on injection of hazardous wastes.

This meeting will be open to the public. The Council encourages the hearing of outside statements and will allocate a portion of its meeting time for public participation. Oral statements will be limited to five minutes. It is preferred that there be one presenter for each statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 382-5533. The petition should include the topic of the proposed statement, the petitioner's telephone number and should be received by the Council before April 11, 1986.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at the Council meeting and will be part of the permanent meeting record.

Any member of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Executive Secretary, National Drinking Water Advisory Council, Office of Drinking Water (WH-550), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The telephone number is: Area Code (202) 382-5533.

Dated: March 19, 1986.

Edwin L. Johnson,

Acting Assistant Administrator for Water.

[FR Doc. 86-6512 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2998-6]

Science Advisory Board; Radiation Advisory Committee, Radioepidemiology Subcommittee; Open Meeting

April 18, 1986.

Under Pub. L. 92-463, notice is hereby given that a meeting of the Radioepidemiology Subcommittee of the Science Advisory Board's Radiation Advisory Committee will meet April 18, 1986 in Denver, CO in the Regional

Administrator's Conference Room, 26th Floor, Region VIII, U.S. Environmental Protection Agency, 1860 Lincoln Street, Denver, CO. The meeting will begin at 9:00 a.m. and adjourn no later than 6:00 p.m.

The Subcommittee is preparing a report on the contribution further epidemiological research can make to the understanding of the health risks presented by radon in indoor air. As part of this effort the Subcommittee is reviewing the protocols for a proposed study of the health risks of waterborne radon. Agency staff will brief the Subcommittee about the study at this meeting.

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit written comments to the Committee should notify Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101-F) Radiation Advisory Committee, Science Advisory Board, by close of business April 15, 1986. The number is (202) 382-2552.

Dated: March 17, 1986.

Kathleen Conway,

Acting Director, Science Advisory Board.

[FR Doc. 86-6513 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL-2990-4]

Science Advisory Board; Evironmental Health Committee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Environmental Health Committee on the Science Advisory Board will be held on April 16-17, 1986, in room number 3 of the north conference area in the Washington Information Center at Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, DC. The meeting will start at 1:30 p.m. on Wednesday, April 16, 1986, and adjourn no later than 1:00 p.m. on Thursday, April 17.

The principal purposes of the meeting will be (1) to plan for a future meeting on research topics; (2) to discuss recent interactions with the Office of Drinking Water; (3) to schedule forthcoming reviews, including those of servral drinking water criteria documents; (4) to receive a report from the Metals Subcommittee on a review of the scientific adequacy of a draft final Health Assessment Document for Nickel (EPA/600/8-83/012F; September, 1985); (5) to receive a briefing on recent developments in the use of structure-activity relationships by the Office of Toxic Substances; and (6) to discuss other items of interest to the Committee.

The meeting will be open to the public. Any member of the public wishing to attend or present information, or desiring further information on the meeting, should contact either Dr. Daniel Byrd, Executive Secretary to the Committee, or Mrs. Brenda Johnson, by telephone at (202) 382-2552 or by mail to: Science Advisory Board (A-101F), 401 M Street SW., Washington, DC 20460, no later than c.o.b. April 14, 1986.

Dated: March 17, 1986.

Kathleen Conway,

Acting Staff Director, Science Advisory Board.

[FR Doc. 86-6514 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

[A-3-FRL-2991-2]

Organization and Functions; Region III

AGENCY: Environmental Protection Agency.

ACTION: Information Notice.

SUMMARY: This is to inform the pubic that EPA, Region III has relocated. A change of address appears in the Supplementary Information portion of this Notice.

SUPPLEMENTARY INFORMATION: Becasue EPA, Region III has relocated, the new address is as follows: U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

The States served by EPA, Region III are as follows: Delaware, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia.

FOR FURTHER INFORMATION CONTACT: Esther Steinberg of EPA, Region III's Air Programs Branch at (215) 597-8239.

DATE: Effective March 25, 1986.

Authority: 42 U.S.C. 7401-7642.

Dated: March 7, 1986.

James M. Seif,

Regional Administator.

[FR Doc. 86-6504 Filed 3-24-86; 8:45 am]

BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Amarillo Production Credit Association Voluntary Liquidation; Public Hearing

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Farm Credit Administration announces a forthcoming public hearing, to be held in three consecutive sessions at separate locations, on a request by the Amarillo Production Credit Association, Amarillo, Texas, for agency approval of a plan for the voluntary liquidation of the Association pursuant to which the Association would withdraw from the Farm Credit System.

FOR FURTHER INFORMATION CONTACT: Robert E. Orrick, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4442.

SUPPLEMENTARY INFORMATION: The Farm Credit Administration ("FCA") is an independent Federal agency charged with the examination and regulation of the institutions of the Farm Credit System ("System") pursuant to the Farm Credit Act of 1971, as amended ("Act"), 12 U.S.C. 2001, *et seq.* The System is comprised of the Federal land banks and Federal land bank associations, Federal intermediate credit banks and production credit associations, bank for cooperatives, and various service organizations of the banks. Also a part of the System is the Farm Credit System Capital Corporation authorized under Part D1 of Title IV of the Act as a specialized entity to mobilize System capital resources in order to address the financial problems currently faced by the System. The System is authorized to engage in the business of providing long-intermediate- and short-term credit, and financial services to farmers, ranchers, aquatic producers, and their cooperatives.

The FCA has received formal communications from the Amarillo Production Credit Association ("Association"), Amarillo, Texas, indicating that the board of directors of the Association has approved a proposed plan of voluntary liquidation of the Association under section 4.12(a) the Act which would result in its withdrawal as an institution of the Farm Credit System. The plan has been submitted to and approved by the stockholders of the Association as required under the Act.

The Association is engaged in providing short- and intermediate- term credit and related financial services to eligible and creditworthy farmers and ranchers having operations in the area encompassing 12 counties in the Northwestern corner of the State of Texas. The territory of the Association is part of the Tenth Farm Credit District which is served by the Federal Intermediate Credit Bank of Texas ("Texas FICB") in Austin, Texas, and from which the Association currently obtains substantially all of the funding for its operations.

The proposed plan of voluntary liquidation contemplates the chartering, under the laws of the State of Texas, of Amarillo Agricultural Credit, Inc. ("AACI"), a mutual loan corporation empowered to conduct credit operations in and beyond the Association's current territory. As a nondeposit taking entity, AACI would not be subject to examination or regulation by any State banking authority. Under the plan, all Class A stock of the Association would be redeemed in cash at par value. The balance of the assets of the Association (other than Texas FICB stock held by the Association) would be transferred to AACI. In exchange, AACI would assume all debts and liabilities of the Association and issue to the Association shares of AACI common stock in an amount equal to the number of shares of the Association's Class B stock outstanding. Any debt owing by the Association to the Texas FICB would be discharged by using the proceeds of a loan to be obtained by AACI either under a discount agreement with the Texas FICB or from a private source. The Texas FICB would be requested to convert its Class B stock held by the Association into participation certificates of equal par value and to assign to AACI the Association's interest in the allocated reserve account maintained by the Texas FICB, with the value of such certificates and interests to inure to the benefit of AACI. The common stock of AACI exchanged for Assocation assets would be distributed pro rata to Association stockholders in exchange for Class B stock of the Association upon liquidation of the Association. Upon completion of the liquidation, the Association's charter would be cancelled.

The board of directors of the Association have indicated that in conjunction with the plan of voluntary liquidation AACI would seek to establish a discounting relationship with the Texas FICB as an "other financing institution" authorized under section 2.3 the Act to discount loans borrow from the System. The board has also stated that AACI would seek sources of funding outside the System should the Texas FICB refuse to establish such a relationship.

The board of directors and management of the Association state that the Association wishes to withdraw from the System:

1. To avoid the negative impact which they believe would result from a material assessment of the Association by the Farm Credit System Capital Corporation pursuant to the latter's powers under the recently enacted Farm Credit Amendments Act of 1985, P.L. 99-205;

2. To conduct business outside the geographic territorial restrictions which currently apply to the Association;

3. To assure greater stockholder and board of director control over of the business operations;

4. To attract high-quality borrowers who would be otherwise unwilling to align themselves with a System institution;

5. To access sources of lower cost funding which may be available outside the System; and

6. To avoid any pressure which may be exerted on the Association to merge with other associations within the Tenth Farm Credit District.

The proposal by the Assocation constitutes a plan of voluntary liquidation requiring the approval of the FCA under the Act and related regulations prior to implementation. In addition, Capital Directive No. 1 issued by the FCA on February 14, 1986, pursuant to section 4.3(b)(2)(A) of the Act, prohibits implementation by the Association of any of the type of transactions contemplated by the plan without specific FCA prior approval.

The FCA has determined that an agency decision on the request for approval of the plan of voluntary liquidation of the Association could have significant implications for the individual banks and associations of the Tenth Farm Credit District, the System as a whole, System borrowers, investors in System debt securities, and the public interest generally. The agency believes it essential that a full range of views and perspectives on the issues raised by the approval request be solicited from interested members of the public, particularly in light of the recent enactment of the Farm Credit Amendments Act of 1985 to enable the System to address the serious financial problems which it currently faces.

Consequently, the FCA has ordered that a public hearing be held at which interested members of the public will be afforded an opportunity to make written submissions and present testimony on the record concerning issues related to the request for agency approval of the plan of voluntary liquidation of the Association. In view of the nationwide franchise under which the System conducts operations and the broad public interest that the approval request is likely to generate, the FCA has directed that the hearing be held in sequential sessions, at multiple locations.

Interested persons are invited to submit written statements and documentation and to present testimony on the subject of the hearing, or to merely attend any session of the hearing. The location, date and time of the sessions of the hearing are as follows:

City	Location	Date	Time
Dallas, TX	Sheraton Dallas Hotel & Towers, 400 N. Olive St. at Southland Ctr., Dallas, TX 75201.	Apr. 30, 1986	8:30
Denver, CO	Denver Hilton Inn So., 7801 Orchard Road, Englewood, CO 80111.	May 14, 1986	8:30
Washington, DC.	Hyatt Regency—Capital Hill, 400 New Jersey Avenue, NW., Washington, DC 20001.	June 10, 1986	8:30

While the FCA will accept written statements and testimony on any issue relevant to the subject of the hearing, the agency encourages interested persons who submit statements or offer testimony to focus particular attention on the following matters, especially in light of the Farm Credit Amendments Act of 1985:

1. The implications of a System institution withdrawing from the System in terms of—

(a) Service to the institution's territory;

(b) The continuing ability of other institutions inside and outside the respective district to service their territories;

(c) Capital support to other System institutions in the district and in other districts;

(d) Capital support to Systemwide debt securities and related investor confidence.

2. The respective roles of production credit associations and other financing institutions who discount with System Federal Intermediate Credit Banks in serving agricultural credit needs and the respective relationship of those entities to the System as a whole.

3. When a System institution decides to withdraw from the System, to what the extent should the earned capital and reserves that it accumulated because of its ability to operate in the System be retained by the System to support other institutions and their borrowers.

A person who wishes to present testimony at a session of the hearing must request that their name be placed on the calendar not less than 10 days prior to the session of the hearing at which they wish to appear. The request should state the name, address and telephone number of the person wishing

to testify; indicate the hearing at which the person wishes to appear; and the general nature of the testimony which they will offer. Formal presentations of testimony will be restricted to 10 minutes per person. In order to facilitate discussion on the record, witnesses must submit a detailed or summary statement of the text of their comments prior to the session at which they wish to testify. Persons will be notified by the FCA of acceptance of their request. Written statements and documents submitted on the subject of the hearing by interested parties who do not wish to testify should be received by the FCA by the close of business on June 15, 1986. All documents and testimony received by the FCA as part of the public hearing process will be made part of the public record and will be available for public inspection.

Interested persons may inspect and copy (at nominal charge) documents which have been submitted by the Association with respect to the subject of the hearing by visiting or contacting the FCA. Requests for access to materials supporting the approval request, and all submissions and requests to present testimony should be directed to: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22101-5090, Attention: Robert E. Orrick.

Donald E. Wilkinson,

Acting Chairman.

[FR Doc. 86-6469 Filed 3-24-86; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL RESERVE SYSTEM

Huntington Bancshares Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Co.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 1986.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Huntington Bancshares Inc.*, Columbus, Ohio; to acquire Central Bancorp, Inc., Plainfield, Indiana, and thereby indirectly acquire First National Bank of Danville, Danville, Indiana. In connection with this application Huntington Bancshares Indiana, Inc., has applied to become a bank holding company by merging with Central Bancorp, Inc.

Huntington Bancshares, Inc. and Huntington Bancshares Indiana, Inc., have also applied to acquire Avon Computer Corporation, Plainfield, Indiana, and thereby engage in the leasing of personal or real property or acting as agent, broker, or advisor in leasing such property, pursuant to § 225.25(b)(5) of Regulation Y.

Board of Governors of the Federal Reserve System, March 19, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6424 Filed 3-24-86; 8:45 am]

BILLING CODE 6210-01-M

Liberty Bancorp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. 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.

Comments regarding the application 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. *Liberty BanCorporation*, Durant, Iowa; to acquire F-P-H Agency, Inc., Durant, Iowa; and thereby engage in general insurance activities in a town of less than 5,000 and to engage in community development activities, pursuant to § 225.25 (b)(6) and (8)(ii) of Regulation Y. These activities are to be conducted in Durant, Iowa.

Board of Governors of the Federal Reserve System, March 19, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6425 Filed 3-24-86; 8:45 am]

BILLING CODE 6210-01-M

Monticello Bankshares, Inc.; 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 § 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.

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 St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Monticello Bankshares, Inc.*, Monticello, Kentucky; to engage *de novo* as an insurance agent or broker in the sale of credit insurance that is directly related to an extension of credit by Citizens Bank and Trust Company. The activity will be conducted in the state of Kentucky.

Board of Governors of the Federal Reserve System March 18, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6429 Filed 3-24-86; 8:45 am]

BILLING CODE 6210-01-M

National Bank of Western Pennsylvania Employee Stock Ownership Program; 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 § 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.

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 requests 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 facts 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 officers of the Board of Governors not later than April 13, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *National Bank of Western Pennsylvania Employee Stock Ownership Program*, Berlin, Pennsylvania; to engage *de novo* through its subsidiary, Laurel Highland Life Insurance Company, Berlin, Pennsylvania, in credit life, accident and health underwriter as reinsurer, licensed by the State of Arizona, pursuant to § 225.25(b)(9) of Regulation Y. These activities would be conducted from the office of National Bank of Western Pennsylvania, located in Somerset and Fayette Counties of Southwestern Pennsylvania.

Board of Governors of the Federal Reserve System, March 19, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6426 Filed 3-24-86; 8:45]

BILLING CODE 6210-01-M

Pandora Bancshares Incorporated, 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 14, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Pandora Bancshares Incorporated*, Pandora, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Pandora, Pandora, Ohio. Comments on this application

must be received not later than April 16, 1986.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Liberty Bancshares Inc.*, Montgomery, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Montgomery National Bank, Montgomery, West Virginia.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First National Corporation of Sparta*, Sparta, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Sparta, Sparta, Tennessee. Comments on this application must be received not later than April 16, 1986.

D. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *DBT Financial Corporation*, DeWitt, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of DeWitt Bank & Trust Company, DeWitt, Arkansas.

2. *Monticello Bankshares, Inc.*, Monticello, Kentucky; to acquire at least 80 percent of the voting shares of Citizens Bank and Trust Company, Campbellsville, Kentucky.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis Minnesota 55480:

1. *Mid-Wisconsin Financial Services, Inc.*, Medford, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Medford, Medford, Wisconsin. Comments on this application must be received not later than April 16, 1986.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Enterprise Bancshares, Inc.*, Del City, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Del City, Del City, Oklahoma.

G. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Premier Bancorp*, Northridge, California; to become a bank holding company by acquiring over 50 percent of the voting shares of Premier Bank, Northridge California.

Board of Governors of the Federal Reserve System, March 18, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6430 Filed 3-24-86; 8:45 am]

BILLING CODE 6210-01-M

Saban S.A., 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 C.F.R. 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 16, 1986.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Saban S.A.*, Panama City, Republic of Panama; to acquire an additional 0.54 percent of the voting shares of Republic New York Corporation, New York, New York, the parent of Republic National Bank of New York, New York, New York. Comments on this application must be received not later than April 17, 1986.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fulton Financial Corporation*, Lancaster, Pennsylvania; to merge with Albion Bancorp, Inc., Pen Argyl, Pennsylvania, thereby indirectly acquiring Pen Argyl National Bank, Pen Argyl, Pennsylvania. Comments on this application must be received not later than April 17, 1986.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Virginia Banks, Inc.*, Falls Church, Virginia; to acquire 100 percent of the voting shares of The Commercial Bank, Bel Air, Maryland.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Hanover Bancorp, Inc.*, Hanover, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Hanover State Bank, Hanover, Illinois.

2. *Readlyn Bancshares, Inc.*, Readlyn, Iowa; to become a bank holding company by acquiring 52 percent of the voting shares of The Readlyn Savings Bank, Readlyn, Iowa.

E. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Houston State Holdings, Inc.*, Houston, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Houston State Bank, Houston, Minnesota.

F. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *New Braunfels Bancshares, Inc.*, New Braunfels, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens National Bank, New Braunfels, Texas, a *de novo* bank.

Board of Governors of the Federal Reserve System, March 19, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6468 Filed 3-24-86; 8:45 am]

BILLING CODE 6210-01-M

Southern National Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. 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.

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 Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern National Corporation*, Lumberton, North Carolina; to acquire Southern International Corp., Charlotte, North Carolina, thereby engaging in the issuance and sale of retail money orders having a face value of not more than $1,000; and the issurance and sale of travelers checks; to service the making or acquiring of loans and other extensions of credit (including issuing, advising and confirming letters of credit, and accepting and discounting drafts); to collect and negotiate financial documents including bills of exchange, promissory notes, cheques, drafts, payment receipts, other similar instruments for obtaining the payment of money and all types of negotiable instruments and commercial paper, and to collect and negotiate commercial documents including invoices, shipping documents, documents of title, other similar documents and any other documents whatever; to buy and sell foreign monies and currencies; to provide data and information transmission services, facilities, and data bases, to the extent permitted by law, by any technologically feasible means, where data and information to be transmitted, processed or furnished are financial, banking or economic; to provide transfers of funds, whether by check, draft, or similar paper instrument, or by electronic systems or any other technologically feasible means, to the extent permitted by law; to furnish to other banks services described in the paragraphs above and to render advice to other banks concerning such services, pusuant to § 225.25(b) (1), (7), (11), and (12) of Regulation Y, respectively.

Board of Governors of the Federal Reserve System March 18, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-6428 Filed 3-24-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Extension of Time for Filing of Comments on Proposal To Modify Cigarette Testing Procedure

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Commission has extended for sixty (60) days the time period for filing of comments on its proposal to modify the cigarette testing procedure.

EFFECTIVE DATE: March 25, 1986.

FOR FURTHER INFORMATION CONTACT: Judith P. Wilkenfeld, Program Advisor, Cigarette Advertising and Testing, 6th Pennsylvania Ave., NW., Washington, DC 20580, (202) 376-8648.

SUPPLEMENTARY INFORMATION: On October 11, 1985, the Federal Trade Commission published a **Federal Register** Notice proposing modification of its cigarette testing procedure, and requesting comments on the proposal (51 FR 41589). A sixty (60) day comment period—until December 12, 1985—was announced. The Commission subsequently extended the comment period to March 12, 1986. In response to a request from Philip Morris Inc., the Commission is now extending the comment period an additional sixty (60) days—until May 12, 1986—to enable all interested parties to submit comments.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 86-6443 Filed 3-24-86; 8:45 am]

BILLING CODE 6750-01-M

Policy Regarding Checking The Net Contents of Packaged Goods

AGENCY: Federal Trade Commission.

ACTION: Notice of policy.

SUMMARY: This notice announces the Federal Trade Commission's determination that the procedures for checking the net contents of packaged goods contained in the National Bureau of Standards Handbook 133, Second Edition issued October 1984 are not in conflict with existing Federal Trade Commission requirements.

FOR FURTHER INFORMATION CONTACT: Earl Johnson, Federal Trade Commission, 6th and Pennsylvania Avenue NW., Washington, DC. 20580. Telephone: (202) 376-2891.

SUPPLEMENTARY INFORMATION: The second edition of NBS Handbook 133 was published in October 1984. The National Bureau of Standards stated that this handbook had been prepared as a procedural guide for compliance testing of the net contents statement on packaged goods. Compliance testing of packaged goods is the process for determining whether the actual contents of a package, as affected by the packaging and distribution process, sufficiently conform with the statement of net contents on the package.

The National Bureau of Standards further stated that although the handbook has been developed primarily for use by weights and measures officials of the states, counties and cities, it could also be useful to commercial and industrial establishments involved in the packaging, distribution, and sale of commodities. The Federal Trade Commission wishes to enhance the utility of this handbook by this notice stating that the procedures in NBS Handbook 133, Second Edition are not in conflict with existing Federal Trade Commission requirements.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-6445 Filed 3-24-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health; Research Grants Program Supplement, Engineering Control System Research

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), announces that competitive grant applications are being accepted for research and demonstration project grants relating to occupational safety

and health in the area of engineering control systems. The catalog of Federal Domestic Assistance number is 13.262. Applications are not subject to Health Systems Agency nor Executive Order 12372 review.

Program Objective

This invitation supplements the existing NIOSH program announcement (NIH Guide for Grants and Contracts, Vol. 13, No. 13, December 7, 1984) by elaborating on Programmatic Interest, item 11 (control technology research) in that announcement. The primary purposes are:

• To conduct high-quality, innovative engineering research and demonstrations on priority problems of long-term interest to NIOSH.

• To conduct engineering research and demonstrations which will raise the level of academic engineering competency in the health and safety field and result in the development of improved engineering curricula in this field.

Research and demonstrations of engineering control systems are integral parts of NIOSH's systematic approach to supporting research at the basic level and then advancing these developments to the ultimate goal of preventing occupational injuries, illnesses, and deaths.

Many workplace injuries, illnesses, and deaths are preventable by proper workplace design. The logical sequel to the recognition and evaluation of occupational hazards is control. Effective control of occupational hazards usually requires a systematic application of various measures to provide adequate protection under any foreseeable conditions. Engineering controls and work practices are the essential mainstays of an effective control system, but in the absence of engineering control, personal protection is used. Workplace environment monitoring provides feedback on the effectiveness and state of control systems, allowing appropriate corrections to be made.

Control strategies can be expressed as a hierarchy of elements. These elements, in order to preference, are:

1. Prevent or contain hazardous workplace emissions at their source (e.g., engineering, substitution).

2. Remove emissions from the pathway between the source and the worker (e.g., engineering, work practices).

3. Control exposure with barriers between the worker and the hazardous work environment (e.g., engineering, personal protection).

Desirable characteristics of an engineering control system are:

• It must provide adequate and reliable protection for workers when functioning as designed.

• Potential modes of failure should be anticipated and backup control measures should be available to provide continued worker protection in the event that failures occur.

• The dependence on human intervention as a first step in control should be minimized. Where possible, mechanical or electronic pacing or warning devices should be used to supplement human intervention steps.

• The effectiveness of protection for each individual worker must be determinable.

• Provision for regular or continuous monitoring of critical process, hazard, exposure, and control parameters should be included.

• The control system must encompass all routes of entry into worker's bodies and should not exacerbate existing health or safety problems or create any additional ones.

• Engineering control systems can be used on a retrofit basis to solve existing occupational safety and health problems. However, engineering control systems are most efficiently used when incorporated into the initial design and construction of process equipment, facilities, and systems.

Research and demonstration projects are needed to address the hierarchy of elements listed above. Major areas of interest include chemical processing technology, nonferrous metals production, manufacturing processes such as tire building and spray painting, service industries such as dry cleaning, and control techniques such as air recirculation and push-pull local exhaust ventilation. In each of these situations, behavioral, motivational, and ergonomic considerations may be important factors in successful control of worker exposure to hazardous situations.

Engineering control research projects are important in developing and evaluating continuous monitoring techniques, protocols, and control criteria which can be used in the development, implementation, and maintenance of control systems. Part of this effort is to investigate the applicability of innovative control methods which are not currently in general use and demonstrates the effectiveness of existing workplace controls.

Control monitoring instruments and techniques provide information on the operational status of control systems, provide warnings to plant personnel, and provide corrective actions in the case of control failure. Monitoring systems can be an integral part of the control system and, in many cases, can be used to obtain estimates of long-term worker exposure data.

Availability of Funds

No specific funding level is targeted for proposals submitted in response to this program supplement. Engineering Control System submissions will be considered along with all other grant applications and will compete for available funds. It is expected that of the $6.2 million available in Fiscal Year 1986, $1.1 million will be awarded to fund approximately 11 new and competing renewal individual project grants ranging from approximately $50,000 to $180,000. In Fiscal Year 1987, the number of new and competing renewal awards is estimated to be at least as high as in Fiscal Year 1986.

Type of Assistance

The support mechanism for this program will be the research and demonstration grants.

Authority

These grants will be awarded and administered by NIOSH under the research and demonstration grant authority of section 20(a)(1) of the Occupation Safety and Health Act of 1970 (29 U.S.C. 699(a)(1)) and section 501 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951). Program Regulations applicable to these grants are contained in Part 87 of Title 42, Code of Regulations, "National Institute for Occupational Safety and Health Research and Demonstration Grants." Except as otherwise indicated, the basic grant administration policies of the Department of Health and Human Services and the Public Health Service are applicable to this program.

Eligibility Requirements

Eligible applicants include non-profit and for-profit organizations. Thus universities, colleges, research institutions, and other public and private organizations including State and local governments and small, minority, and/or women-owned businesses are eligible for these research and demonstration grants. For-profit organizations will be required to submit a certification as to their status as part of their application.

Application

In accordance with an Interagency Agreement between the Centers for Disease Control (CDG), National Institute for Occupational Safety and

Health (NIOSH), and the National Institutes of Health (NIH), Division of Research Grants (DRG), applications should be submitted on Form PHS-398 (revised May 1982) or PHS-5161-1 for State and local government applications. Forms should be available from the institutional business offices or from: Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building Room 449, 5333 Westbard Avenue, Bethesda, Maryland 20205.

The original and six copies of the application must be submitted to the address below on or before the specified receipt dates in accordance with the instructions in the PHS-398 packet: Division of Research Grants, National Institutes of Health, Westwood Building, Room 240, Bethesda, Maryland 20205.

In developing the application please note that the conventional presentation for grant applications should be used and the points identified under "Criteria for Review" must be fulfilled.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies of the application that are made available to outside reviewing groups. If the applicant's organization elects to exercise this option, use asterisks on the original and six copies of the application to indicate those individuals for whom salaries and fringe benefits are being requested; the subtotals must still be shown. In addition, submit an additional copy of page four of Form PHS-398, completed in full with the asterisks replaced by the amount of the salary and fringe benefits requested for each individual listed. This budget page will be reserved for internal PHS staff use only.

The instructions in the Form PHS-398 packet should be followed concerning deadlines for either delivering or mailing the applications. The application should be sent or delivered using the mailing label in the Form PHS-398 packet.

The proposed timetable for receiving applications and awarding grants is as follows:

Application deadline	Primary review group meeting	Secondary review meeting	Expected start date
New applications:			
Feb. 1	June	September	Dec. 1.
June 1	Oct./Nov.	January	Apr. 1.
Oct. 1	Feb./Mar	May	July 1.
Exceptions: Competing renewal applications:			
Mar. 1	June	September	Dec. 1.
July 1	Oct./Nov.	January	Apr. 1.
Nov. 1	Feb./Mar	May	July 1.

Criteria for Review

Applications will be evaluated by a dual review process. The primary (peer) review is based on scientific merit and significance of the project, competence of the proposed staff in relation to the type of research involved, feasibility of the project, likelihood of its producing meaningful results, appropriateness of the proposed project period, adequacy of the applicant's resources available for the project, and appropriateness of the budget request.

Demonstration grant applications will be reviewed additionally on the basis of the following criteria:

- Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.
- Availability, adequacy, and competence of personnel, facilities, and other resources needed to carry out the project.
- Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.
- Extent of cooperation expected from industry, unions, or other participants in the project, where applicable.

A secondary review will also be conducted. Factors considered in the secondary review will include:

- The results of the initial review.
- The significance of the proposed study to the research programs of NIOSH.
- National needs and program balance.
- Policy and budgetary considerations.

Awards will be made based on priority score ranking, balance among all areas of programmatic interest (see Vol. 13, No. 13, December 7, 1984, of the NIH Guide for Grants and Contracts), and availability of funds.

Letters of Intent

Prospective applicants are asked to submit a one-page letter of intent that includes a brief synopsis of the proposed research and identification of any other participating institutions. NIOSH requests such letters only for the purpose of providing an indication of the number and scope of applications to be received and, therefore, usually does not acknowledge their receipt. A letter of intent is not binding, and it will not enter into the review of any application subsequently submitted, nor is it a necessary requirement for application. This letter of intent, which should be received no later than one (1) month prior to the specified application deadline date, should be sent to: Roy M. Fleming, Sc.D., Associate Director for Grants National Institute for Occupational Safety and Health, Centers for Disease Control, 1600 Clifton Road NE., Building 1, Room 3053, Atlanta, Georgia 30333, Telephone: (404) 329-3343.

Reporting Requirements

Performance reports on awarded grant projects are required annually as a part of the continuation application and a final report is due within 90 days of the end of the project period. The final performance report should include, at a minimum, a statement of original objectives, a summary of research methodology, a summary of positive and negative findings, and a list of publications resulting from the grant. Research papers, project reports, or theses are acceptable items in the final report. The report should stand alone rather than citing the original application. Three copies of reprints of publications prepared under the grant should accompany the report. Financial status reports are due within 90 days of the end of each budget period. The final financial status report is due within 90 days of the expiration of the project period.

Information

For technical information contact Roy M. Fleming, Sc.D., Associate Director for Grants, National Institute for Occupational Safety and Health, Centers for Disease Control, 1600 Clifton Road NE., Building 1, Room 3053, Atlanta, Georgia 30333, or by calling (404) 329-3343, or FTS 236-3343

For business information contact Leo A. Sanders, Grants Management Officer, Centers for Disease Control, 255 E. Paces Ferry Road, NE., Room 107A, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575.

Dated: March 17, 1986.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 86-6416 Filed 3-24-86; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 86E-0042]

Human Drugs; Determination of Regulatory Review Period for Purposes of Patent Extension; Primaxin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Primaxin and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Primaxin, an injection of imipenem and cilastatin sodium which is indicated for the treatment of serious infections caused by a variety of microorganisms. Based on this approval, Merck & Co., Inc., now seeks patent term restoration.

FDA has determined that the applicable regulatory review period for Primaxin is 1,694 days. Of this time, 1,121 days occurred during the testing phase of the regulatory review period, while 573 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 507(d) of the Federal Food, Drug, and Cosmetic Act became effective:* April 9, 1981. The applicant claims that an investigational new drug application (IND) for Primaxin became effective on April 6, 1981. However, FDA did not receive the IND application until March 10, 1981. Under FDA regulations, therefore, the IND became effective on April 9, 1981.

2. *The date the application was initially submitted with respect to the human drug product under section 507 of the Federal Food, Drug, and Cosmetic Act:* May 3, 1984. FDA verified that a request to provide for certification of a new antibiotic product (a Form 5 application) was initially submitted on May 3, 1984.

3. *The date the application was approved:* November 26, 1985. FDA verified that new drug application 50-587 was approved on November 26, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before May 27, 1986 submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before (September 22, 1986 for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 19, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86-6427 Filed 3-24-86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-355-PN]

Medicare Program; Use of HCFA Wage Index for Setting Schedule of Limits on Home Health Agency Costs Per Visit for Cost Reporting Periods Beginning on or After July 1, 1986

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

ACTION: Proposed notice.

SUMMARY: This notice proposes use of the HCFA Survey-Based Hospital Wage Index for purposes of setting the schedule of limits on home health agency per visit costs for cost reporting periods beginning on or after July 1, 1986.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on April 24, 1986.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-355-PN, P.O. Box 26676, Baltimore, Maryland 21207.

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

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

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

In commenting, please refer to file code BERC-355-PN. Comments will be available for public inspection as they are received, begining approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Steven R. Kirsh, (301) 594-9465.

SUPPLEMENTARY INFORMATION:

I. Background

On July 5, 1985, we published a final notice (50 FR 27734) that established a three-year methodology to be used to calculate the limits applicable to home health agency (HHA) costs for cost reporting periods beginning on or after July 1, 1985 but before July 1, 1988. As we stated in that final notice (50 FR 27738), if a decision was made to use the HCFA survey-based wage index for the hospital prospective payment system, we would consider the use of this index for future schedules of HHA limits. The final rule undating the prospective payment rates for the Federal fiscal year 1986 published in the **Federal Register** on September 3, 1985 (50 FR 35646) (for which technical corrections were issued on October 28, 1985 (50 FR 43570)) adopted the HCFA survey-based wage index. (However, we note that actual implementation of the HCFA wage index in the prospective payment setting was postponed until March 15, 1986 by section 5 of Pub. L. 99–107, as amended by section 2 of Pub. L. 99–201. For further information see the February 3, 1986 **Federal Register** (51 FR 4166).)

As we discuss below, it is our belief that the HCFA survey-based wage index is more accurate than the Bureau of Labor Statistics (BLS) index that we have used in the past. Thus, we are proposing to adopt the HCFA survey-based wage index for use in calculating the schedules of HHA limits effective for cost reporting periods beginning on or after July 1, 1986 but before July 1, 1988. A change from the BLS wage index to the HCFA survey-based wage index would result in HHA limits that more accurately reflect the prevailing economic environment in which HHAs operate.

All other elements of the HHA limits methodology to be applied for cost reporting periods beginning on July 1, 1986 will remain as they were announced in the July 5, 1985 final notice. After analyzing public comments on this proposed notice, we will publish a final notice announcing our decision concerning the use of the HCFA wage index and setting forth the new schedule of HHA limits that will be effective for cost reporting periods beginning on or after July 1, 1986.

II. Development of the New Hospital Wage Index

We have used hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS) ES 202 Employment, wages and Contributions file for hopsital workers to construct the wage index that has been used to develop and apply the HHA limits since July 1, 1980. The BLS ES 202 system complies information on employment and total wages for workers covered by unemployment insurance.

We have been aware, since the first use of this wage index, of certain limitations of the BLS data, especially with regard to the lack of information on hours of employment or full-time equivalents. The BLS data provide information only on the number of workers employed at a hospital and their aggregate salaries. As a result, area wage indexes produced from these data to not distinguish between part-time and full-time employees. Although we recognized these shortcomings, we decided to use the wage indexes for purposes of setting HHA limits. We did so because we believed the disadvantages were out weighed by the advantage of being able to utilize the best national data available in setting HHA limits.

In an effort to overcome the limitation of the BLS data with regard to full-time and part-time employment, we conduct a survey that we hoped would permit the analysis of options for the construction of an improved wage index. The survey provided for the extraction of specific hopspital salary and fringe benefit data from the Medicare cost report for hospital fiscal years ending in calendar year 1982, and for the extraction from hospital records of data on paid hours worked. A complete description of the survey, as well as the survey results, can be found in the following **Federal Register** publications:

- Proposed rule published on July 3, 1984 (49 FR 27439);
- The final rule published on August 31, 1984 (49 FR 34764);
- The June 10, 1985 proposed rule (50 FR 24375); and
- The September 3, 1985 final rule (50 FR 35646).

We computed two hospital wage indexes using the data from the 5,602 hospitals that were included in our survey data base. Both of these indexes were presented in our March 29, 1985 report to Congress on the HCFA wage index. One index is derived from gross hospital salaries; the second index is developed from adjusted gross hospital salaries. Adjusted gross salaries are defined as total wages excluding wages for interns and residents, personnel employed in nonhospital cost centers, and hospital-based physicians.

The two indexes were developed from different categories of hospital workers. The index based on gross salaries and wages measures the difference from area to area in gross hospital wages; that is, the wages paid to all hospital employees, including interns and residents, provider-based physicians, and workers employed by the hospital but working in areas of the facility other than the hospital inpatient area. The other index is based on adjusted salaries and hours; that is, it eliminates the effect of interns and residents, provider-based physicians, and hospital workers in the areas of the facility other than the hospital inpatient area.

Both indexes account for regional differences in part-time employment since each is based on the average hourly wage in each urban or rural area. However, because many hospitals have indicated that they had difficulty in determining the wages and salaries and hours worked for the excluded worker categories used to develop the adjusted gross wage index, that index is not as accurate as the gross wage index.

Therefore, we decided to use the gross wage index for the hospital prospective payment system, since we believe it is the better of the two wage indexes derived from the HCFA wage survey.

The method used to compute the gross wage index (see tables I and II) was as follows:

Step 1—Each of the 5,601 non-Federal acute care hospitals subject to the prospective payment system, for which a properly completed survey form had been received, was classified into its appropriate urban or rural area based on the Executive Office of Management and Budget's (EOMB's) metropolitan statistical area (MSA) definitions including the changes that were announced on June 27, 1985 and were effective June 30, 1985. (Although 5602 hospitals were in the data base at the time of the proposed final rules for the prospective payment system, we subsequently deleted one hospital and corrected data and location on a few others.)

Step 2—For each hospital, the total gross hospital salaries as reported for hospital fiscal years ending in calendar year 1982 were inflated from the end of the hospital's cost reporting year through the end of calendar year 1982 using the annual 1982 rate of increase in the wages and salaries portion of the hospital market basket. The annual rate used was 11.0 percent. This was done to eliminate any distortion in the data caused by differing hospital cost reporting years.

Step 3—For each hospital, the inflated gross hospital salaries computed in step 2 were divided by the reported number of total paid hours worked to yield an average hourly wage.

Step 4—Hospitals with an aberrant average hourly wage, which was

defined as an average hourly wage either less than $3.35 (the minimum wage in 1982) or greater than $19.58 (2.5 times the 1982 national average hourly hospital wage as reported in BLS' *Employment and Earnings Bulletin* as of February 1984), were excluded. This resulted in the elimination of records from 63 hospitals.

Step 5—Within each urban or rural area, the result computed in step 2 was summed for all remaining hospitals to yield the total gross hospital salaries in each area.

Step 6—The total gross hospital salary result computed in step 5 was divided by the corresponding total number of paid hours worked to yield an average hourly wage for each urban or rural area.

Step 7—The arithmetic mean of the result in step 6 was computed across all urban and rural areas to obtain the national average hourly hospital wage based on gross salaries.

Step 8—In order to have index values that allow the application of these limits to HHAs in Puerto Rico, since hospitals in Puerto Rico are not subject to the prospective payment system, the relationship between the average monthly hospital wages for each Puerto Rico locale and the national average monthly hospital wage from BLS data for 1983 was applied to the national average hourly wage computed in step 6 to derive estimated average hourly hospital wages for each of the 7 Puerto Rico locales.

Step 9—The arithmetic mean of the result in steps 6 and 8 was computed across all urban and rural areas to obtain the national average hospital wage based on gross salaries. This national average was $7.9673.

Step 10—For each urban or rural area, the hospital wage index was calculated by dividing the average hourly wage computed in steps 6 and 8 by $7.9673, the national average.

Tables I and II presented below set forth the HCFA Survey-Based Wage Index as calculated by using the steps described above. The values presented in the tables, in conjunction with the cost limits methodology described in the July 5, 1985 final notice, would be used to set HHA limits for cost reporting periods beginning on or after July 1, 1986.

III. Regulatory Impact Statement and Regulatory Flexibility Analysis

A. Introduction

Executive Order 12291 (E.O. 12291) requires us to publish an initial regulatory impact analysis for proposed regulations that are likely to meet the criteria for a major rule. A major rule is one that would 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 governmental agencies, or any geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Since adopting the HCFA survey-based wage index would not meet any of these criteria, this proposed notice is not a major rule under E.O. 12291, and an initial regulatory impact analysis is not required.

However, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare and publish an initial regulatory flexibility analysis for proposed notices unless the Secretary certifies that implementation of the notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all HHAs to be small entities. The changes contained in this proposed notice would result in a significant economic impact on a substantial number of HHAs. Therefore, we are providing a regulatory flexibility analysis.

B. Effects of New Wage Index

There are about 5964 HHAs participating in Medicare throughout the country. Of these, 3603 are urban (that is, located in MSAs). Of the urban HHAs, 2924 are freestanding and 679 are hospital-based. Of the 2361 rural HHAs, 1780 are freestanding and 581 are hospital-based. Many HHAs have high Medicare utilization compared to other types of providers; a number exceed 75 percent Medicare utilization. Thus, any significant change in Medicare reimbursement may have a significant effect on individual HHAs' total revenue.

Adopting the HCFA survey-based gross wage index would affect the level of payment for a given HHA only if there were a significant change in the index value for the area in which it is located and if the change in wage index were to result in a change in the amount of an agency's costs in excess of the limits.

Thus, whether or not an HHA in fact would be advantaged or disadvantaged by the change in wage index would depend on whether:

- The agency would have had one or more disciplines over a limit using the BLS index;
- The applicable wage index value increased or decreased; and
- The revised limit, using the new index value, resulted in allowance of higher or lower costs for one or more disciplines.

Some agencies would be under all the limits, regardless of which wage index is used, and thus would be unaffected. Some HHAs that would be under all the per discipline limits using the BLS index could, as a result of a reduced wage index value, experience disallowances of the cost in excess of the limits for one or more disciplines. Conversely, some HHAs that would have costs in excess of the limits disallowed under the BLS index could, if their index values increased, experience smaller disallowances, possibly none.

Compared to the BLS wage index used in the July 5, 1985 final notice, the adoption of the HCFA survey-based gross wage index would result in increased wage index values for 163 MSAs and 27 State-wide rural areas, and decreased values for 159 MSAs and 23 rural areas. Based on the most recent data base (3182 HHAs) that we use for computing HHA cost limits, we have analyzed the relative effect of the proposed adoption of the HCFA wage index, assuming that affected HHAs did not change their behavior in response to changed wage index values. The table below summarizes our findings.

HHAs by location and type	Number in data base	Payment decrease	Payment increase	Payment not affected
Rural	1,239	466	531	242
Freestanding	1,045	388	444	213
Hosptial-based	194	78	87	29
Urban	1,943	680	998	265
Freestanding	1,716	608	868	240
Hosptial-based	227	72	130	25
Total	3,182	1,146	1,529	507

Of the total HHAs in the data base, about 36 percent would be disadvantaged and 48 percent advantaged. Applying these same proportions to the total HHA universe of 5964 HHAs, we project similarly that decreased wage index values would disadvantage about 2148 agencies, and that increased values would advantage about 2865 agencies.

Note.—however, that some disadvantaged agencies would be able to minimize or escape disallowances resulting from decreased limits by improving economy and efficiency of operations.

Nonetheless, we estimate that the net effect of the new wage index on total annual payments to all HHAs would be

negligible because in the aggregate, increased and decreased payments would offset each other.

C. Conclusion

We believe that the benefits of this proposed notice would outweigh the costs because the HCFA survey-based gross wage index is a more accurate measure of the relative costs of the types of peronnel utilized by HHAs than the BLS wage index. Although some HHAs would be advantaged and some disadvantaged by changes to the wage index, we believe the results generally would be equitable.

IV. Other Required Information

A. Paperwork Burden

This proposed notice does not impose information collection requirements. Consequently, it does not need to be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

B. Public Comment

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

V. Wage Indexes

TABLE I.—WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index
Abilene, TX	.9003
Taylor, TX	
Aguadilla, PR	[1].5581
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	1.1080
Portage, OH	
Summit, OH	
Albany, GA	.8183
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	.9248
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.1078
Bernalillo, NM	
Alexandria, LA	.9169
Rapides, LA	
Allentown-Bethlehem, PA-NJ	1.0454
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	1.0022
Blair, PA	
Amarillo, TX	.9595
Potter, TX	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Randall, TX	
Anaheim-Santa Ana, CA	1.2616
Orange, CA	
Anchorage, AK	1.5849
Anchorage, AK	
Anderson, IN	.9882
Madison, IN	
Anderson, SC	.8369
Anderson, SC	
Ann Arbor, MI	1.2607
Washtenaw, MI	
Anniston, AL	.8519
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	1.0666
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
Arecibo, PR	[1].6081
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
Quebradillas, PR	
Asheville, NC	.8844
Buncombe, NC	
Athens, GA	.8179
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
Atlanta, GA	.9663
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0566
Atlantic, NJ	
Cape May, NJ	
Augusta, GA-SC	.9602
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	1.1015
Kane, IL	
Kendall, IL	
Austin, TX	1.1177
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.2059
Kern, CA	
Baltimore, MD	1.1150
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Anne's, MD	
Bangor, ME	.9285
Penobscot, ME	
Baton Rouge, LA	.9825
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	1.0302
Calhoun, MI	
Beaumont-Port Arthur, TX	1.0082
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0919
Beaver, PA	
Bellingham, WA	1.1471
Whatcom, WA	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Benton Harbor, MI	.8911
Berrien, MI	
Bergen-Passaic, NJ	1.0748
Bergen, NJ	
Passaic, NJ	
Billings, MT	1.0226
Yellowstone, MT	
Biloxi-Gulfport, MS	.8489
Hancock, MS	
Harrison, MS	
Binghamton, NY	.9558
Broome, NY	
Tioga, NY	
Birmingham, AL	.9663
Blount, AL	
Jefferson, AL	
Saint Clair,AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	.9943
Burleigh, ND	
Morton, ND	
Bloomington, IN	.9899
Monroe, IN	
Bloomington-Normal, IL	.9844
McLean, IL	
Boise City, ID	1.0584
Ada, ID	
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1560
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.1326
Boulder, CO	
Brandenton, FL	.9196
Manatee, FL	
Brazoria, TX	.8742
Brazoria, TX	
Bremerton, WA	.9813
Kitsap, WA	
Bridgeport-Stamford-Norwalk,-Danbury, CT	1.1846
Fairfield, CT	
Brownsville-Harlingen, TX	.8977
Cameron, TX	
Bryan-College Station, TX	.9569
Brazos, TX	
Buffalo, NY	1.0687
Erie, NY	
Burlington, NC	.7926
Alamance, NC	
Burlington, VT	1,.0131
Chittenden, VT	
Grand Isle, VT	
Caguas, PR	[1].6279
Caguas, PR	
Gurabo, PR	
San Lorenz, PR	
Aguas Buenas, PR	
Cayey, PR	
Cidra, PR	
Canton, OH	1.0080
Carroll, OH	
Stark, OH	
Casper, WY	1.1063
Natrona, WY	
Cedar Rapids, IA	1.0174
Linn, IA	
Champaign-Urbana-Rantoul, IL	.9965
Champaign, IL	
Charleston, SC	.8912
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	1.0482
Kanawha, WV	
Putnan, WV	
Charlottee-Gastonia-Rock Hill, NC-SC	.8991
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	.9345
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Greene, VA	
Chattanooga, TN-GA	1.0041
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	.9702
Laramie, WY	
Chicago, IL	1.2351
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.2463
Butte, CA	
Cincinnati, OH-KY-IN	1.1050
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN-KY	.8183
Christian, KY	
Montgomery, TN	
Cleveland, OH	1.1565
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	1.0439
El Paso, CO	
Columbia, MO	1.1022
Boone, MO	
Columbia, SC	.9168
Lexington, SC	
Richland, SC	
Columbia, GA-AL	.7929
Russell, AL	
Chattanoochee, GA	
Muscogee, GA	
Columbus, OH	.9684
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	.9899
Nueces, TX	
San Patricio, TX	
Cumberland, MD-WV	.8996
Allegany, MD	
Mineral, WV	
Dallas, TX	1.0758
Collins, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	.8087
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA-IL	1.0660
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	1.0939
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	.9139
Volusia, FL	
Decatur, IL	.9592
Macon, IL	
Denver, CO	1.2865
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	1.0556
Dallas, IA	
Polk, IA	
Warren, IA	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Detroit, MI	1.1725
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	.8457
Dale, AL	
Houston, AL	
Dubuque, IA	1.0590
Dubuque, IA	
Duluth, MN-MI	.9930
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	.9498
Chippewa, WI	
Eau Claire, WI	
EL Paso, TX	.9437
El Paso, TX	
Elkhart-Goshen, IN	.9650
Elkhart, IN	
Elmira, NY	.9741
Chemung, NY	
Enid, OK	.9626
Garfield, OK	
Erie, PA	.9991
Erie, PA	
Eugene-Springfield, OR	1.1163
Lane, OR	
Evansville, IN-KY	1.0217
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND-MN	1.0644
Clay, MN	
Cass, ND	
Fayetteville, NC	.8330
Cumberland, NC	
Fayetteville-Springdale, AR	.8078
Washington, AR	
Flint, MI	1.2104
Genesse, MI	
Florence, AL	.7889
Colbert, AL	
Lauderdale, AL	
Florence, SC	.7686
Florence, SC	
Fort Collins-LoveLand, CO	1.0846
Larimor, CO	
Fort Lauderdale-Hollywood-Pompano Beach, FL	1.1249
Broward, FL	
Fort Myers-Cape Coral, FL	.9533
Lee, FL	
Fort Pierce, FL	1.0215
Martin, FL	
St. Lucie, FL	
Fort Smith, AR-OK	.9243
Crawford, AR	
Sebastian, AR	
Sequovah, OK	
Fort Walton Beach, FL	.8751
Okaloosa, FL	
Fort Wayne, IN	.9568
Allen, IN	
De Kalb, IN	
Whitley, IN	
Fort Worth-Arlington, TX	.9990
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.1490
Fresno, CA	
Gadsden, AL	.8777
Etowah, Al	
Gainesville, FL	.9642
Alachua, FL	
Bradford FL	
Galveston-Texas City, TX	1.1412
Galveston, TX	
Gray-Hammond, IN	1.0978
Lake, IN	
Porter, IN	
Glens Falls, NY	.9607
Warren, NY	
Washington, NY	
Grand Forks, ND	.9871
Grand Forks, ND	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Grand Rapids, MI	1.0663
Kent, MI	
Ottawa, MI	
Great Falls, MT	1.0722
Cascade, MT	
Greeley, CO	1.0763
Weld, CO	
Green Bay, WI	1.0326
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	.9388
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guildord, NC	
Randolph, NC	
Stokes, NC	
Yadin, NC	
Greenville, Spartanburg, SC	.9130
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	.9585
Washington, MD	
Hamilton-Middletown, OH	1.0214
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	.9868
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
Hartford-New Middletown-Britain-Bristol, CT	1.1486
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	.8982
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.2022
Honolulu, HI	
Houma-Thibodaux, LA	.9229
Lafourche, LA	
Terrebonne, LA	
Houston, TX	1.0668
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV-KY-OH	.9509
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	.8661
Madison, AL	
Indianapolis, IN	1.0594
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa city, IA	1.3084
Johnson, IA	
Jackson, MI	1.0206
Jackson, MI	
Jackson, MS	.9354
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	.7916
Madison, TN	
Jacksonville, FL	.9481
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	.7966
Onslow, NC	
Janesville-Beloit, WI	.9422
Rock, WI	
Jersey City, NJ	1.1108
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN-VA	.8617

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index[1]
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	.9526
Cambria, PA	
Somerset, PA	
Joilet, IL	1.1253
Grundy, IL	
Will, IL	
Joplin, MO	.9202
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.2341
Kalamazoo, MI	
Kankakee, IL	.9510
Kankakee, IL	
Kansas City, MO-KS	1.0660
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	1.0875
Kenosha, WI	
Killeen-Temple, TX	.8849
Bell, TX	
Coryell, TX	
Knoxville, TN	.8996
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	.9870
Howard, IN	
Tipton, IN	
LaCrosse, WI	1.0167
LaCrosse, WI	
Lafayette, LA	1.0114
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	.9163
Tippecanoe, IN	
Lake Charles, LA	1.0036
Calcasieu, LA	
Lake County, IL	1.1637
Lake, IL	
Lakeland-Winter Haven, FL	.8851
Polk, FL	
Lancaster, PA	1.0396
Lancaster, PA	
Lansing-East Lansing, MI	1.0789
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX	.8163
Webb, TX	
Las Cruces, NM	.8767
Dona Ana, NM	
Las Vegas, NV	1.1254
Clark, NV	
Lawrence, KS	1.0180
Douglas, KS	
Lawton, OK	.9489
Comanche, OK	
Lewiston-Auburn, ME	.9426
Androscoggin, ME	
Lexington-Fayette, KY	.9873
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	.9866
Allen, OH	
Auglaize, OH	
Lincoln, NE	.9710

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Lancaster, NE	
Little Rock-North Little Rock, AR	1.1135
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	.8410
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	1.0280
Lorain, OH	
Los Angeles-Long Beach, CA	1.3290
Los Angeles, CA	
Louisville, KY-IN	1.0081
Clark, IN	
Floyd, IN	
Harrison, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	1.0128
Lubbock, TX	
Lynchburg, VA	.9215
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robins, GA	.9325
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0902
Dane, WI	
Manchester-Nashua, NH	.9724
Hillsboro, NH	
Merrimack, NH	
Mansfield, OH	.9919
Richland, OH	
Mayaguez, PR	1.5732
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
San German, PR	
McAllen-Edinburg-Mission, TX	.8105
Hidalgo, TX	
Medford, OR	1.0356
Jackson, OR	
Melbourne-Titusville, FL	.9378
Brevard, FL	
Memphis, TN-AR-MS	1.0494
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Miami-Hialeah, FL	1.0703
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	1.0349
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.1305
Midland, TX	
Milwaukee, WI	1.1411
Milwaukee, WI	
Ozaukee, WI,	
Washington, WI	
Waukesha, WI	
Minneapolis-St. Paul, MN-WI	1.1772
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	.8927
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.2103
Stanislaus, CA	
Monmouth-Ocean, NJ	.9924
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	.9343

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Ouachita, LA	
Montgomery, AL	.8876
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	1.0065
Delaware, IN	
Muskegon, MI	.9912
Muskegon, MI	
Naples, FL	1.0448
Collier, FL	
Nashville, TN	.9414
Cheatham, TN	
Davidson,TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
Nassau-Suffolk, NY	1.3143
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro,MA	.9795
Bristol, MA	
New Haven-West Haven-Waterbury-Meriden, CT	1.1276
New Haven, CT	
New London-Norwich, CT	1.1103
New London, CT	
New Orleans, LA	.9344
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
New York, NY	1.3859
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
Newark, NJ	1.1404
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	.8963
Niagara, NY	
Norfolk-Virginia Beach-Newport New, VA	.9692
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
Oakland, CA	1.4893
Alameda, CA	
Contra Costa, CA	
Ocala, FL	.8735
Marion, FL	
Odessa, TX	.9619
Ector, TX	
Oklahoma City, OK	1.0930
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia, WA	1.0787
Thurston, WA	
Omaha, NE-IA	1.0509
Pottawattamie, IA	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange County, NY	.9299
Orange, NY	
Orlando, FL	1.0188
Orange, FL	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Osceola, FL	
Seminole, FL	
Owensboro, KY	.8243
Daviess, KY	
Oxnard-Ventura, CA	1.2851
Ventura, CA	
Panama City, FL	.8354
Bay, FL	
Parkersburg-Marietta, WV-OH	.9121
Washington, OH	
Wood, WV	
Pascagoula, MS	.9678
Jackson, MS	
Pensacola, FL	.8742
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	1.0584
Peoria, IL	
Tazewell, IL	
Woodford, IL	
Philadelphia, PA-NJ	1.1793
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
Phoenix, AZ	1.0801
Maricopa, AZ	
Pine Bluff, AR	.8009
Jefferson, AR	
Pittsburgh, PA	1.1008
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	1.0246
Berkshire, MA	
Ponce, PR	[1].6935
Juana Diaz, PR	
Ponce, PR	
Portland, ME	1.0114
Cumberland, ME	
Sagadahoc, ME	
York, ME	
Portland, OR	1.2074
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	.9373
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	1.0052
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	1.0553
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Statewide, RI	
Washington, RI	
Provo-Orem, UT	.9858
Utah, Ut	
Pueblo, CO	1.1210
Pueblo, CO	
Racine, WI	1.0002
Racine, WI	
Raleigh-Durham, NC	.9720
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	.9623
Pennington, SD	
Reading, PA	1.0248
Berks, PA	
Redding, CA	1.2396
Shasta, CA	
Reno, NV	1.1839
Washoe, NV	
Richland-Kennewick, WA	1.0256
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	.9564
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico., VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, CA	1.2517
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	.8997
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0284
Olmsted, MN	
Rochester, NY	1.0226
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	1.1354
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.2969
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.1070
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	1.0018
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	.9487
Buchanan, MO	
St. Louis, MO-IL	1.0827
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Salem, OR	1.0971
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.2571
Monterey, CA	
Salt Lake City-Ogden, UT	1.0354
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	.8719
Tom Green, TX	
San Antonio, TX	.8943
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.3104
San Diego, CA	
San Francisco, CA	1.6517
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.4805
Santa Clara, CA	
San Juan, PR	[1].6197
Barcelona, PR	
Bayamón, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1822
Santa Barbara, CA	
Santa Cruz, CA	1.2432
Santa Cruz, CA	
Santa Fe, NM	1.9809
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.3112
Sonoma, CA	
Sarasota, FL	.9639
Sarasota, FL	
Savannah, GA	.8917
Chatham, GA	
Effingham, GA	
Scranton-Wilkes Barre, PA	.9982
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.1579
King, WA	
Snohomish, WA	
Sharon, PA	.9757
Mercer, PA	
Sheboygan, WI	.9885
Sheboygan, WI	
Sherman-Denison, TX	.8619
Grayson, TX	
Shreveport, LA	.9613
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	1.0062
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	1.0211
Minnehaha, SD	
South Bend-Mishawaka, IN	1.0087
St. Joseph, IN	
Spokane, WA	1.1559
Spokane, WA	
Springfield, IL	1.0664
Menard, IL	
Sangamon, IL	
Springfield, MO	.9863
Christian, MO	
Greene, MO	
Springfield, MA	1.0060
Hampden, MA	
Hampshire, MA	
State College, PA	1.0772
Centre, PA	
Steubenville-Weirton, OH-WV	.9655
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.2871
San Joaquin, CA	
Syracuse, NY	1.0301
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.1052
Pierce, WA	
Tallahassee, FL	.9509
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL	.9830
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	.8456
Clay, IN	
Vigo, IN	
Texarkana-TX-Texarkana, AR	.8650
Miller, AR	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Bowie, TX	
Toledo, OH	1.2267
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	1.0632
Shawnee, KS	
Trenton, NJ	1.0317
Mercer, NJ	
Tucson, AZ	1.0090
Pima, AZ	
Tulsa, OK	1.0131
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	1.0172
Tuscaloosa, AL	
Tyler, TX	1.0035
Smith, TX	
Utica-Rome, NY	.8840
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.3397
Napa, CA	
Solano, CA	
Vancouver, WA	1.1659
Clark, WA	
Victoria, TX	.8205
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	.9929
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.0643
Tulare, CA	
Waco, TX	.9117
McLennan, TX	
Washington, DC-MD-VA	1.1965
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	.9993
Black Hawk, IA	
Bremer, IA	
Wausau, WI	.9871
Marathon, WI	
West Palm Beach-Boca Ration-Delray Beach, FL	.9972
Palm Beach, FL	
Wheeling, WV-OH	.9771
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	1.1589
Butler, KS	
Sedgwick, KS	
Wichita Falls, TX	.8776
Wichita, TX	
Williamsport, PA	.9048
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0586
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	.9591
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	1.0094
Worcester, MA	
Yakima, WA	1.0389
Yakima, WA	
York, PA	.9853
Adams, PA	
York, PA	
Youngstown-Warren, OH	1.0490
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	1.0460
Sutter, CA	

TABLE I.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Yuba, CA	

[1] Approximate value for area.

TABLE II.—WAGE INDEX FOR RURAL AREAS

Nonurban area	Wage index
Alabama	.7466
Alaska	1.4989
Arizona	.9323
Arkansas	.7703
California	1.1457
Colorado	.9326
Connecticut	1.0880
Delaware	.8645
Florida	.8815
Georgia	.7779
Hawaii	1.0157
Idaho	.9130
Illinois	.8917
Indiana	.8685
Iowa	.8719
Kansas	.8481
Kentucky	.8036
Louisiana	.8605
Maine	.8701
Maryland	.8773
Massachusetts	1.0548
Michigan	.9589
Minnesota	.8788
Mississippi	.7705
Missouri	.8325
Montana	.9154
Nebraska	.8310
Nevada	1.0799
New Hampshire	.9234
New Jersey	NA
New Mexico	.9213
New York	.8730
North Carolina	.8130
North Dakota	.9061
Ohio	.9100
Oklahoma	.8462
Oregon	1.0782
Pennsylvania	.9427
Puerto Rico	[1] .5736
Rhode Island	.9553
South Carolina	.7827
South Dakota	.8263
Tennessee	.7733
Texas	.8180
Utah	.9505
Vermont	.8888
Virginia	.8194
Virgin Islands	[1] 1.000
Washington	1.0273
West Virginia	.8816
Wisconsin	.8995
Wyoming	.9745

[1] Approximate value for area.

(Sections 1102, 1861(v)(1) (A) and (L), and 1871 of the Social Security Act (42 USC 1302, 1395x(v)(1) (A) and (L), and 1395hh); 42 CFR 405.460)

(Catalog of Federal Domestic Assistance Program No. 13,773, Medicare-Hospital Insurance).

Dated: March 4, 1986.

Approved: March 12, 1986.

Henry R. Desmarais,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 86-6529 Filed 3-21-86; 9:29 am]

BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-86-1577; FR-2141]

Privacy Act; Program of Matching Mortgagor Data in the Section 235 Homeownership Assistance Program

AGENCY: Office of Inspector General, HUD.

ACTION: Notice of matching program—HUD/single family mortgagees.

SUMMARY: In accordance with the Privacy Act of 1974 and the Office of Management and Budget's Revised Supplemental Guidance for Conducting Matching Programs (47 FR 21656, May 19, 1982), the Department is issuing public notice of its intent to conduct a computer matching program. The purpose of the computer matching program is to detect unwarranted benefit payment on behalf of mortgagors in HUD's Homeownership Assistance program under section 235 of the National Housing Act (12 U.S.C. 171z.).

Under the section 235 program, HUD insures mortgages, and makes monthly payments to mortgagees if the mortgagor cannot affort the full mortgage payment. The monthly payments reduce the effective interest cost to a mortgagor on an insured marketrate home mortgage. Currently, the program permits the reduction of the effective interest cost to the mortgagor to as low as four percent annually. Lower effective interest rates, however, have been established in the past. (E.g., the interest rate for mortgages approved for insurance before January 5, 1976 could be as low as one percent annually.) Mortgagees compute the monthly mortgage payment owed by HUD and the mortgagor based primarily on income data. When income is unreported or underreported, the mortgagee receives, on behalf of the mortgagor, excessive section 235 housing assistance benefits to which it is not entitled.

Under the matching program, HUD's Office of Inspector General will conduct or directly supervise computer matches of mortgagor information provided to mortgagees, with various types of income data maintained by States, the Office of Personnel Management, the Department of Defense and the United States Postal Service. A report on the design of the matching program is set forth in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Steven A. Switzer, Office of Inspector General, Room 8284, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC

20410, telephone (202) 755-6364. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: The information supplied below is required by paragraph 5.f.1. of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). In accordance with the Revised Supplemental Guidance, copies of this report are being sent to the Office of Management and Budget and both Houses of Congress.

This matching program is exempt under 24 CFR 50.20(k) from the requirements for an environmental review under the National Environmental Policy Act, 42 U.S.C. 4321.

Dated: March 12, 1986.

Paul A. Adams,

Inspector General.

Report of Matching Program

Department of Housing and Urban Development/Mortgagees

A. *Authority.* The matching program will be conducted under section 4(a) of the Inspector General Act of 1978, Pub.L. 95-452, 5 U.S.C. App. 4(4), and Section 235 of the National Housing Act, 12 U.S.C. 1715z. The Inspector General Act authorizes the Inspector General of the Department of Housing and Urban Development to undertake programs to detect and prevent fraud and abuse in all HUD programs.

B. *Program Description.* The matching program is intended to be a continuing program, carried out at selected mortgagees. HUD's Office of Inspector General (OIG) will perform or supervise the performance of computer matching of mortgagors' social security numbers (SSNs) and additional identifiers, such as surname or date of birth maintained in the mortgagees' records against States' machine-readable files of quarterly wage data and unemployment insurance benefit data. The matching provides indicators of mortgagors who may have underreported income. State wage agencies or Federal agencies may, in some instances, perform the actual matching in accordance with a written agreement with HUD and the mortgagees. Data on the unverified matches will then be provided to HUD for further followup work, as discussed below. In addition, mortgagors' SSNs may be matched to the Office of Personnel Management's General Personnel Records (OPM/GOVT-1) and Civil Service Retirement and Insurance Records System (OPM/Central-1), the Department of Defense's Defense Manpower Data Center Data Base (S322.10, DLA-LZ) and the United States Postal Service's Finance Record-Payroll (USPS 050.020). Routine uses of these automated files are provided at 49 FR 36949, 36950-52 (September 20, 1984) (OPM/Central-1); 49 FR 36949, 36954-57 (September 20, 1984)(OPM/GOVT-1); 49 FR 30834, 30852-54 (August 1, 1984) (S322.10, DLA-LZ); and 50 FR 28862 (July 16, 1985) (USPS 050.020).

HUD's OIG will conduct followup at the mortgages based on the computer matches. This work will include verification of income sources reported and income sources not reported to the mortgagee, interviews with individuals knowledgeable about the insured mortgages, and preparation of case files for possible investigation and prosecution.

If assistance has been overpaid, HUD may require the mortgagee to refund the overpayment to HUD in accordance with 24 CFR 235.361(a) and 24 CFR Part 17, Subpart C. The mortgagee may increase the mortgagor's required monthly payment in an amount that will reimburse the mortgagee for overpayments without causing undue hardship to the mortagor, except where the overpayment resulted from fraud or misrepresentation on the part of the mortgagee. (24 CFR 235.361(c)). In addition, if requested by another Federal agency to provide information on mortgagors that have underreported income, HUD may supply data on verified cases in accordance with the routine uses of HUD's Investigative Files-HUD/Dept-24.

C. Objectives to be met by the Matching Program: The matching program will be performed to identify mortgagors receiving excessive section 235 housing assistance resulting from unreported or underreported family income. The HUD section 235 assistance program available through mortgagees requires that mortgagors meet certain income eligibility requirements. To the extent families do not report all their income as required, HUD may initiate investigations or legal actions against mortgagors suspected of falsely reporting or failing to report their income.

D. *Period of the Match.* The matching program will start in April 1986 and will be continuing. Followup work on resultant matches is expected to be completed within 6 months after completion of each computer match.

E. *Security.* To protect the identity of mortgagors, HUD will restrict access to both the information provided by other sources for the purpose of the matching program and the resulting case match data. The following measures will be taken to assure compliance with the Privacy Act.

If HUD performs the computer match, it will agree in writing to the conditions listed below governing its use of information from another source. If another government agency performs the match, HUD will require the agency to agree in writing with HUD and the mortgagee to the conditions listed below governing the use of both the source data provided by HUD and the case match data. This agreement will be executed before HUD discloses homeowner data from a mortgagee's records to that agency.

The conditions in the written agreements will include requirements that:

(1) The files to be matched will remain the property of the original soruces and will be returned or destroyed at the end of a partiuclar matching program;

(2) The agency preforming the match will take sufficient physical, technical and administrative safeguards to maintain reasonable security over data in its possession provided for the match and over data created as a result of a particular matching program;

(3) The records will be used and accessed only to match the file(s) previoulsy agreed to;

(4) The agency performing the match will not use the records to extract information for any purpose concerning individuals who were not a case match;

(5) Machine-readable matching files and any printed form of the data on these files will not be duplicated or disseminated within the agency performing the match for purposes other than the matching program or outside the agency for any purpose, unless authorized by the original source; and

(6) When the mortgagor data and case match data are used for statistical purposes, all personal indentifiers will be deleted.

Records created from the computer matching program (case matches and follow-up data) will be included in the "Investigation Files, HUD/Dept-24" category. Routine uses of these files are described in 49 FR 10372, (March 20, 1984).

F. *Disposition of Records.* Upon completion of the match and related follow-up work, all source data received for this matching will be returned to the appropriate mortgagee or government agencies, or destroyed. Case match data records will be kept by HUD only so long as a criminal or administrative investigation is active and will be disposed of in accordance with the

requirements of the Privacy Act of 1974 and the Federal Records Schedule.

[FR Doc. 86-6517 Filed 3-24-86; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. N-86-1601]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: PHA Request for Alternative Use of Housing Vouchers
Office: Housing
Form Number: None
Frequency of submission: Single-Time
Affected public: State or Local Governments
Estimated burden hours: 15
Status: New
Contact: Nancy C. Blauvelt, HUD, (202) 755-5970; Robert Fishman, OMB, (202) 395-6880

Authority: Sec: 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 18, 1986.

Proposal: Program Utilization for use in the Section 8 Existing Housing and Housing Voucher Programs
Office: Housing
Form Number: HUD-52683
Frequency of submission: Quarterly and Annually
Affected public: State or Local Governments
Estimated burden hours: 3,530
Status: Reinstatement
Contact: Myra Newbill, HUD, (202) 755-6477; Robert Fishman, OMB, (202) 395-6880

Authority: Sec: 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: March 18, 1986.

Dennis F. Geer,
Director, Office of Information Policies and Systems.

[FR Doc. 86-6518 Filed 3-24-86; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[N-43045]

Classification and Leasing of Public Lands; Humboldt, County, NV

The following described public lands have been examined and found suitable for classification and lease under the Recreation and Public Purposes Act (R&PP) of June 14, 1926, as amended (43 U.S.C. 869 et seq.). The lands will not be offered for lease until at least 60 days after the date of publication of this Notice in the **Federal Register.**

Mount Diablo Base and Meridian, Nevada

T. 36 an., R. 39 E.,

Sec. 18 NE¼, N½ SE¼.

The land encumbered is 240 acres.

These lands are hereby classified for public purposes use as a rifle and pistol range. Humboldt County has made application for and intends to use the public lands to establish a gun range.

The lease, when issued, will be subject to the provisions of the R&PP Act and other applicable regulations and special stipulations made a part of the grant. The grant will also contain the following reservations to the United States.

1. All the coal, oil, gas, geothermal, and other mineral deposits in the leased land together with the right to enter upon the land and prospect for, mine, and remove such materials.

2. The right to issue rights-of-way or use permits over the land. Such uses, however, shall not unduly impair the use of said lands for authorized purposes nor damage authorized improvements therein.

3. The right to inspect the leased land at any time to ensure compliance with the terms and conditions of the lease.

The land is not required for any Federal purpose. The lease is consistent with the land use planning for the area.

Upon publication of this Notice of Realty Action in the **Federal Register,** the subject land will be segregated from appropriation under the other public land laws, including location under the mining laws. If after 18 months following publication of this Notice, an application has not been filed for the purpose for which the public lands have been classified, the segregative effect of this classification shall automatically expire and the public lands classified in this Notice shall return to their former status without further action by the Authorized Officer.

Detailed information concerning this land use request is available for review at the Winnemucca District Office, Bureau of Land Management, 705 East Fourth Street, Winnemucca, NV 89445.

For a period of 45 days from the date of publication of this Notice in the Federal Register, interested parties may submit comments to the District Manager, Winnemucca District Office, Bureau of Land Management, 705 East Fourth Street, Winnemucca, NV 89445.

Any adverse comments will be evaluated by the District Manager and forwarded to the Nevada State Director, Bureau of Land Management, who may sustain, vacate, or modify this realty action. In the absence of any objections, on the 60th day from the date of this publication, this realty action will become the final determination of the

Department of the Interior. All comments or protests should be sent as early as possible to insure enough time for their full review.

Dated: March 14, 1986.

Frank C. Shields,

District Manager.

[FR Doc. 86-6418 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-HC-M

Camping Stay Limit; Butte District, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of camping stay limit on public land in the Butte District.

SUMMARY: A limit on the length of stay at a camping site is being established to reduce the incidence of long-term occupancy trespass on public lands within the Butte District. Of equal importance, the limit will regulate long-term camping, encourage a faster turnover of camping units, and reduce user conflicts.

Persons may occupy any one site or multiple sites within a 5-mile radius on public lands, not otherwise closed or restricted to camping within the Butte District, for not more than 14 days during any 28-day period. Following the 14-day period persons must relocate to another public land site at a distance of 5 miles or more from the site that was just occupied until the completion of the 29-day perod. The 14-day limit may be reached either through a number of separate visits or through a period of continuous occupation of a site. Under special circumstances and upon request, the athorized officer may give written permission for extension of the 14-day limit.

Additionally, no person may leave personal property, i.e., camps/camping facilities unattended in designated campgrounds, recreation developments or elsewhere on public lands within the Butte District for a period of more than 24 hours without written permission from the authorized officer.

Authority for this stay limit is contained in CFR title 43 Chapter II Part 8365, §§ 8365.1-2, 8365.1-6 and 8365.2-3.

DATE: The limit on length of stay at a camping site will be effective immediately upon publication in the **Federal Register** and will be effective until further notice.

FOR FURTHER INFORMATION CONTACT: Jack McIntosh, District Manager, BLM, Butte District Office, 106 North Parkmont, P.O. Box 3388, Butte, Montana 59703, Phone (406) 494-5059.

Dated: March 17, 1986.

Jack A. McIntosh,

District Manager.

[FR Doc. 86-6454 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-DN-M

[Serial No. CA 16395]

Realty Action; Cancellation of Sale and Termination of Segregation; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Cancellation of sale and termination of segregation.

SUMMARY: The Notice of Realty Action published in the **Federal Register** on Wednesday, June 5, 1985 in Volume 50, No. 106, Pages 23770-23774 is hereby cancelled, and the segregative effect imposed by the publication of the Notice is terminated as to the following described parcels of public lands which were not sold during the 270-day segregation period. The parcels will not be reoffered for sale:

San Bernardino Meridian, California

CA 17223 T. 5N., R. 13W., Sec. 1, E½SW¼ and SW¼SW¼; Sec. 12: W½SW¼
CA 17226 T. 5N., R. 13W., Sec. 12, SW¼SW¼
CA 17239 T. 8S., R. 1E., Sec. 27, NE¼SW¼ and NW¼SE¼
CA 17241 T. 8S., R. 2E., Sec. 14, N½ NW¼NW¼
CA 17242 T. 8S., R. 2E., Sec. 14, S½ NW¼NW¼
CA 17253 T. 13S., R. 1W., Sec. 20, W½SW¼SE¼
CA 17256 T. 9S., R. 2W., Sec. 4, SW¼NE¼ and SE¼NW¼
CA 17257 T. 9S., R. 2W., Sec. 4, NE¼SW¼ and NW¼SW¼
CA 17268 T. 11S., R. 1E., Sec. 2, Lots 1-4 and S½NW¼; Sec. 3: Lots 1-3
CA 17287 T. 18S., R. 7E., Sec. 2, Lot 3
CA 17289 T. 18S., R. 7E., Sec. 2, SW¼SW¼NE¼, S½SE¼SW¼NE¼ and S½SE¼NW¼
CA 17292 T. 18S., R. 7E., Sec. 2, NE¼SW¼
CA 17294 T. 18S., R. 7E., Sec. 3, SW¼SE¼; Sec. 10: NW¼NE¼
CA 17238 T. 8S., R. 1E., Sec. 10, Lots 3 and 4; Sec. 15: Lots 1-5, 7, 8 and 12; Sec. 16: E½; Sec. 17: SE¼SE¼; Sec. 20: NE¼, E½NW¼ and NW¼SE¼; Sec. 21: N½,N½SW¼ and SE¼
CA 17262 T. 10S., R. 3W., Sec. 33, NW¼NW¼

Dated: March 19, 1986

William A. Kennedy,

Acting District Manager.

[FR Doc. 86-6497 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-40-M

[Realty Action Serial No. CA 17245]

Continuing Sale of Public Land in San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty action sale of public land in San Diego County, reappraisal and continuing sale.

SUMMARY: This action amends Notice of Realty Action, CA 16395, proposing the sale of public lands administered by the Southern California Metropolitan Project originally published in the **Federal Register** in Vol. 50, No. 106, pages 23770-23774 on June 5, 1985. One parcel remains available for sale. The current fair market value, sale methodology, segregative effect and patent reservations are described herein.

The following described parcel was reappraised and will be offered for sale, be sealed bid only, at 10:00 a.m. on March 26, 1986 and on subsequent Wednesdays at 10:00 a.m. until it has been sold or the segregation expires.

County/ parcel No.	Serial No.	Legal description	Acres	Appraised value	Encumbrances and/or reservations
SD-32	CA17245	T. 10 S., R.1 W., SBM, Sec. 5, Lot 1	1.71	$20,000	A-1,16; B-4

The sealed bids will be opened at 10:00 a.m. on the day of the sale at the California Desert District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507. Sealed bids shall be considered only if received at the above address prior to 10:00 a.m. on the day of the sale.

Each sealed bid shall be accompanied by certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior, BLM, for not less than 10% of the bid amount. The sealed bid envelop must be marked on the front left corner as shown below:

"Bid for Public Land"
Notice of Realty Action, CA 16395
Continuing Sale
SD-32, CA 17245

If two or more envelopes containing valid bids of the same amount are received, the determined of which is to be considered the highest bid shall be by supplemental biddings. The designated high bidders shall be allowed to submit sealed bids as

designated by the authorized officer. Interested parties and the public in general may attend the sealed bid sales to be held at the above referenced times and place.

The subject parcel has been determined to contain "no known mineral value," although it is prospectively valuable for geothermal resources; therefore, the bid will also constitute an application for conveyance of all mineral interests, except geothermal resources which will be reserved to the United States. The declared high bidder will be required to deposit a $50.00 nonrefundable filing fee (43 CFR 2720.1-2(c)) and the remaining mineral estate will be sold simultaneously with the surface estate.

The successful bidder shall submit the remainder of the full bid price prior to the expiration of 180 days from the date of sale.

Publication of this Notice in the **Federal Register** segregates the public lands from the operation of the public land laws, including the mining laws. The segregative effect will terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or 270 days from the date of publication, whichever occurs first.

BLM may accept or reject any and all bids or withdraw the land from sale at anytime, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

All other terms and conditions cited in the previously published Notice of Realty Action remain in effect. The patent will be issued subject to prior valid existing rights.

Patent Reservations

A-1. Excepting and reserving to the United States from the land so granted a right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

A-16. Those rights for an access road granted to Adolf Schope under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-9422.

B-4. The geothermal steam and associated geothermal resources shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

Further information concerning the sale, including planning documents and environmental assessment, is available in the California Desert District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

For a period of 45-days from the date of publication of this notice, interested parties may submit comments to the California Desert District Manager at the above address. Any objections will be reviewed by the California State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: March 19, 1986.

William A. Kennedy,

Acting District Manager.

FR Doc. 86-6498 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-40-M

[ORE-03587-F]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that a portion of the land withdrawal for the Hurricane Creek Campground continue for an additional 20 years The land would remain closed to mining and would be opened to surface entry, but has been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office P.O. Box 2965, Portland, Oregon 97208 (Telephone 503-231-6905).

SUPPLEMENTARY INFORMATION: The Forest Service, U.S. Department of Agriculture, proposes that a portion of the existing land withdrawal made by Public Land order No. 1144 of May 4, 1955, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located approximately 3½ miles southwest of Joseph and contains approximately 335 acres within section 3, 10 and 15, T. 3 S., R. 44 E., W.M., Wallowa County, Oregon.

The purpose of the withdrawal is to protect the Hurricane Creek Campground in the Wallowa-Whitman National Forest. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal, except to open the land to such forms of disposition that may by law be made of national forest lands other than under the mining laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: March 14, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-6419 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-33-M

Bureau of Reclamation

Ririe Dam and Reservoir, Minidoka Project, ID; Filing Claims Associated With Cost of Development

SUMMARY: This notice provides guidance for filing claims associated with the cost of developing replacement winter stock-water supplies, which, prior to December 31, 1979, had been obtained from the main channel of Willow Creek, Idaho, below Ririe Dam and Reservoir, but, because of the winter operation of the dam and reservoir, is no longer available. The payment of such claims is authorized by Pub. L. 99-190, Continuing Resolutions, the Act of December 19, 1985. The Bureau of Reclamation will investigate such claims, and the Office of the Solicitor will determine the validity of such claims for the Secretary of the Interior.

Background

Ririe Dam and Reservoir, on Willow Creek in southeastern Idaho, was built by the U.S. Army Corps of Engineers and then transferred to the Bureau of Reclamation (Reclamation) for operation and maintenance on October 14, 1976. Ririe Dam is a multipurpose facility, and flood control is one of the authorized purposes. Major flooding along Willow Creek has historically occurred during

the month of February or March when warm rain fell on snow-covered frozen ground. The project includes a flood channel which carries water from the reservoir, intercepting surface runoff below the reservoir and directing the water to the Snake River.

When Reclamation made releases from the reservoir during past winters for stock-watering purposes, it resulted in channel icing and a general restriction of the channel, similar to that experienced prior to construction of Ririe Dam. However, such a channel restriction during times of releases from the dam for flood control purposes can result in significant flooding of adjacent lands. Consequently, for the past few years, releases from the reservoir during icing conditions have been curtailed in order to keep the channel free of ice.

Providing extra space in the reservoir has accommodated Reclamation's operation to curtail releases during the winter. This operation results in no water in Willow Creek below Ririe Dam during the winter period, but assures the project's ability to provide flood protection. However, this has forced some of the landowners to make other arrangements for watering their stock. Reclamation has the operating responsibility of Ririe Dam and the flood channel, and believes that it is necessary to continue to operate the facilities as they were authorized and originally intended, even though it means that stock water may no longer be available in Willow Creek.

Enactment of Pub. L. 99–190 provided for restitution to farmers and ranchers for a Federal flood-control activity benefiting hundreds of other persons who were not so adversely affected. Any payment to a claimant made under this Act shall constitute full settlement and satisfaction of all claims such claimant may have against the United States relating to the loss of winter stock water from Willow Creek, Idaho.

Authority to make payments under this Act is limited toWillow Creek landowners and does not include landowners along Sand Creek. Payments shall be for the cost of developing replacement winter stock-water supply only, and will not include any consideration for future operation and maintenance costs.

FOR FURTHER INFORMATION CONTACT: Mrs. Nancy Vinsonhaler, Bureau of Reclamation, Federal Building, U.S. Court House, 550 W. Fort Street, Box 043, Boise, Idaho 83724; Tel. (208) 334–1158.

SUPPLEMENTARY INFORMATION:

Claims

Eligibility

To qualify for payment, the claimant must provide an affidavit certifying his/her use of winter stock water from the main channel of Willow Creek prior to December 31, 1979. Such use must have been in connection with a livestock operation. Winter stock water is defined as drinking water used for livestock that is dependent upon flows in Willow Creek during the nonirrigation season. Idaho Code requires irrigation water to be provided from April first to the first day of November of each year.

Filing

Those wishing to file a claim for an alternate winter stock-water supply must submit the claim to the Bureau of Reclamation on or before June 19, 1986. A claim shall be deemed to have been filed with Reclamation receives a written notification of such claim, accompanied by a request for payment under the December 19, 1985, Act of a specified amount for the cost of developing a replacement winter stock-water supply. The claim must be filed by the owner of the property deprived of winter stock water, his/her duly authorized agent, or legal representative (hereinafter referred to as claimants). If the land ownership has changed since December 31, 1979, the landowner as of December 31, 1979, and the present landowner must file a joint claim to be considered for payment under this Act. Claims must be filed with either: (1) The Regional Director, Pacific Northwest Region, Bureau of Reclamation, Federal Building, U.S. Court House, 550 West Fort Street, Box 043, Boise, Idaho 83724, or (2) the Project Superintendent, Minidoka Project Office, Bureau of Reclamation, 1359 Hansen Avenue, Burley, Idaho 83318.

Information to be Submitted

Each claim must include the following information:

(1) A description of the claimant's livestock operation for 3 years prior to December 31, 1979, with reference to the size and configuration of the claimant's land and the size and type of the livestock operation, and with reference to the use of Willow Creek winter stock water.

(2) A description of all existing water supply sources presently available to the claimant.

(3) A description of any alternate winter stock-water supply that has been developed since December 31, 1979.

(4) A statement from the claimant identifying the necessary method and cost for the development of an alternate winter stock-water supply, if one has not yet been developed.

Claimants may be required to have available for review:

(1) Proof of land ownership as of December 31, 1979.

(2) Financial records for the livestock operation.

(3) Proof of Willow Creek water use during the nonirrigation season prior to December 31, 1979.

Investigation and Determination of Claims

Reclamation will consider, but will not be bound by, all evidence that is submitted with a claim. The measure of payment will be the least costly alternative of providing a replacement winter stock-water supply for the specific livestock operation, according to normally acceptable standards, to be obtained from independent experts; i.e., ARS, SCS, livestock specialists and construction experts. Investigation of all claims shall be by Reclamation; final determinations of claims shall be made by the Field Solicitor, Boise, Idaho. Any claimant who is dissatisfied with the determination of his/her claim may ask for reconsideration by writing to the Field Solicitor at 550 West Fort Street, Box 020, Boise, Idaho 83724, within 6 months from the date of the determination. The decision on reconsideration shall constitute the final agency decision under the December 19, 1985, Act.

Dated: March 20, 1986.

Joseph B. Marcotte, Jr.,
Acting Commissioner.

[FR Doc. 86–6560 Filed 3–24–86; 8:45 am]
BILLING CODE 4310–09–M

Minerals Management Service

Royalty Management Advisory Committee, Data Base Validation Working Panel; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that the Data Base Validation Work Panel, established by the Royalty Management Advisory Committee, will meet in Lakewood, Colorado, at the location and on the dates indicated below.

This notice is pubished in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

MMS has undertaken several projects to correct errors in the data base

reference files including lease universe reconciliation, MMS and payor data base reconciliation, and distribution fund code reconciliation. The Data Base Validation Working Panel will submit recommendations to the advisory Committee regarding improvement and/or addition to these efforts as well as methods for maintaining reference data.

Location and dates: The Data Base Validation Working Panel will meet at the COMPRI Hotel, 137 Union Boulevard, Lakewood, Colorado, April 2–4, 1986.

The panel will meet from 8 a.m. to 5 p.m., daily. If the meeting is competed in less than three days scheduled, the Panel will adjourn upon such completion.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted by May 9, 1986, to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: The Data Base Validation Working Panel is one of six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and Minerals Management Service (MMS).

Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or MMS

Dated: March 20, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86–6477 Filed 3–24–86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention To Negotiate Concession Contract; Crafts of Nine States, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Crafts of Nine States, Inc., authorizing it to continue the operation of a craft center for the exhibition of native mountain handcrafted items and regular mountain craft demonstrations on the Blue Ridge Parkway for a period of five years from January 1, 1986, through December 31, 1990.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1985, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: March 14, 1986.

C.W. Ogle,

Acting Regional Director, Southeast Region.

[FR Doc. 86–6408 Filed 3–24–86; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area; Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PST) on Wednesday, April 9, 1986 at Building 201, Fort Mason, San Francisco, California.

The Advisory Commission was established by Pub. L. 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman
Ms. Amy Meyer, Vice Chair
Mr. Ernest Ayala
Mr. Richard Bartke
Ms. Margot Patterson Doss
Mr. Jerry Friedman
Ms. Daphne Greene
Mr. Burr Heneman
Mr. John Mitchell
Ms. Gimmy Park LI
Mr. Merritt Robinson
Mr. John J. Spring
Dr. Edgar Wayburn
Mr. Joseph Williams

The main agenda items are: review of guidelines and procedures for review of construction projects on the Presidio of San Francisco; presentation of the Child Care Center at the Presidio; and presentation of the Historic Structures Report on the Haslett Warehouse.

The meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact General Superintendent Brian O'Neill, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, CA 94123.

Minutes for the meeting will be available for public inspection by May 9, 1986, in the office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123.

Dated: March 7, 1986.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 86–6407 Filed 3–24–86; 8:45 pm]

BILLING CODE 4310-70-M

History Committee, Statue of Liberty-Ellis Island Centennial Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Meeting.

SUMMARY: This notice announces a forthcoming meeting of the History Committee of the Statue of Liberty-Ellis Island Centennial Commission. The committee will review its purpose in relation to the Statue of Liberty-Ellis Island restoration project and will discuss the committee's suggestions and initiatives that will commemorate the

hundredth anniversaiies of the Statue of Liberty (1986) and Ellis Island (1992).

DATE: April 10, 1986, 9 a.m. to 5 p.m.

ADDRESS: The Statue of Liberty-Ellis Island Foundation, Inc., 101 Park Avenue, Suite 1205, New York, New York 10178.

FOR FURTHER INFORMATION CONTACT: Herbert S. Cables, Jr., Regional Director, National Park Service, 15 State Street, Boston, MA 02109.

Dated: March 14, 1986.

Steven H. Lewis,

Regional Director, North Atlantic Region.

[FR Doc. 86-6470 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 15, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by April 9, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Calhoun County

Jacksonville, *Downtown Jacksonville Historic District,* Roughly bounded by College, Thomas, Coffee, and Spring Sts.

ARIZONA

Cochise County

Douglas, *El Paso and Southwestern Railroad Passenger Depot—Douglas,* Fourteenth St. and H Ave.

ARKANSAS

Jefferson County

Pine Bluff, *Prigmore House,* 1104 W. Fifth Ave.

CALIFORNIA

Amador County

Ione vicinity, *Five Mile Drive—Sutter Creek Bridge,* Five Mile Dr.

Los Angeles

Pasadena, *Bryn Court (Bungalow Courts of Pasadena TR),* 427 S. Morengo Ave.

Orange County

Newport Beach, *Balboa Inn,* 105 Main St.

Riverside County

Riverside, *Sutherland Fruit Company,* 3191 Seventh St.

San Francisco County

San Francisco, *Market Street Theatre and Loft District,* 982–1112 Market St., 973–1105 Market St., One Jones St. and 1–35 Taylor St.

GEORGIA

Lanier County

Lakland, *Lanier County Auditorium and Grammar School,* E. Church Ave.

Stewart County

Louvale, *Louvale Church Row Historic District,* US 27

White County

Sautee, *Sautee Valley Historic District,* GA 255 and Lynch Mountain Rd.

IOWA

Dubuque County

Dubuque, *Hancock, Charles T., House,* 1105 Grove Terrace

Henry County

Mt. Pleasant, *Ambler, Henry, House,* 405 Broadway

Jackson County

Maquoketa, *Anderson, D. H., Building,* 129 S. Main

Johnson County

Iowa City, *Economy Advertising Company,* 119–123 N. Linn

Iowa City, *Ford, Arthur Hillyer, House,* 228 Brown St.

Iowa City, *Franklin Printing House,* 115 S. Dubuque

Iowa City, *Paul-Helen Building,* 207–215 E. Washington

Iowa City, *Union Brewery,* 127–131 N. Linn, and 221–227 E. Market

Lee County

Montrose, *St. Barnabas Episcopal Church,* Chestnut St.

Mahaska County

Oskaloosa, *Oskaloosa City Square Commercial Historic District,* Roughly bounded by S. A St., A Ave. E., N. & S. Second Sts., and Second Ave. E.

Polk County

Des Moines, *Hawkeye Insurance Company Building* 209 4th St.

Pottowattamie County

Avoca, *Graceland Cemetery Chapel,* Graceland Cemetery on US 59

Woodbury County

Sioux City, *Lexington Block,* 815 Fourth St.

KENTUCKY

Bourbon County

Millersburg, *Millersburg Historic District,* Roughly bounded by College Ave., Miller, Second, and Trigg Sts.

MICHIGAN

Ingham County

East Lansing, *Central School,* 325 W. Grand River Ave.

Shiawassee County

Perry, *Horton, William, Farmhouse,* 1647 W. Miller Rd.

MISSOURI

St. Louis (Independent City)

Hager, C., & Sons Hinge Co., 139 Victor St.

NEW JERSEY

Mercer County

Princeton, *Kingston Mill Historic District,* River, Herrontown, and Princeton-Kingston Rds. (also South Brunswick in Middlesex County and Franklin in Somerset County)

Trenton, *Mott School,* Centre St.

Trenton, *Second Street School,* 643-645 Second St.

Union County

Elizabeth, *Whyman House,* 705 Newark Ave.

NEW YORK

Suffolk County

Shelter Island, *Havens, James, Homestead,* NY 114

Yaphank, *Hawkins, Robert, Homestead,* Yaphank Ave.

NORTH CAROLINA

Cabarrus County

Concord, *North Union Street Historic District,* Roughly bounded by Crowell and Spring Sts., N. Peachtree Ave., Church St. N., and Corban Ave.

Concord, *South Union Street Historic District,* Roughly bounded by Union St., Blume Ave., Spring St., and Corban Ave.

Catawba County

Catawba, *Catawba Historic District,* Main, W. First, and E. Second Sts., NC 10, W. Center, W. Second, E. Center, S. First, and N. First Aves.

Harnett County

Dunn, *McKay, John A., House and Manufacturing Company,* 100 E. Divine St.

NORTH DAKOTA

Stutsman County

Jamestown, *Elizabeth Apartments,* 402 Second Ave. NW

OHIO

Greene County

Spring Valley, *Barrett, George, Concrete House,* 4 E. Main St.

Portage County

Ravenna vicinity, *Crystal Lake Stock Farm,* 4655 Hayes Rd.

Washington County

Watertown, *Watertown Historic District,* E of WA 339 and N of WA 676

PUERTO RICO

Arecibo County

Arecibo, *Plaza de Isabel II—Plaza Luiz Munoz Rivera,* De Diego, Gonzalo Marin, Gonzalez Ginorio, and Palma St.

TEXAS

Bexar County

San Antonio, *Havana, (The)*, 1015 Navarro St.

Cameron County

Brownsville, *Celaya, Augustine, House*, 504 E. St. Francis St.

UTAH

Carbon County

Price, *Loofbourow, James W. and Mary K., House*, 187 N. 100 East

Rich County

Randolph, *Randolph tabernacle*, Off UT 16

VIRGINIA

Surry County

Surry, *Surry County Courthouse Complex*, VA 10

WEST VIRGINIA

Brooke County

Wellsburg Vicinity, *Vancroft*, Brinker Rd.

WISCONSIN

Waukesha County

Oconomowoc, *Peck, Walter, L., House*, 38928 Islandale Dr.

[FR Doc. 86-6406 Filed 3-24-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[OP3FD-117 and OP3FD-118]

Motor Carriers; McAllister Towing and Transportation Co., Inc.

Decided: March 18, 1986.

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by 49 CFR 1182.1 of the Commission's Rules of Practice. See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal** and **I.C.C. Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1182.2. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1182.2 (d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness, questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

[Finance Docket No. 30756]

McAllister Towing and Transportation, Co., Inc., and McAllister Feeder Lines, Inc.; Purchase; Norfolk, Baltimore and Carolina Line, Inc.

Action: Correction of notice of granting of a waiver of information filing requirements.

Summary: On February 7, 1986, notices of the actions listed above were published in the **ICC** (at p. 26) and **Federal Register** (51 FR 4823). However, these publications incorrectly stated that the parties request for the waiver of informational filing requirements had been granted. This publication is for the purpose of correcting that statement. The waiver was granted on March 18, 1986.

Date: This correction is effective immediately.

For Further Information Contact: Eric Davis, 275-7941.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[Finance Docket No. 30752]

Metal Service Co., Inc., and the "M" Line Railroad Co., Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts The "M" Line Railroad Company from the requirements of 49 U.S.C. Subtitle IV.

DATES: This exemption will be effective on April 24, 1986. Petitions to stay must be filed by April 4, 1986, and petitions for reconsideration must be filed by April 14, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30752 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Henry M. Wick, Jr., 1610 Two Chatham Center, Pittsburgh, PA 15219.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or cal 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: March 10, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley concurred in the result with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-6472 Filed 3-21-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-37X); Docket No. AB-37 (Sub. 19X)]

Union Pacific Railroad Co; Exemption To Discontinue Operations in Columbia County, WA and Oregon-Washington Railroad and Navigation Co. Exemption; Abandonment in Columbia County, WA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the discontinuance of operations by Union Pacific Railroad Company over, and abandonment by Oregon-Washington Railroad & Navigation Company of approximately 4.71 miles of track known as the Tucannon Branch between milepost 0.00 near Tucannon and the end of the line at milepost 4.71 near Starbuck, in Columbia County, WA, subject to standard employee protective conditions.

DATES: This exemption will be effective on April 24, 1986. Petitions to stay must be filed by April 4, 1986, and petitions for reconsideration must be filed by April 14, 1986.

ADDRESSES: Send pleadings referring to Docket Nos. AB-33 (Sub-No. 37X) and AB-37 (Sub-No. 19X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioners' representative: Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: March 18, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-6473 Filed 3-24-86; 8:45 am]

BILLING CODE 7035-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; ADRI Technam, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 23, 1986, ADRI Technam, Inc., 27 East 35th Place, Steger, Illinois 60475, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Phencyclidine (7471).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than April 24, 1986.

Dated: March 11, 1986.

Alfred A. Russell,

Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-6422 Filed 3-24-86; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application: Stepan Chemical Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 24, 1986, Stepan Chemical Company, Natural Products Department, 100 West Hunter Avenue, Maywood, New Jersey 07607, 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
Ecgonine (9180)	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 not later than April 24, 1986.

Dated March 11, 1986.

Alfred A. Russell,

Acting Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-6423 Filed 3-24-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Collection of Information in Current Rules

Mine Safety and Health Administration
Application for Approval of Sanitary Toilet Facilities (30 CFR 71.500 and 75.1712-6)
On occasion
Businesses and other for profit; small businesses or organizations
3 respondents; 30 hours

Contains procedures by which manufacturers of sanitary toilet facilities may apply for, and have their product approved as permissible for use in coal mines. To gain approval, the manufacturer must submit sufficient information needed to make an effective evaluation of the sanitary features of the facilities.

Reinstatement

Employment and Training Administration
Annual Plans for State Employment Service Activities 1205-0209; ETA RC 55
Annually
State or local governments
54 respondents; 4,860 hours; no forms

Regulations under 20 CFR 652 implement Pub. L. 97-300 amendments to the Wagner-Peyser Act. Information collection requirements pertain to those sections of the Act which require States to submit plans concerning operations and expenditures prescribed by the Secretary of Labor and to notify the public of the distribution of funds.

Signed at Washington, DC, this 20th day of March 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-6538 Filed 3-24-86; 8:45 am]

BILLING CODE 4510-43-M

Employment and Training Administration

Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance; Petrotomics Co. et al.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 10, 1986—March 14, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partically separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16, 467; Petrotomics Co., Shirley Basin, WY

TA-W-16, 469; West Point Pepperell, Inc., Lumberton, NC

TA-W-16, 470; West Point Pepperell, Inc., Hamilton, NC

TA-W-16, 471; West Point Pepperell, Inc., Fairmont, NC

TA-W-16, 472; West Point Pepperell, Inc., Clinton, NC

TA-W-16, 514; Kessler Premium, Castings Co., El Paso, TX

TA-W-16, 516; L.E. Jones Co., Menominee, MI

TA-W-16, 482; Mutual Sunset Lamp, Trenton, NJ

TA-W-16, 607; U.S. Steel Corp., Tubing Specialities, Gary, IN

TA-W-16, 340; Placerville Lumber Co., Placerville, CA

TA-W-16, 522; Foote Mineral Co., Graham Plant, New Haven, WV

TA-W-16, 473; Westinghouse Elevator Co., Gettysburg, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-16, 478; Foseco, Inc., Mt. Braddock, PA

Aggregate U.S. imports of insulating boards and hot tops are negligible.

TA-W-16, 629; Shasta, Inc., Coraopolis, PA

The workers' fir does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-16, 474; ASARCO, Inc., El Paso, TX

Aggregate U.S. imports of refined lead did not increase as required for certification.

TA-W-16, 381; LTV Steel Co., Youngstown Works, Youngstown, OH

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

Affirmative Determinations

TA-W-16, 465; L.I. Samuels Fashions, Elizabeth, NJ

A certification was issued covering all workers of the firm separated on or after January 1, 1985 and before August 2, 1985.

TA-W-16, 479; Hyster Co., Cranfordsville, IN

A certification was issued covering all workers of the firm separated on or after September 18, 1984.

TA-W-16, 531; Airco Carbon, Inc., Punxutawney, PA

A certification was issued covering all workers of the firm separated on or after September 27, 1984.

TA-W-16, 430; The Greif Companies, Fredricksburg, VA

A certification was issued covering all workers of the firm separated on or after September 10, 1984.

TA-W-16, 430A; The Grief Companies, Allentown PA

A certification was issued covering all workers of the firm separated on or after September 10, 1984.

TA-W-16, 430B; The Greif Companies, Shippensburg, PA

A certification was issued covering all workers of the firm separated on or after September 10, 1984.

TA-W-16,430C; The Greif Companies, Verona, VA

A certification was issued covering all workers of the firm separated on or after September 10, 1984.

TA-W-16,430D; The Greif Companies, Bridgewater, VA

A certification was issued covering all workers of the firm separated on or after September 10, 1984.

TA-W-16,462; Diamond Chain Co., Indianapolis, IN

A certification was issued covering all workers of the firm separated on or after September 16, 1984.

TA-W-16,592; Quivira Mining Co., Churchrock, NM

A certification was issued covering all workers of the firm separated on or after September 22, 1984.

TA-W-16,457; Hallowell Shoe Co., Augusta, ME

A certification was issued covering all workers of the firm separated on or after September 23, 1985.

TA-W-16,492; Hallowell Shoe Co., Lewiston, ME

A certification was issued covering all workers of the firm separated on or after September 23, 1985 and before November 1, 1985.

TA-W-16,563; Lehigh Structural Steel Co., Allentown, PA

A certification was issued covering all workers of the firm separated on or after June 1, 1985.

TA-W-16,484; XL Manufacturing, Inc., Gordo, AL

A certification was issued covering all workers of the firm separated on or after September 20, 1984 and before November 30, 1984.

TA-W-16,557; Avtex Fibers, Inc., Front Royal, VA

A certification was issued covering all workers of the firm separated on or after December 1, 1984.

TA-W-16,494; Publix Shirt Corp., Myerstown, PA

A certification was issued covering all workers of the firm separated on or after September 18, 1984 and before January 31, 1986.

TA-W-16,535; Revere Copper & Brass, Inc., Revere Ware Div., Rome, NY

A certification was issued covering all workers of the firm separated on or after September 26, 1984.

TA-W-16,505; Virginia Sportswear, Inc., Lynchburg, VA

A certification was issued covering all workers of the firm separated on or after September 18, 1984 and before January 31, 1986.

TA-W-16,551; Compo Industries, Inc., Moonachie, NJ

A certification was issued covering all workers of the firm separated on or after August 1, 1985 and before December 31, 1985.

I hereby certify that the aforementioned determinations were issued during the period March 10, 1985—March 14, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW, Washington, DC during normal business hours or will be mailed to persons who write to the above address.

Dated: March 18, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-6537 Filed 3-24-86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Warnocc, Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 4, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 4, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC this 17th day of March 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
C.F. Hathaway Div. of Warnaco, Inc. (ACTWU)	Waterville, ME	3/3/86	2/18/86	TA-W-17,256	Mens dress shirts.
C.F. Hathaway Div. of Warnaco, Inc. (ACTWU)	Dover Foxcroft ME	3/3/86	2/18/86	TA-W-17,257	Mens dress shirts.
Arrow Women's Wear (ACTWU)	Evergreen, AL	3/10/86	3/7/86	TA-W-17,258	Ladies blouses.
Coquette Manufacturing Co., Inc. (workers)	Mausion, WI	3/12/86	3/6/86	TA-W-17,259	Womens, dresses, blazers, skirts, and slacks.
Glasscrafters, Inc. (Carpenters)	Fort Smith, AR	3/5/86	2/24/86	TA-W-17,260	Glass light fixturers.
H.K. Porter, Inc. (UE)	Somerville, MA	3/13/86	3/7/86	TA-W-17,261	Bolt cutters and cable slicers.
Par-Ex Shirts, Inc. (ACTWU)	Brantford, CT	3/3/86	2/27/86	TA-W-17,262	Mens shirts.
Pantasote, Inc., Film Division (workers)	Passaic, NJ	3/7/86	2/24/86	TA-W-17,263	Vinyl products, sheet plastic etc.
Robbins, & Myers, Inc. (workers)	Gallipolis, OH	3/10/86	3/5/86	TA-W-17,264	ac/dc electric motors and gearmotors.
U.S. Steel Corp., Somerset Coal Mine (UMWA)	Paonia, CO	3/11/86	3/3/86	TA-W-17,265	Bituminous coal.

APPENDIX—Continued

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
Wilson Sporting Goods Co. (workers)	Humboldt, TN	3/13/86	3/10/86	TA-W-17,266	Basketballs, golf balls.
Cornwall Industries (workers)	South Paris, ME	3/6/86	2/28/86	TA-W-17,267	Wood home accessories and housewares.
Buxton, Inc. (workers)	Agawam, ME	2/28/86	2/20/86	TA-W-17,268	Personal leather goods.
Fisher Scientific Co. (IAM)	Indiana, PA	3/10/86	2/26/86	TA-W-17,269	Histomatics and lower priced ph meters.
Forster Manufacturing Co., Inc. (workers)	Mattawamkeag, ME	3/10/86	3/5/86	TA-W-17,270	Clothes pins, dowels, skewers.
Lady Manhattan, Scranton Plant (ACTWU)	Scranton, PA	3/13/86	3/3/86	TA-W-17,271	Ladies blouses.
Harbison Walker Refractories (USWA)	Templetion, PA	2/28/86	3/17/86	TA-W-17,272	Fire bricks.
Jayel Children Wear (company)—	New York, NY	3/10/86	3/7/86	TA-W-17,273	Infants and childrens outerwear.
John Brown, Inc., Leesona Textile Div. (IAMAW)	Warwick, RI	3/11/86	3/7/86	TA-W-17,274	Textile machinery and textile parts.
Lexie Coal Corporation (workers)	Summersville, WV	2/28/86	2/24/86	TA-W-17,275	Steam coal.
Lusignan Textile, Inc. (workers)	Linwood, MA	3/10/86	3/4/86	TA-W-17,276	Cloth for womens apparel.
Modern Slack Creations Inc. (ACTWU)	Allentown, PA	3/5/86	2/26/86	TA-W-17,277	Mens dress slacks.
Southern Machinery Co. (workers)	Greer, SC	2/25/86	2/22/86	TA-W-17,278	Loom warp beam let-off.
Continental Steel Corp. (USWA)	Kokomo, IN	3/3/86	2/26/86	TA-W-17,279	Nails, ingots, billets, wire and wire products.
Donora Sportswear Co., Inc. (workers)	Donora, PA	3/5/86	2/15/86	TA-W-17,280	Mens coats for London Fog.
Hanover Mills (workers)	Yanceyville, NC	3/6/86	3/3/86	TA-W-17,281	Nylon fabrics.
Imperial Reading Corp. (workers)	Lynchburg, VA	3/6/86	2/28/86	TA-W-17,282	Children's apparel.
Kaiser Aluminum and Chemical Corp., Mead Works (workers).	Mead, WA	3/3/86	2/27/86	TA-W-17,283	Aluminum smelting.
Kaiser Chemicals Div. of Kaiser Aluminum and Chemical	Pryor, OK	2/28/86	2/24/86	TA-W-17,284	Chemicals.
Moranco Drilling Co. (workers)	Hobbs, NM	3/3/86	2/24/86	TA-W-17,285	Oil and gas drilling.
Portec Imcorporated Forgings Div. (Boilermakers)	Canton, OH	3/5/86	3/1/86	TA-W-17,286	Closed die forgings.
Sellersville Mfg. Co. (ACTWU)	Sellersville, PA	3/5/86	3/3/86	TA-W-17,287	Mens womens clothes.
Suave Shoe Corp. (workers)	Miami Lakes, FL	3/5/86	2/24/86	TA-W-17,288	Shoes.
Sutex Paper and Cellulose Corp. (workers)	Miami, FL	3/4/86	2/25/86	TA-W-17,289	Distribution of paper goods.

[FR Doc. 86-6536 Filed 3-24-86; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program; New Extended Benefit Period in the State of Idaho

This notice announces the beginning of a new Extended Benefit Period in Idaho, effective on March 9, 1986, and remaining in effect for at least 13 weeks after that date.

Background

The Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) established the Extended Benefit Program as a part of the Federal-State Unemployment Compensation Program. Under the Extended Benefit Program, individuals who have exhausted their rights to regular unemployment benefits (UI) under permanent State (and Federal) unemployment compensation laws may be eligible, during an extended benefit period, to receive up to 13 weeks of extended unemployment benefits, at the same weekly rate of benefits as previously received under the State law. The Federal-State Extended Unemployment Compensation Act is implemented by State unemployment compensation laws and by Part 615 of Title 20 of the Code of Federal Regulations (20 CFR Part 615).

Each State unemployment compensation law provides that there is a State "on" indicator (triggering on an Extended Benefit Period) for a week if the head of a State employment security agency determines that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment in the State equaled or exceeded the State trigger rate. The Extended Benefit Period actually begins with the third week following the week for which there is an "on" indicator in the State. A benefit period will be in effect for a minimum of 13 weeks, and will end the third week after there is an "off" indicator.

Determination of an "on" Indicator

The head of the employment security agency of the State named above has determined that the rate of insured unemployment in the State, for the 13-week period ending on February 22, 1986, equals or exceeds 6 percent, so that for that week there was an "on" indicator in the State.

Therefore, a new Extended Benefit Period commenced in the State with the week beginning on March 9, 1986. This period will continue for no less that 13 weeks, and until three weeks after a week in which there is an "off" indicator in the State.

Information for Claimants

The duration of extended benefits payable in the Extended Benefit Period, and the terms and conditions on which they are payable, are governed by the Act and the State unemployment compensation law. The State employment security agency will furnish a written notice of potential entitlement to extended benefits to each individual who has established a benefit year in the State that will expire after the new Extended Benefit Period begins. 20 CFR 615.13(d)(1). The State employment security agency also will provide such notice promptly to each individual who exhausts all rights under the State unemployment compensation law to regular benefits during the Extended Benefit Period. 20 CFR 615.13(d)(2).

Persons who believe they may be entitled to extended benefits in the State named above, or who wish to inquire about their rights under the Extended Benefit Program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC on March 17, 1986.

Roget D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86-6535 Filed 3-24-86; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under section 1-5 of Executive Order 12196 of February 26, 1980, published in the Federal Register, February 27, 1980 (45 FR 12769), will meet on April 9, 1986, starting at 10:00 a.m. in Room N3437 ABCD, of the Frances Perkins Department of Labor Building, 200 Constitution Avenue NW., Washington, DC. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Introduction of New and Reappointed FACOSH Members

III. Election of Vice Chairman
IV. Proposed Change in Articles of Organization
V Status of the Safety Belt Executive Order (DOT)
VI. Changes to President's Goal
VII. Employee Reprisal Issue
VIII. Policy Directive—Agency Program Deficiencies
IX. Report of Ad Hoc Committee on Hazard Communication
X. New Business
• Dates of 1986—FACOSH Meetings
XI. Adjournment.

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business April 4, 1986, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business April 4, 1986. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to John E. Plummer, Director, Office of Federal Agency Programs, Department of Labor, OSHA, Frances Perkins Building, 200 Constitution Avenue NW., Room N3613, Washington, DC 20210, telephone (202) 523-9329.

Signed at Washington, DC this 20 day of March 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86-6534 Filed 3-24-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Qualifications Review Panel; Meeting Cancellation

SUMMARY: The scheduled meeting on March 24, 1986, of the Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library, published in the **Federal Register** March 7, 1986 (51 FR 8052), has been cancelled.

Dated: March 19, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-6496 Filed 3-24-86; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON ARTS AND HUMANITIES

Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Challenge Section) to the National Council on the Arts will be held on April 7, 1986 from 9:00 a.m. to 5:30 p.m., Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 17, 1986.

[FR Doc. 86-6420 Filed 3-24-86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-352-OLA (Check Valve) and 50-352-OLA-2 (Containment Isolation)]

Philadelphia Electric Co. (Limerick Generation Station, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding: Thomas S. Moore, Chairman, D. Reginald L. Gotchy, Howard A. Wilber.

Dated: March 19, 1986.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 86-6532, Filed 3-24-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published February 25, 1986 (51 FR 6606). Those meetings which are defintely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the April 1986 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634-3265, ATTN: Barbara Jo White) between 8:145 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

Ad Hoc Subcommittee on TWA, March 27, 1986, Washington, DC. The Subcommittee will discus TVA reorganization and related technical and management issues.

Meeting with Commissioners on Quantitative Safety Goals, March 28, 1986, Washington, DC. The ACRS members will meet with the Commissioners to discuss quantitative safety goals.

Reliability Assurance, April 1, 1986, Washington, DC. The purpose of the

meeting will be to discuss the results of EPRI NP-4254, "Improvements in Motor-Operated Valves," dated November 1985. Also to be considered will be NUREG/CR-4380, "Evaluation of the Motor-Operated Valve Analysis and Test System (MOVATS) to Detect Degradation, Incorrect Adjustments, and Other Abnormalities in Motor-Operated Valves," and NUREG/CR-4302, "Aging and Service Wear of Check Valves Used in Engineered Safety-Feature Systems of Nuclear Power Plants," both reports were prepared by the Oak Ridge National Laboratory for the Office of Nuclear Regulatory Research. The Subcommittee will also plan the format for a report which will encompass its considerations over the past year.

Fort St. Vrain, April 2 and 3, 1986, Platteville, CO. The Subcommittee will explore technical problems addressed during the recent extended outage, and discuss management changes made as a result of the licensee's independent assessment of management controls.

Rector Operations, April 9, 1986, Washington, DC. The Subcommittee will review recent significant events.

Davis-Besse (Restart), April 9, 1986, Washington, DC. The Subcommittee will continue its review of the Davis-Besse restart.

Waste Management, April 24 and 25, 1986, Washington, DC. The Subcommittee will review various topics in the High-Level and Low-Level Radioactive Waste Program. Topics currently identified for review at the April Meeting are: (1) Modeling Strategy for HLW performance assessment, (2) Quality Assurance (addressing safety issues of geologic repositories), (3) the NRC LLW program, (4) several research efforts, including international programs and cooperative agreements, results of modeling workshop, setting priorities for HLW research, and LLW shallow land burial (SLB) alternative; and (5) the Salvaging of Contaminated Smelted Alloys.

Emergency Core Cooling Systems, April 29 and 30, 1986, Washington, DC. The Subcommittee will: (1) Continue its review of the NRC's proposal to revise 10 CFR 50.46 and Appendix K and (2) continue discussions on defining the thermal hydraulic safety issues of most importance that need to be addressed in the future. Additional topics may be scheduled as well.

Babcock and Wilcox (B&W) Water Reactors, May 1, 1986 Washington, DC. The Subcommittee will consider the B&W Owners Group plan to reassess the long-term safety of B&W reactors, including the implications of operating experience on the adequacy of B&W plant designs. The Subcommittee will also be briefed on the NRC Staff's Incident Investigation Team's (IIT) findings related to the 12/26/85 loss of integrated control system power and overcooling transient at the Rancho Seco nuclear power plant.

Severe (Class 9) Accidents, May 1, 1986, Albuquerque, NM. The Subcommittee will review rebaselining studies for four or five reference plants; part of NUREG-1150 study.

Scram Systems Reliability, May 6, 1986, Washington, DC. The Subcommittee will continue its review of the ATWs Rule implementation effort.

Long Range Plan for the NRC, May 6, 1986, Washington, DC. The Subcommittee will continue discussions related to long range planning for the NRC. Portions of this meeting may be closed to discuss internal ongoing draft documents.

Safety Research Program, May 7, 1986, Washington, DC. The Subcommittee will discuss the proposed NRC Safety Research Program and Budget for FY 1988 and 1989, and gather information for use by the ACRS in its preparation of the annual report to the Commission on the related matter.

Severe (Class 9) Accidents, June 3, 1986, Washington, DC. The Subcommittee will review a final draft of NUREG-0956, "Reassessment of the Technical Bases for Estimating Source Terms."

Safety Research Program, June 4, 1986, Washington, DC. The Subcommittee will continue its discussion on the proposed NRC Safety Research Program and Budget for FY 1988 and 1989. It will discuss also a Draft ACRS report to the Commission on this matter.

Westinghouse Reactor Plants, June 11, 1986 (tentative), Washington, DC. The Subcommittee will continue discussions and comment on NRC Staff actions taken with respect to the SONGS-1 waterhammer/loss of AC power event which occurred on November 21, 1985. This is a follow-up meeting to the February 12, 1986 Subcommittee meeting on the same subject.

South Texas Units 1 and 2, Date to be determined (April), Bay City, TX. The Subcommittee will review Houston Lighting and Power Company's application for an operating license.

Metal Components, Date to be determined (April/May, tentative), Pittsburgh, PA or Charlotte, NC. The Subcommittee will review the status of NDE of cast stainless steel.

Ad Hoc Subcommittee on TVA, Date to be determined (April/May), Washington, DC. The Subcommittee will review the Staff evaluation of the TVA Corporate Nuclear Performance Plan and issues related to the restart of Sequoyah.

Decay Heat Removal Systems, Date to be determined (May/June), Washington, DC. The Subcommittee will review NRR's Action Plan to address concerns with the reliability of certain plants' AFW systems.

Regulatory Policies and Practices, Date to be determined (May/June), Washington, DC. The Subcommittee will review backfitting policy implementation. Special focus on industry initiated modifications.

Emergency Core Cooling Systems, Date to be determined (June/July), Washington, DC. The Subcommittee will review General Electric's application for use of the SAFER/CORECOOL ECCS Code on BWR nonjet pump plants.

Metal Components, Date to be determined (June/July), Richland, WA. The Subcommittee will visit and review steam generator, degraded piping, and NDE facilities and programs.

Structural Engineering, Date to be determined (June/July), Albuquerque, NM. The Subcommittee will visit and review containment integrity and Category I structures, facilities, and programs.

Transportation of Radioactive Materials, Date to be determined (June/July), Washington, DC. The Subcommittee will discuss the following related to the Transportation system being developed by the Department of Energy (DOE) as required by the Nuclear Waste Policy Act of 1982: (1) Current status of, and schedule for, the development of the Transportation System; (2) Roles of, and the coordination between, DOE and NRC; (3) Safety issues that are foreseen by the NRC Staff; and (4) Criteria to be used by the NRC Staff in the review and certification of the Transportation System.

Seabrook Units 1 and 3, Date to be determined (late summer/early fall), Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook 1 and 2.

Reliability and Probabilistic Assessment, Date and locations to be determined. The Subcommittee will review the probabilistic risk assessment for Millstone 3.

ACRS Full Committee Meeting

April 10-12, 1986: Items are *tentatively* scheduled.

*A. *Advanced Reactors*—discussion of advanced liquid metal cooled reactors being proposed by DOE.

*B. *Auxiliary Feedwater Systems*—report regarding NRC activities to

improve auxiliary feedwater systems reliability.

*C. *Meeting with NRC Office of Inspection and Enforcement*—briefing regarding recent activities of the NRC Office of Inspection and Enforcement.

*D. *Reliability of Nuclear Power Plant Components*—report regarding activities during the past year to improve performance of motor-operated valves and check valves in nuclear power plants.

*E. *McGuire Nuclear Station*—review proposed deletion of the upper Head Injection System.

*F. *Reorganization of the Tennessee Valley Authority*—subcommittee report on issues related to the TVA reorganization.

*G. *David-Besse Nuclear Generating Station*—review proposed restart following loss of feedwater event which occurred on 6/9/85.

*H. *Reactor Operating Experience*—discuss recent operating events which have occurred at nuclear facilities.

*I. *Decay Heat Removal Systems*—report of ACRS subcommittee regarding status of NRC resolution of USI A-45 Decay Heat Removal Systems.

*J. *Quantitative Safety Goals*—discuss proposed NRC plans to implement proposed quantitative safety goals for nuclear power plants.

*K. *Future Activities*—discuss anticipated subcommittee activities and proposed items for full Committee consideration.

*L. *ACRS Subcommittee Activities*—briefings regarding the status of designated subcommittee activities, including consideration of human factor in nuclear plant design and operation, decay heat removal systems in nuclear power plants, implementation of recommendations of the Panel on ACRS Recommendations, and ACRS Practices and Procedures.

*M. *Meeting with NRC Commissioners*—meeting with NRC Commissioners to discuss items related to nuclear power plant safety and regulation, including the scope of ACRS activities, GESSAR-II and future standardized reactors, and a proposed Federal academy for training nuclear power plant personnel.

*N. *Appointment of New ACRS Members*—discuss qualifications of candidates nominated for appointment to the Committee.

May 8-10, 1986—Agenda to be announced.
June 5-7, 1986—Agenda to be announced.

Dated: March 19, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

FR Doc. 86-6531 Filed 3-24-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Schedules A, B, and C; Positions Placed or Revoked

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, 202-632-6817.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on February 28, 1986 (51 FR 7163). Individual authorities established or revoked under Schedules A, B, or C between February 1, 1986, and February 28, 1986, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedules A and B

No Schedule A or Schedule B exceptions were established or revoked in February.

Schedule C

The following exceptions are established:

Department of Agriculture

One Private Secretary to the Deputy Assistant Secretary for Science and Education. Effective February 12, 1986.

One Confidential Assistant to the Adminsitrator, Rural Electrification Administration. Effective February 27, 1986.

Department of Commerce

One Congressional Affairs Specialist, to the Director, Office of Congressional Affairs, National Oceanic and Atmospheric Administration. Effective February 19, 1986.

Department of Defense

One Personal and Confidential Assistant to the General Counsel. Effective February 6, 1986.

Department of Education

One Special Asisstant to the Assistant Secretary for Educational Research and Improvement. Effective February 4, 1986.

One Special Assistant to the Executive Assistant to the Under Secretary. Effective February 4, 1986.

One Confidential Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective February 12, 1986.

One Special Asisstant to the Director, Center for International Education, Office of Postsecondary Education. Effective February 13, 1986.

One Special Asssistant to the Secretary's Regional Representative. Effective February 14, 1986.

One Attorney Advisor to the Assistant Secretary for Civil Rights. Effective February 19, 1986.

One Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective February 15, 1986.

One Confidential Assistant to the Deputy Under Secretary for Management. Effective February 28, 1986.

Department of Energy

One Secretary (Confidential Assistant) to the Secretary. Effective February 14, 1986.

One Staff Assistant to the Assistant Secretary for Environment, Safety and Health. Effective February 26, 1986.

One Confidential Assistant to a Member of the Federal Energy Regulatory Commission. Effective February 27, 1986.

One Private Secretary to a Member of the Federal Energy Regulatory Commission. Effective February 27, 1986.

Department of Health and Human Services

One Special Assistant for Private Sector Coordination to the Director, Office of Policy and Legislation, Office of Human Development Services. Effective February 24, 1986.

One Special Confidential Assistant to the Under Secretary. Effective February 24, 1986.

One Confidential Assistant to the Secretary. Effective February 24, 1986.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Public Affairs. Effective February 14, 1986.

One Special Assistant to the Deputy Assistant Secretary for Policy Development. Effective February 25, 1986.

Department of Interior

One Staff Assistant to the Assistant to the Secretary and Director, External Affair. Effective February 11, 1986.

One Staff Assistant to the Director (External Afffairs and Inter-Governmental Relations) Office of Surface Mining. Effective February 12, 1986.

One Confidential Assistant to a Solicitor. Effective February 12, 1986.

One Deputy Assistant Secretary to the Assistant Secretary for Water and Science. Effective February 12, 1986.

Department of Justice

One Confidential Assistant to the Assistant Attorney General, Office of Legal Council. Effective February 4, 1986.

One Confidential Assistant to the Assistant Attorney General, Office of Legal Policy. Effective February 4, 1986.

One Attorney-Advisor to the Director, Regulatory and Legislative Affairs Staff, Civil Division. Effective February 10, 1986.

One Attorney-Advisor to the Director, Ofice of Regulatory and Legislative Affairs, Civil Division. Effective February 26, 1986.

One Deputy Association Attorney General to the Associate Attorney General. Effective February 26, 1986.

Department of Labor

One Confidential Staff Assistant to the Deputy Under Secretary for Congressional Affairs. Effective February 10, 1986.

One Secretary (Typing) to the Regional Representative. Effective February 19, 1986.

One Confidential Staff Assistant to the Special Assistant to the Assistant Secretary for the Mine Safety and Health Administration. Effective February 28, 1986.

Department of the Navy

One Special Assistant to the Director, White House Military Office. Effective February 28, 1986.

Department of State

One Special Assistant to the Assistant Secretary for the Bureau of Near Eastern and South Asian Affairs. Effective February 13, 1986.

Three Foreign Affairs Officers to the Assistant Secretary for the Bureau of International Organization Affairs. Effective February 14, 1986.

One Protocol Assistant to the Chief of Protocol. Effective February 19, 1986.

One Secretary (Stenography) to the Assistant Secretary for the Bureau of International Organization Affairs. Effective February 24, 1986.

One Special Assistant to the Assistant Secretary for the Bureau of International Organization Arrairs. Effective February 25, 1986.

Department of Transportation

One Special Assistant to the Administrator, Research and Special Programs Administration. Effective February 25, 1986.

One Secretary (Typing) to the Coordinator of Minority Affairs, Office of the Secretary. Effective February 25, 1986.

One Special Assistant to the Associate Deputy Secretary. Effective February 28, 1986.

Department of Treasury

One Staff Assistant to the Deputy General Counsel. Effective February 25, 1986.

One Special Assistant to the Deputy Assistant Secretary for Public Affairs. Effective February 27, 1986.

Administrative Office of the U.S. Courts.

One Secretary (Stenography) to the Deputy Legislative Affairs Officer. Effective February 19, 1986.

Agency for International Development

Administrative Operations Assistant to the Deputy Assistant Administrator for the Bureau of External Affairs. Effective February 25, 1986.

Arms Control Disarmament Agency

Congressional Affairs Specialist to the Director, Office of Congressional Affairs. Effective February 26, 1986.

U.S. Commission on Civil Rights

Confidential Assistant to the Staff Director. Effective February 14, 1986.

Consumer Product Safety Commission

One Staff Assistant to a Commissioner. Effective February 21, 1986.

Federal Labor Relations Authority

One Deputy for Congressional Affairs, Public Information and Administration, to the Chairman. Effective February 3, 1986.

General Serivces Administration

One Confidential Assistant to the Regional Administrator. Effective February 4, 1986.

International Trade Commission

One Confidential Assistant to a Commissioner. Effective February 20, 1986.

Office of Management and Budget

One Public Affairs Assistant to the Assistant Director for Public Affairs, Office of Management and Budget. Effective February 28, 1986.

Office of Personnel Management

One Special Assistant to the Director. Effective February 2, 1986.

One Staff Assistant to the Assistant Director for Public Affairs. Effective February 10, 1986.

Overseas Private Investment Corporation

One Assistant to the Treasurer. Effective February 18, 1986.

Pension Benefit Guaranty Corporation

One Staff Assistant to the Executive Director. Effective February 25, 1986.

Securities and Exchange Commission

One Confidential Assistant to a Commissioner. Effective February 21, 1986.

Small Business Administration

One Special Assistant to the Associate Administrator for Business Development. Effective February 27, 1986.

One Director of Veterans Affairs to the Associate Deputy Administrator for Special Programs. Effective February 27, 1986.

Tax Court of the U.S.

Nine Trial Clerks to Nine Judges. Effective February 25, 1986.

U.S. Information Agency

One Staff Assistant to the Coordinator, President's U.S. Soviet Exchange Initiative. Effective February 25, 1986.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86-6643 Filed 3-24-86; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15004; (811-3769)]

The Investment Fund for Financial Institutions, Inc.; Notice of Application for Investment Company Deregistration

March 19, 1986.

Notice is hereby given that The Investment Fund for Financial Institutions, Inc. ("Applicant"), 8600 West Bryn Mawr Avenue, Suite 200 North, Chicago, IL 60621, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on March 6, 1986, for an

order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

Applicant states that its Board of Directors recommended the liquidation of Applicant to its shareholders on June 20, 1985, and that thereafter shareholders voluntarily redeemed at net asset value. At the election of shareholders, proceeds from the redemptions were transferred to Liquid Cash Trust (811-3057), Federated Intermediate Government Trust (811-3587) or Federated Income Trust (811-3387). According to the application, the consent of Applicant's then sole remaining shareholder approving the liquidation was executed on July 25, 1985, and it was dissolved pursuant to Maryland corporate law on January 21, 1986.

According to the application, Applicant has no shareholders and does not propose to engage in any business activities other than those necessary to effectuate the winding up of its affairs. Applicant represents that it has retained no assets, no debts or other liabilities, and that it is not a party to any litigation or administrative proceeding. Finally, Applicant states that it has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 14, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) 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. 86-6522 Filed 3-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15002; File No. 812-6234]

Application and Opportunity for Hearing; Nationwide Life Insurance Company et al.

March 19, 1986.

Notice is hereby given that Nationwide Life Insurance Company ("Nationwide"), a stock life insurance company organized under the laws of the State of Ohio, and Nationwide VLI Separate Account ("Separate Account"), a unit investment trust registered under the Investment Company Act of 1940 ("Act") (together, "Applicants"), of One Nationwide Plaza, Columbus, Ohio 43216, filed an application on October 25, 1985, and amendments thereto on February 25, 1986, and March 4, 1986, pursuant to section 6(c) of the Act, for an order of the Commission exempting Applicants from the provisions of sections 2(a)(35), 26(a)(2), 27(a)(1) and 27(c)(2) of the Act and paragraph (b)(1), (b)(13)(i)(B), and (c)(4)(ii) of Rule 6e-3(T) under the Act, to the extent necessary to permit the transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and rules thereunder for the text of relevant provisions.

According to the application, the Separate Account was established by Nationwide for the purpose of funding flexible premium variable life insurance contracts ("Contracts" or "Contract"). The application states that assets held in the Separate Account will be used to purchase shares of a designated series of an open-end, management investment company, the American Capital Life Investment Trust ("Fund"). The application states the Fund is managed by American Capital Asset Management, Inc. The Fund will offer 3 series, the Money Market Portfolio, Government Portfolio, and Common Stock Portfolio. Applicants state that shares of each portfolio are sold to the Separate Account at net asset value.

According to the application, no deduction for a sales charge is made from premium payments under a Contract. The application states that, except for those situations described in the prospectus, if a Contract is surrendered at any time during the first 9 Contract years, a deferred sales charge will be assessed as a percentage of the initial premium paid, ranging from 8% in year 1 to 4% in year 9 and zero thereafter. Applicants state that in no event will the deferred sales charge exceed 8% of the initial premium paid. Applicants state that if additional premium payments are made, as permitted by the Contracts, no deferred sales charge attaches to such premium payments. The application states that in addition, during the first ten Contract years, Applicants will deduct a daily Distribution Expense Charge, equal on an annual basis to .35% of the Separate Account assets. Applicants represent that the Contracts will be monitored to ensure that the sum of any Deferred Sales Charge actually deducted and the cumulative total of Distribution Expense Charges collected on any Contract can never exceed 9% of the premiums paid for that Contract.

The application states that the maximum cost of insurance rates allowable under the Contracts are based on the 1958 Commissioner's Standard Ordinary Mortality Table ("1958 CSO Table"), even though the current cost of insurance rates for some insureds may be based on the 1980 CSO Table. applicants state that rates based on the 1958 CSO Table will be shown in the Table of Guaranteed Maximum Insurance Rates contained in the Contracts filed with the insurance departments of the jurisdiction in which the Contracts will be offered. Applicants state that the current cost of insurance rates for some insureds may be lower than or equal to the 1980 CSO rates based upon Nationwide Life's current expectations of future experience.

Applicants seek exemption from sections 2(a)(35) and 27(a)(1) of the Act and from paragraphs (b)(1), (b)(13)(i)(B) and (c)(4)(ii) of Rule 6e-3(T) to the extent that paragraph (c)(4)(ii) prescribes that the amount excluded from sales load for cost of insurance is limited to the "cost of insurance for the period based upon the [1980 CSO Table] and net interest at the annual effective rate specified for purposes of paragraph (c)(8)(i)(B) of this Rule." Applicants seek an exemption to the extent necessary to permit the exclusion of amounts for the actual cost of insurance charges deducted under the Contract, which for standard underwriting risk classes is guaranteed never to exceed amounts based on the 1958 CSO Table.

Applicants argue that, prior to the adoption of Rule 6e-3(T), the Commission had not taken a position that the cost of insurance charges for variable life insurance products must be based on the 1980 CSO Table rather than the 1958 CSO Table. Applicants state that in its original form, Rule 6e-2 permits companies to demonstrate compliance with the sales load provisions of the Act by excluding from the definition of "sales load" cost of insurance charges based on the 1958

CSO Table. Applicant state that they have elected to rely on subparagraph (B) of paragraph (c)(13)(i) of Rule 6e-3(T), which, like Rule 6e-2, requires a showing that, prospectively, sales load will be limited to 9% of premiums paid. Applicants state that the Commission has amended Rule 6e-2 to permit cost of insurance rates to be based on either the 1958 or 1980 CSO Mortality Table, depending on which table relates to the rates guaranteed by the Contract. Applicants submit that the relief sought is similar to relief sought and obtained by other applicants now issuing variable life insurance policies and is consistent with the position recently taken by the Commission in its proposed amendments of Rule 6e-2.

The application also states that Nationwide has reserved the right to assess a charge for income taxes incurred as a result of the operations of the Separate Account. Applicants request an exemption from sections 26(a)(2) and 27(c)(2) for the deduction of any income tax charge, if implemented. Applicants state that any income tax charge, if imposed in the future, will not recover any more than the amount of tax liability actually incurred, with no interest element. Applicants state that any such charge will comply with state insurance laws, will be fully disclosed in the prospectus, and will only be deducted from the Separate Account as taxes become due; taxes will not be deducted and accumulated in Nationwide's general account prior to the time they are due. Thus, the Applicants contend that the charges are fair and reasonable and consistent with the provisions of section 26(a)(2)(B) of the Act in that they will be made only for expenses incurred.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 14, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any of fact or law that are disputed, to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-6523 Filed 3-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14995; File No. 812-6256]

State Mutual Securities, Inc., et al. Application for Order Granting Exemption

March 17, 1986.

Notice is hereby given that State Mutual Securities, Inc. ("Fund"), a closed-end, diversified investment company registered under the Investment Company Act of 1940 ("Act"), its investment adviser, State Mutual Life Assurance Company of America ("Insurance Company"), a mutual life insurance company organized under the laws of Massachusetts, and the Insurance Company's wholly-owned, second-tier subsidiary, SMA Life Assurance Company ("Insurance Subsidiary"), a Delaware corporation, 440 Lincoln Street, Worcester, MA 01605 (Fund, Insurance Company, and Insurance Subsidiary collectively, "Applicants,") filed an application on December 10, 1985, and an amendment thereto on January 28, 1986, pursuant to section 17(b) of the Act, for an order of the Commission exempting Applicants from the provisions of section 17(a) of the Act, and pursuant to section 17(d) of the Act for an order exempting Applicants from the provisions of section 17(d) of the Act and Rule 17d-1 thereunder, to permit the Fund to purchase certain portfolio securities from the Insurance Subsidiary. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for its relevant provisions.

According to the application, on July 8, 1981, the Commission issued an order ("Order") (Investment Company Act Release No. 11852), pursuant to section 17(d) the Act and Rule 17d-1 thereunder, permitting the Insurance Company and the Fund to invest concurrently in porfolio securities purchased by the Insurance Company at direct placement. One condition of the Order specified that the Insurance Company would offer one-half of all its direct placement investments to the Fund that were consistent with the investment policies of the Fund. Pursuant to the Order, the Fund may participate equally with the Insurance Company in portfolio investments; if participation by the Fund was on a basis other than equally, then the Fund and Insurance Company would need to obtain an order of the Commission permitting the transaction.

Applicants state that the Insurance Subsidiary, organized in 1974, was not exempted by the terms of the Order and has not purchased securities at direct placement until 1985. On October 11, 1985, the Insurance Subsidiary agreed to purchase, at direct placement, $5,000,000 in principal amount of 12.25% senior subordinated notes of Capital Finance Group, Inc. ("Notes"), a corporation engaged primarily in consumer finance operations. Applicants state that the Insurance Subsidiary offered the Fund, at its Board of Directors meeting on November 8, 1985, the opportunity to purchase 50% of the Notes. Upon the recommendation of the adviser to the Fund, the Insurance Company, the Fund's board, including a majority of directors who are not interested persons of the Fund, unanimously voted to purchase $1,000,000 in principal amount of the Notes, and not to participate equally with the Insurance Subsidiary. The reasons for the determination of the Fund's Board of Directors will be recorded and will become a part of the Fund's permanent records.

Applicants requested exemption from the provisions of section 17(d) of the Act and Rule 17d-1 thereunder in the event an order by the Commission would precede the closing date of the purchase, at direct placement, by the Insurance Subsidiary. According to the application, closing on the sale of the Notes to the Insurance Subsidiary occurred in December 1985. Applicants also request, pursuant to section 17(b) of the Act, an order exempting Applicants from the provisions of section 17(a) of the Act to permit the Insurance Subsidiary, as principal, to sell the Notes to the Fund.

Applicants assert that the Fund will be disadvantaged if not permitted to purchase the Notes because the Fund's Board of Directors deemed the price of the Notes favorable, and that purchase of less than 50% of the Notes was appropriate in light of the relative size of the Fund's portfolio. Applicants state the Fund will purchase the Notes at the same unit price as that paid by the Insurance Subsidiary, plus an amount equal to the interest accrued on the Notes between the closing of the purchase by the Insurance Subsidiary and the date of the sale to the Fund.

Applicants state that the purchase of the Notes by the Fund will close provided that Applicants receive an order of the Commission exempting such

transaction, and that the Insurance Subsidiary receives appropriate investment representations and an undertaking by the Fund to be bound by the terms and conditions subject to which the Insurance Subsidiary will hold the Notes. If Applicants do not receive an order exempting the transaction, then the entire principal amount of the Notes will be retained by the Insurance Subsidiary.

Applicants represent that unless otherwise permitted by special order of the Commission, neither the Insurance Subsidiary nor the Fund will sell, exchange, or dispose of any interest in the Notes, or exercise conversion privileges or other rights relating to the Notes, except at the same times, for the same unit consideration (if applicable) and in amounts proportionate to their respective holdings of the Notes. The expense, if any, of the distribution of the Notes, if registered for sale by the Insurance Subsidiary and the Fund simultaneously, will be shared by the Insurance Subsidiary and the Fund in proportion to the respective amounts of Notes each sells.

Applicants state that the purchase by the Fund of the Notes from the Insurance Subsidiary will be on a basis no different from or less advantageous than that of the Insurance Subsidiary. Applicants also assert that the terms of the purchase by the Fund, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the purchase is consistent with the investment policy of the Fund as recited in its registration statement, and that the purchase is consistent with the purposes of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 14, 1985, 15 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-6480 Filed 3-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15000; (File No. 811-4220]

State Street Balanced Fund; Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

March 18, 1986.

Notice is hereby given that State Street Balanced Fund ("Applicant"), One Financial Center, Boston, MA 02111, and registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), fild an application for a Commission order pursuant to section 8(f) of the Act declaring that it has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of relevant provisions.

Applicant states it was organized as a Massachusetts trust and registered under the Act in February 1985. Applicant also states that it never made a public offering or sold any of its securities and that it has no assets. Further, Applicant represents that it is not a party to any litigation or administrative proceeding and does not intend to engage in any business activities other than those necessary to effectuate the winding up of its business and affairs.

Notice is further given that any person wishing to request a hearing on the application may, not later than April 14, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) 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. 86-6478 Filed 3-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15001; File No. 811-4219]

State Street Income Fund; Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

March 18, 1986.

Notice is hereby given that State Street Income Fund ("Applicant"), One Financial Center, Boston, MA 02111, and registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), filed an application for a Commission order pursuant to section 8(f) of the Act declaring that it has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of relevant provisions.

Applicant states it was organized as a Massachusetts trust and registered under the Act in February 1985. Applicant also states that it never made a public offering or sold any of its securities and that it has no assets. Further, Applicant represents that it is not a party to any litigation or administrative proceeding and does not intend to engage in any business activities other than those necessary to effectuate the winding up of its business and affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 14, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) 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. 86-6479 Filed 3-24-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14997; (File No. 811-4470)]

Twelve Star Partners, Ltd.; Application

March 17, 1986.

Notice is hereby given that Twelve Star Partners, Ltd. ("Applicant"), a Florida limited partnership and registered under the Investment Company Act of 1940 ("Act") as a non-diversified management company, 180 Park Avenue North, Suite 2-B, Winter Park, Florida 32789, filed an application on February 3, 1986, pursuant to section 8(f) of the Act, for an order declaring that it has creased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for all applicable provisions.

Applicant was formed for the purpose of participating in the distribution of twelve designated motion pictures through the acquisition of a limited partnership interest in Warner Bros. Twelve Star Distributing Company, a California limited partnership. Applicant offered units of limited partnership interest pursuant to Regulation D under the Securities Act of 1933. At the time of filing of the application Applicant had 379 limited partners.

On August 12, 1985, Applicant filed an application pursuant to section 6(c) of the Act for an order exempting Applicant from all provisions of the Act. The application was granted by order dated January 27, 1986 (Investment Company Act Release No. 14917). Accordingly, Applicant is requesting that the Commission issue an order terminating its registration under the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 10, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission Washington, DC 20549. A copy of the request should be served personnally 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. 86-6481 Filed 3-24-86; 8:45 am]

BILLING CODE 8010-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, DC, will meet on April 7, 1986, at 9:30 a.m. unitl 4:00 p.m., Federal Building, Room 659, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918, with Committee members, representatives from the large corporate sector, small and small minority entrepreneurs, local officials and associations to discuss availability of procurement, capitalization and marketing assistance from the private sector as they relate to the Caribbean Basin Initiative. The meeting will be open to all interested persons, however, space is limited.

Persons wishing to obtain further information should contact Milton Wilson, Jr. Office of Private Industry Programs, Small Business Administration, 1441 L Street NW., Room 602, Washington, DC 20416, telephone (202) 653-6526.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 86-6491 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSINESS ADMINISTRATION

Arizona District Advisory Council Meeting

The U.S. Small Business Administration, Region IX, located in the geographical area of Phoenix, Arizona, will hold a public meeting at 9:30 a.m. on April 18, 1986, at the Phoenix Chamber of Commerce Building, Suite 900, Chamber Board Room 34 West Monroe, Phoenix, Arizona, 85003 to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Allen T. Herman, Acting District Director, U.S. Small Business Administration, 2005 North Central Avenue, 5th Floor, Phoenix, Arizona, 85004, (602) 261-3732.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 19, 1986.

FR Doc. 86-6488 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

Louisiana District Advisory Council Meeting

The U.S. Small Business Administration, Region VI, located in the geographical area of New Orleans, will hold a public meeting at 1:00 p.m. on Thursday, April 24, 1986, at the Department of Commerce, One Maritime Plaza, River Road, Suite 238, Baton Rouge, Louisiana 70802. The meeting will be held to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Robert J. Crochet, District Director, U.S. Small Business Administration, 1661 Canal Street, Suite 2000, New Orleans, Louisiana 70112-2890, (504) 589-2744.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 18, 1986.

[FR Doc. 86-6490 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

Maine District Advisory Council Meeting

The U.S. Small Business Administration, Region I, located in the geographical area of Augusta, Maine, will hold a public meeting at 12:00 noon on Friday, April 18, 1986, at Hazel Green's Restaurant, 349 Water Street, Augusta, Maine, to Discuss such matters as may be presented by members, staff of the Small Business Administration and others atténding.

For further information, write or call Tom McGillicuddy, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine, (207) 622-8382.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 18, 1986.

[FR Doc. 86-6489 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

Montana Region VIII Advisory Council Meeting

The Small Business Administration Region VIII Advisory Council, located in

the geographical area of Helena, Montana, will hold a public meeting at 9:30 a.m. on Friday, April 25, 1986, at the Yogo Inn, 211 East Main Street, Lewistown, Montana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John R. Cronholm, District Director, U.S. Small Business Administration, Federal Office Building, 301 South Park, Drawer 10054, Helena, Montana 59626—(406) 449-5381.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 18, 1986.

[FR Doc. 86-6493 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

North Dakota Region VIII Advisory Council Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m. on Thursday, April 17, 1986, at the Federal Building, Room 451, 657-2nd Avenue North, Fargo, North Dakota, to discuss such business as may be presented by members, staff of the U.S. Small Business Administration and others attending.

For further information, write or call Richard D. Jenkins, Acting District Director, U.S. Small Business Administration, 657-2nd Avenue North, Fargo, North Dakota 58102—(701) 237-5771, extension 5131.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 18, 1986.

[FR Doc. 86-6492 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

Texas; Region VI—Advisory Council Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, Texas, will hold a public meeting at 9:00 a.m. on Thursday, May 15, 1985 in the Holiday Inn North Conference Center, 2540 Meachum Blvd. at I-35W, Fort Worth, Texas, to discuss such matters as my be presented by members, staff of the U.S. Small Business Administration, or others present. For further information write or call James S. Reed, District Director, U.S. Small Business Administration, 1100 Commerce Street, Room 3C36, Dallas, Texas 75242; telephone (214) 767-0605.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 18, 1986.

[FR Doc. 86-6494 Filed 3-24-86; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 57
Tuesday, March 25, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:45 p.m. on Thursday, March 20, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Williams Savings Bank, Williams, Iowa, which was closed by the Superintendent of Banking for the State of Iowa, on Thursday, March 20, 1986; (2) accept the bid for the transaction submitted by Iowa Falls State Bank, Iowa Falls, Iowa, an insured State nonmember bank; (3) approve the application of Iowa Falls State Bank, Iowa Falls, Iowa, for consent to purchase certain assets of and assume the liability to pay deposits made in Williams Savings Bank, Williams, Iowa, and for consent to establish the sole office of William Savings Bank as a branch of Iowa Falls State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: March 21, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-6608 Filed 3-21-86; 3:57 pm]

BILLING CODE 6714-01-M

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NATIONAL LABOR RELATIONS BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 21, 1986, 51 FR 9925.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: March 28, 1986, 2:00 p.m.

CHANGE IN MEETING: Open meeting to be preceded by closed meeting on the consideration of applicants for the positions of Regional Director for Region 28 (Phoenix, Arizona) and Region 29 (Brooklyn, New York) pursuant to 5 U.S.C. Section 552(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy)

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, DC, 20570, Telephone: (202) 254-9430.

Dated: Washington, DC, March 21, 1986.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 86-6581 Filed 3-21-86; 2:46 pm]

BILLING CODE 7545-01-M

3

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, April 2, 1986.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW. Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of March, 1986.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr. Executive Director Tel: (202) 523-5920.

Date of Notice: March 21, 1986.

Rowland K. Quinn, Jr.,

Executive Director, National Mediation Board.

[FR Doc. 86-6578 Filed 3-21-86; 2:46 pm]

BILLING CODE 7550-01-M

4

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1365]

TIME AND DATE: 10:30 a.m. (e.s.t.), Thursday, March, 27, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on March 6, 1986.

Discussion Items

1. Use of Artificial Wetlands for Waste Treatment.

Action Items

A—Budget and Financing

A1. Amendment to fiscal year 1986 capital budget for the Power program—Construct additional employee office space and medical services facility at the Sequoyah Nuclear Plant.

C—Power Items

C1. Delegation of authority to permit mining of TVA-owned and -controlled coals.

D—Personnel Items

D1. Supplement to personal services contract with General Electric Company of Atlanta, Georgia, for engineering and related support to the Browns Ferry Nuclear Plant's site services group, requested by the Office of Nuclear Power.

D2. Consulting contract with National Academy of Sciences (NAS), Washington, D.C., covering arrangements for NAS to conduct a study, make recommendations, and provide independent advice on processes for incorporation scientific peer review into

TVA's environmental research programs, requested by Office of Natural Resources and Economic Development.

E—Real Property Transactions

E1. Abandonment of certain rights affecting 0.23 acre of Chickamauga Reservoir land located in Meigs County, Tennessee, to permit construction of habitable structures on an area to be filled—Tract No. XCR-97.

F—Unclassified

F1. Agreement No. TV-67766A with Tennessee State University for TVA to assist the University in administering the craft/skill upgrade training program at the industrial training center of the Nashville Project.

F2. Plan to submit proposals in response to the U.S. Department of Energy's program opportunity notice under the Clean Coal Technology Program.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: March 20, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-6550 Filed 3-21-86; 10:16 am]

BILLING CODE 8120-01-M

federal register

Tuesday
March 25, 1986

Part II

Pension Benefit Guaranty Corporation

29 CFR Parts 2619, 2640, 2647, 2648, and 2676

Multiemployer and Single-Employer Pension Plans; Reduction, Waiver, and Redetermination of Withdrawal Liability; and Valuation of Assets and Benefits; Final Rules and Proposed Rule

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2647

Multiemployer Pension Plans; Reduction or Waiver of Complete Withdrawal Liability

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation provides rules for reducing or waiving the liability of an employer that has completely withdrawn from a multiemployer pension plan and subsequently resumes covered operations. The Pension Benefit Guaranty Corporation is required to issue these rules under the Employee Retirement Income Security Act of 1974, as amended. The regulation is needed to provide relief from withdrawal liability for employers that have completely withdrawn from a multiemployer plan and subsequently reenter the plan. The regulation requires plans to waive the reentering employer's obligation to make future payments with respect to its complete withdrawal and to adjust the amount of the employer's liability for a partial or complete withdrawal from the plan upon or after its reentry into the plan to reflect its earlier participation in the plan and prior withdrawal liability payments.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Rothenberg, Attorney, Corporate Policy and Regulations Department (611), 2020 K Street NW., Washington, DC 20006; (202) 254-4860 (202-254-8010 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

The Statute

Under the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("ERISA" or "the Act"), an employer that completely withdraws from a multiemployer pension plan covered under Title IV of the Act may be liable to the plan for a portion of the plan's unfunded vested benefits. In general, a complete withdrawal occurs under section 4203(a) of the Act if an employer either permanently ceases to have an obligation to contribute to the plan or permanently ceases all covered operations. Special withdrawal rules apply with respect to construction industry plans, entertainment industry plans and trucking industry plans. The withdrawal liability rules apply to withdrawals after September 25, 1980.

Section 4207(a) ERISA requires the Pension Benefit Guaranty Corporation (the "PBGC") to provide rules for reducing or waiving the liability of an employer that has completely withdrawn from a multiemployer plan and subsequently resumes covered operations or renews its obligation to contribute under the plan, to the extent that the PBGC determines that reduction or waiver of withdrawal liability is consistent with the purposes of the Act. Under section 4207(b), the PBGC must also prescribe a procedure and standards under which plans may, by amendment, adopt alternative rules for reduction or waiver of complete withdrawal liability upon the resumption of covered operations or the renewal of the obligation to contribute by a withdrawn employer. Plan rules may be applied only to the extent that they are consistent with the purposes of ERISA. This regulation deals only with section 4207(a); rules under section 4207(b) will be issued at a later date.

The Proposed Regulation and Comments

On March 5, 1984, the PBGC published a proposed regulation on Reduction or Waiver of Complete Withdrawal Liability (49 FR 8036). The proposed regulation, under certain conditions, relieved employers that reenter the plan from which they withdrew of their obligation to make withdrawal liability payments. To prevent an employer from unfairly shifting its share of liability for the plan's unfunded vested benefits to other employers in the plan should the reentered employer subsequently withdraw from the plan, the proposed regulation also provided special rules for determining the liability of a reentered employer that subsequently has a partial or complete withdrawal.

The PBGC received a number of comments on the proposed regulation. The PBGC has reviewed these comments and made a number of changes in the regulation as a result of the comments. The PBGC has also made other changes in the regulation.

Initiation of Waiver of Withdrawal Liability Procedures

Section 2647.2 of the proposed regulation required plans to determine as soon as practicable after an employer reenters the plan whether it satisfies the requirements for waiver of its withdrawal liability. One commenter noted that a multiemployer plan would have difficulty in complying with this requirement because the plan often will not know the exact date on which an employer resumed covered operations. The commenter suggested allowing the plan to rely on employer remittance forms to determine whether the employer satisfies the requirements of § 2647.4.

The PBGC agrees that the proposed rule placed an undue burden on plans in this regard. Since plans will not know the exact date an employer reentered, and may not know whether the reentered employer is the same employer that withdrew, § 2647.2(a) of the final rule requires the reentered employer to apply for waiver of withdrawal liability. The application must identify the withdrawn employer, the date it withdrew, the reentered employer, all trades and business under common control with the employer as of the date of the complete withdrawal and as of the date of resumption of covered operations, the operations for which it is obligated to contribute to the plan, and the date it resumed covered operations.

The application must be filed by the reentered employer by the date of the first scheduled withdrawal liability payment falling due after the employer resumes covered operations. Failure to apply within this time will result in the employer's not being entitled to abatement of its withdrawal liability under section 4207(a). It would then remain liable for its initial withdrawal liability payments and be treated as a new employer with respect to its post-reentry participation in the plan. This procedure eliminates the need for § 2647.2(f) of the proposed regulation, which allowed a reentering employer to notify the plan that it does not wish to have its initial withdrawal liability waived. Such an employer would, under the final rule, simply not apply for abatement. Since employers know the information necessary for plans to determine their qualification for waiver of their withdrawal liability and have an incentive to notify the plan of those facts, this approach should make the regulation easier for plans to administer without burdening employers.

Bond/Escrow

Section 2647.3(a) of the proposed rule required a reentered employer to provide a bond or establish an escrow account in lieu of making withdrawal liability payments due after its reentry. The amount of the bond or escrow was set by proposed § 2647.3(b) at 50 percent of the withdrawal liability payments that would otherwise be due, subject to reduction by plan amendment under proposed § 2647.3(d). Proposed § 2647.3(b) required the bond or escrow to be furnished before the due dates of the payments.

One commenter argued that the proposed regulation wrongly allowed the reentered employer, rather than the plan trustees, to set the bond/escrow amount and determine the scheduled payment to which the bond/escrow applies. It argued that the plan trustees should make these determinations to better protect the plan.

Section 2647.3 of the proposed regulation prescribed in detail the amount of the bond/escrow and the time by which it must be provided; these matters are not left to the discretion of the employer. The PBGC finds that plans are adequately protected by these rules, and has retained them in the final regulation.

The same commenter suggested requiring an employer to post a bond or establish an escrow upon its reentry for all of the withdrawal liability payments it will miss during the period for determining whether it qualifies for waiver of its withdrawal liability. The proposed regulation allowed the reentered employer to post a bond or establish an escrow for each payment as it becomes due. This procedure protects plans while imposing no unnecessary burden on employers. By contrast, requiring the bond or escrow to be established upon reentry for all payments that would be due during the period of determination would impose a far greater burden on employers and could act as a disincentive to reentry. Since this approach would provide little, if any, extra protection to plans, the PBGC has rejected it.

Another commenter contended that the bond/escrow provisions in the proposed regulation were subject to abuse because they allowed employers that reenter the plan on a small scale to, in effect, obtain an interest-free loan from the plan for the amount of withdrawal liability payments that it would otherwise be due. This potential for abuse was created by allowing the reentered employer to provide a bond or escrow for only 50 percent of the withdrawal liability payments that it would otherwise owe while the sponsor is determining whether the employer meets the requirements of § 2647.4. Since that determination may take more than a year and half under the proposed rule, the employer would be relieved of paying its withdrawal liability for a significant period of time. If the employer is ultimately determined not to qualify for abatement of its withdrawal liability, it would have effectively deferred payment of its withdrawal liability without having to pay interest for having use of the money during the period of the determination.

The commenter recommended allowing employers to use the bond/escrow procedure only if, immediately upon reentry, they are contributing at a rate that would, when annualized, satisfy the test in § 2647.4. It also suggested that the bond/escrow amount should be 100 percent of the scheduled payment, subject to reduction by the plan.

The PBGC has rejected this commenter's suggestion that the bond/escrow be increased to 100% of the required withdrawal liability payment, but the PBGC has raised the amount of the required bond/escrow to 70% (§ 2647.3(b)). Requiring the employer to post a bond or establish an escrow in the full amount of the withdrawal liability payments that it would owe if its liability were not waived, in addition to requiring contributions to the plan for current operations, would impose a heavy burden on employers. This burden would discourage reentry, while providing little extra protection for plans. Accordingly, the PBGC finds that requiring a 100% bond/escrow is inconsistent with the purposes of section 4207.

To lessen the potential for abusive actions of the type described by the commenter, the PBGC has raised the bond/escrow to 70% of the required withdrawal liability payment. This change will raise the cost of deferring withdrawal liability payments during the period when eligibility is being determined, discouraging employers that do not expect to qualify for abatement for their withdrawal liability from applying. While this change increases the burden on employers of obtaining a waiver of withdrawal liability, the benefit of protecting plans from abusive actions justifies that increased burden. Moreover, the increased cost of this requirement is more than offset by changes, discussed below, lowering the threshold of operations required to qualify for abatement and shortening the measurement period for determining whether employers so qualify. Since these changes will benefit only those employers that are contributing a significant amount to the plan, they will not encourage the abuses cited by the commenter.

The PBGC rejected the commenter's proposal to allow use of the bond/escrow procedure only if, immediately upon reentry, the employer is contributing at a rate that would, when annualized, satisfy the test in § 2647.4. This proposal does not provide a reasonable indication of the likelihood of qualifying for abatement because an employer's level of contributions upon reentry may be affected by seasonal or other temporary fluctuations.

Several comments requested clarification of the requirements of § 2647.3. One of these comments regarded the consequences of an employer's failure to post a bond or establish an escrow account. The employer's failure to post a bond or establish an escrow does not affect its eligibility for waiver of its withdrawal liability. If an employer applies for abatement and neither complies with the bond/escrow requirement nor pays its withdrawal liability payments, the plan may sue for the overdue withdrawal liability payments.

The bond/escrow provisions were intended to ease the burden on employers and plans by reducing the amount of cash that the employer must commit upon reentry and eliminating the need for plans to make refunds in the event the employer qualifies for abatement of its withdrawal liability. Section 2647.3(a) of the final rule clarifies that if an employer chooses, it may continue making withdrawal liability payments rather than providing a bond/escrow. However, in that event, if the employer is found to qualify for abatement, those withdrawal liability payments shall be refunded without interest (§ 2647.2(c)(4)).

One commenter suggested that employers that do not qualify for abatement of their withdrawal liability should be charged interest on the scheduled payments for which the bond/escrow was provided. The PBGC believes that it would be inappropriate to charge interest under these circumstances, because, under this regulation, the employer is not required to make payments during the pendency of its application for abatement if it posts a bond or establishes an escrow for those payments. Charging interest for the period prior to the determination of ineligibility would treat the employer as if it were delinquent in making those payments, when, in fact, it was not.

Another commenter requested clarification that a plan amendment adopted pursuant to § 2647.3(d) decreasing the amount of the required bond/escrow does not affect the remainder of the bond/escrow requirements. The PBGC believes that the proposed regulation was clear that such amendments affect only the amount of the bond/escrow. Since the language proposed by the commenter does not increase the clarity of the proposed regulation, the PBGC has not made the suggested changes.

Requirements for Waiver of Withdrawal Liability

Section 2647.4(a) of the proposed regulations provided that a withdrawn employer qualifies for waiver of its withdrawal liability if it—

(1) renews the obligation to contribute to the plan for the same operations for which it was obligated to contribute to the plan prior to its withdrawal; or

(2) resumes covered operations under the plan and the number of contribution base units with respect to which the employer has an obligation to contribute under the plan during the measurement period after it resumes covered operations is not less than 50 percent of the number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the base year.

The measurement period was defined in § 2647.4(b) of the proposed regulation as the period from the date the employer resumes covered operations until the end of that plan year, if that period covers at least six full months and if the employer would satisfy the test based on its contribution base units for that period. If either of these conditions is not satisfied, the proposed regulation defined the measurement period as the first full plan year beginning after the employer resumes covered operations. The employer's number of contribution base units for the base year was defined in proposed § 2647.4(c) as the average number of contribution base units for the two plan years in which the employer's contribution base units were the highest within the five plan years immediately preceding its complete withdrawal.

Five comments addressed the proposed rule s requirements for waiver of withdrawal liability. Four of those comments criticized the "same operations" test as either unclear or too generous. The test was considered unclear by the commenters because, they asserted, it is often difficult to determine what constitutes the "same operations" especially in the construction and similar industries in which employers are likely to be involved in different projects after reentry than at the time of withdrawal. Two comments noted that the "same operations" test could allow waiver of withdrawal liability even though the employer made no contributions to the plan, if the employer signed a collective bargaining agreement obligating it to contribute for the same operations that were previously covered. One comment suggested deleting the "same operations" test and basing waiver of withdrawal liability only on the employer's level of contributions after reentry.

The PBGC agrees with the comments citing problems with the "same operations" test. Most significantly, there is a risk that allowing waiver of withdrawal liability based solely on the renewal of an obligation to contribute may not adequately protect plans. While the partial withdrawal rules would provide plans some protection when an employer renews its obligation to contribute but conducts only limited covered operations, the employer could contribute at a very low level for up to four years after reentry before incurring liability for a 70-percent partial withdrawal. Such a result could harm plans and would be inequitable to other employers in the plan.

There are also problems in defining the "same operations" in a manner that is easy to administer and provides a meaningful incentive for employers to reenter. An objective test that is easy to administer, such as that the same single physical site be used, would preclude waiver of withdrawal liability in many situations where it would be appropriate. To include those situations, the definition would have to include such factors as geographic proximity, type of work being performed and employees doing the work. This approach would make the definition very complex and impose administrative burdens on plans and employers. For all of these reasons, the PBGC has deleted the "same operations" test from the final regulation. The sole test for abatement in the final rule is based on post-reentry contribution base units.

One commenter requested clarification of the term "contribution base units." Section 4001(a)(11) of ERISA defines "contribution base units" as "a unit with respect to which an employer has an obligation to contribute under a multiemployer plan, as defined in regulations prescribed by the Secretary of the Treasury." The PBGC has consistently interpreted this term to refer to the unit of measurement for which an employer is required to contribute, *e.g.*, hours worked, shifts, or tons of coal mined, and not to dollars contributed. Since the statute and past usage are clear, the PBGC has not defined the term in the final regulation.

Another commenter requested guidance on how contribution base units should be determined when the base period includes a previous withdrawal for which liability has already been abated. In that case, the previous abatement does not affect the determination of contribution base units, and the plan uses the same basis, *i.e.* actual contribution base units, for calculating the employer's contribution base units for the base year as it uses for any other reentered employer.

Three respondents raised issues about the 50% figure in the contributions test (§ 2647.4(a)(2) of the proposed regulation). One stated that while 50% is an appropriate figure for a regulation of general applicability, the regulation should specifically allow plans to adopt a lower threshold. The PBGC believes that this rule is not the proper vehicle for allowing plans to adopt a lower threshold. As noted above, the PBGC will be issuing a regulation allowing plans to establish alternative rules pursuant to section 4207(b) of ERISA. It is under that regulation that plans will be permitted to adopt alternative tests for abatement of liability.

Another commenter criticized the "all or nothing" approach of the regulation and suggested partial reduction of withdrawal liability for reentry at levels below 50%. This commenter proposed proportional reduction of withdrawal liability for reentry at levels below 50%, *i.e.* 80% reduction for reentry at 40% of the base year level, 60% reduction for reentry at 30% of the base year level, etc. It argued that this test would provide an incentive to reenter to employers that could not otherwise qualify for abatement, while still protecting the plan.

The PBGC has considered and rejected this proposal. Proportionate reduction would allow some abatement of withdrawal liability even at very low levels of reentry. The PBGC finds, however, that the administrative burdens of waiving liability outweigh the benefits to plans at very low levels of reentry. Moreover, the final rule largely obviates the need for proportionate reduction of liability by allowing full abatement of withdrawal liability for reentry at greater than a 30% participation level (see below).

The final comment on the 50% level suggested replacing it with a 15% test and stricter post-reentry partial withdrawal rules. The commenter asserted that its proposal would not harm plans, because employers that reentered at a contribution level substantially below their pre-withdrawal level would immediately begin making partial withdrawal payments. Waiver of withdrawal liability at a contribution level below 15% was rejected by this commenter, however, because the administrative burdens of abatement would outweigh the benefits to the plan of reentry below that level, and some employers might reenter simply to get an interest-free deferral of their withdrawal liability payment obligations.

As one commenter observed, it is impossible to determine precisely the level of post-reentry participation that would strike the proper balance between protecting plans and providing an incentive for withdrawal employers to reenter plans and have their liability abated. After careful consideration of the comments on this question, the PBGC has determined that a 30% level is most likely to achieve this result.

In reaching this conclusion, the PBGC rejected the 15% test proposed by the commenter. Such a standard would not adequately protect plans. This conclusion is borne out by Congress' determination, implicit in section 4205(a)(1) of ERISA, that a decrease in contributions to 30% of prior levels (the trigger for partial withdrawal liability) is harmful to plans.

The PBGC rejected the 50% test in the proposed regulation as unduly discouraging reentry into plans. That level of participation is substantially greater than the amount Congress has determined is sufficiently harmful to plans to require the payment of partial withdrawal liability. By contrast, the 30% test in the final rule waives withdrawal liability at a level of participation above which the employer would not have incurred partial withdrawal liability under section 4205(a)(1) had it not previously withdrawn.

Another change that the PBGC has made in the final regulation involves the measurement period. A commenter noted that the proposed regulation could deter reentry by making some employers wait up to seventeen months for an abatement determination. It suggested allowing waiver of withdrawal liability if the 50%-test is satisfied at any time during the first twelve months after reentry, rather than waiting until the end of the first full plan year after reentry when the employer reenters less than six months before the end of a plan year.

The PBGC agrees with this comment. Therefore, final § 2647.4(b) allows waiver of withdrawal liability if the employer satisfies the 30% test based on its first twelve months of contributions after reentry. This approach enables employers to qualify for abatement sooner, thus increasing the incentive for them to reenter. At the same time, this meansurement period is sufficiently long to assure that the employer's new level of contributions justifies waiver of its withdrawal liability. By defining the measurement period as a fixed interval, rather than any twelve-month period after reentry, the final rule also imposes less of an administrative burden on plans than would result from the commenter's proposal of a moving measurement period.

One commenter suggested that if the contribution base units test is retained, contribution base units be annualized, so that an employer that contributed at, for example, a 25% level (under the 50% test) for a six-month measurement period would qualify for abatement. This suggestion would allow waiver of withdrawal liability at a far lower level of contributions than the PBGC has determined is generally beneficial to plans, without any corresponding benefit to plans. Accordingly, the PBGC has not adopted this recommendation.

Two of the comments suggested the need to clarify how the regulation's provisions would apply to employers that have changed their corporate form after the complete withdrawal as a result of a merger, acquisition, sale or internal corporate change. One of these commenters stated that, to the extent that a member of the controlled group of a withdrawn employer could be held responsible for withdrawal liability of the withdrawn employer, it should be able to qualify for abatement of the withdrawal liability. The other commenter argued that section 4001(b)(1) of ERISA requires that all employers that are under common control be treated as a single employer. According to the comment, when an employer that has completely withdrawn from a multiemployer plan is acquired by or combines its operations with an employer that contributes to the same plan, the two employers must be treated as a single employer that is eligible for abatement beginning at the time of the business combination.

The PBGC agrees that the regulation needs to clarify which entities can qualify for waiver of withdrawal liability. To remedy the proposed regulation's lack of clarity in these situations, the final rule defines "eligible employer" for the purpose of this regulation. Section 2640.6 defines "eligible employer" as the employer, as defined in section 4001(b)(1) of the Act, as it existed on the date of its initial withdrawal. The definition also provides that an eligible employer continues to be eligible for abatement notwithstanding the occurrence of a merger, acquisition or internal corporate change that leaves all entities (or their successors) liable for the complete withdrawal in the controlled group. This definition provides the maximum incentive possible for former contributors to reenter the plan, without posing an undue risk of loss to the plan. By requiring the controlled group that reenters to include all entities (or their successors) that are liable for the complete withdrawal, the rule preserves the plan's ability to collect withdrawal liability from all entities that were liable before the reentry. To avoid restricting the benefits of this rule, and thus the incentive for past contributors to reenter, the definition does not deny abatement if the controlled group also includes new entities.

Thus, if the withdrawn employer merges with or acquires another corporation, the combined entity is the eligible employer; any part of it can qualify for abatement, because the controlled group includes all entities that are liable for the complete withdrawal. An internal change in the company's organization would, similarly, have no affect on the company's eligibility for waiver of its withdrawal liability. If, for example, a subsidiary is liquidated into its parent corporation or operations are shifted from one subsidiary to another, the controlled group continues to be the eligible employer; the parent corporation and any of its subsidiaries would be eligible to satisfy the requirements of § 2647.4. Again, this is because the controlled group contains all of the entities (or their successors) that are liable for the complete withdrawal.

In deciding on the final rule's definition of "eligible employer," the PBGC considered and rejected several other possible definitions. One rejected option would be to require the employer that reenters the plan to be exactly the same as the one that withdrew in order to be eligible for waiver of withdrawal liability. While this approach would protect the plan's ability to collect withdrawal liability and provide a simple basis for determining which entity may qualify for abatement, it provides no incentive for contributors to reenter the plan after the controlled group acquires other contributors or undergoes an internal change in its organization. This rule is intended to encourage reentry by waiving liability whenever it would not pose an undue risk to the plan. Thus, this definition is unduly restrictive, because allowing waiver of withdrawal liability for a controlled group that has expanded or restructured itself does not pose a risk to the plan.

A second approach would be to define "eligible employer" as any entity that is liable for the complete withdrawal. Alternatively, "eligible employer" could be defined as a controlled group that includes all but a *de minimis* portion of the entities that are liable for the complete withdrawal.

While these definitions would increase the incentive for contributors to

reenter the plan by making abatement available when the controlled group no longer includes all entities that are liable for the complete withdrawal, they are inconsistent with section 4001(b)(1) of ERISA, which defines "employer" as all trades or businesses that are under common control. The plan would also be subject to greater risk under these approaches, because withdrawal liability would be waived without providing the plan recourse, in the event of a subsequent withdrawal, against all of the entities that were liable for the original withdrawal.

To understand how the final rule's definition would operate, assume that corporation S is a member of controlled group PS. Upon the complete withdrawal of S from its multiemployer plan, both P and S are jointly and severally liable for any withdrawal liability resulting from S's complete withdrawal. If S is later sold to X and becomes part of controlled group XS, both P and S remain liable for the complete withdrawal but X does not become liable. If, instead, controlled group PS acquires or combines with T and becomes controlled group PST, P and S remain liable for the complete withdrawal but T does not become liable. In the first situation, when S is sold to X and becomes part of controlled group XS, neither XS nor P is eligible to satisfy the abatement requirements. In the second situation, any part of controlled group PST can satisfy the waiver of withdrawal liability test.

To take another situation, if S is liquidated into P, causing PS to cease to exist, P is the successor of all entities liable for the complete withdrawal liability and is eligible for abatement.

A related question regarding how to apply the requirements of § 2647.4 is raised when a withdrawn employer combines with an employer that already contributes to the plan. One commenter suggested allowing waiver of withdrawal liability if the contribution base units of the combined employer in the measurement period are at least equal to the sum of the base year level of the employer that has not withdrawn and 50% of the base year level of the withdrawn employer. Another commenter argued that waiver of withdrawal liability should not be allowed when the merger or acquisition does not restore operations to the plan.

Section 2647.8(d) of the final rule bases the 30% test on increases in contribution base units after the combination. To satisfy this test, the contribution base units of the eligible employer (*i.e.*, the combined entity) in the measurement period must equal at least the contribution base units of the employer that did not withdraw in the last plan year ending prior to the measurement period plus an amount equal to 30% of the base year contribution base units of the employer that withdrew. This rule looks to the contribution base units of the eligible employer, rather than tracking the source of the contribution base units. It is possible that this test will permit abatement based on increases in contributions attributable solely to the continuing covered operations of that portion of the eligible employer that did not withdraw and that those increases would have occurred even in the absence of this regulation. The PBGC believes, however, that this factor is outweighed by the ease of administering this test.

The PBGC considered and rejected narrower approaches to dealing with this issue. For example, the PBGC rejected requiring the eligible employer to resume contributions for operations that were part of the complete withdrawal, because that approach would deny abatement in situations that are not harmful to plans, *e.g.*, when the withdrawn employer acquired new, non-covered operations subsequent to its withdrawal that thereafter became covered operations. The PBGC also considered and rejected requiring the eligible employer to satisfy the 30% test with contributions for operations that were not covered by the plan immediately prior to that employer's obligation to contribute for those operations. While this approach would arguably provide greater protection to plans by assuring that withdrawal liability is not waived unless new operations are brought into the plan, the PBGC rejected it because it would require determinations of what constitute "new operations" and would thus be difficult to administer.

A question also arises regarding the requirements of the 30% test when two withdrawn employers merge or otherwise combine. In this situation, the 30% test is applied by aggregating the base units of each for the base year of its withdrawal, § 2647.8(e). If, however, one of the withdrawn employers had fully satisfied its withdrawal liability prior to the reentry, the 30% test requires only that the eligible employer's contribution base units in the measurement period equal at least 30% of the base year contribution base units of that portion of the employer that has not fully satisfied its withdrawal liability.

Partial Withdrawals After Reentry

Section 2647.5 of the proposed rule contained modifications to the rules in section 4205 of ERISA for determining whether there is a partial withdrawal of an employer whose liability is abated. For determining whether there is a 70 percent contribution decline under section 4205(a)(1) of ERISA, § 2647.5(b) of the proposed rule excluded any plan year during the period of withdrawal from the "3-year testing period." If the five plan years immediately preceding the beginning of the 3-year testing period included a plan year during the period of withdrawal, the proposed rule provided that the employer's contribution base units for each such year of withdrawal were deemed to be the greater of—

(i) the employer's contribution base units for that plan year; or

(ii) the average of the employer's contribution base units for the three years preceding the plan year in which the employer completely withdrew from the plan.

Section 2647.5(c) of the proposed rule established modifications to the rules in section 4205(a)(2) of ERISA for determining whether there is a partial cessation of the employer's contribution obligation. In the plan year of reentry, there would be a partial cessation of the employer's contribution obligation under proposed rule if—

(i) the employer reenters the plan with an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer had been obligated to contribute under the plan at the time of its complete withdrawal, and is performing work of the type for which contributions were required before its complete withdrawal, in the jurisdiction of one or more of the collective bargaining agreements under which the employer was formerly obligated to contribute, without being obligated to contribute to the plan for that work, or has transferred such work to another location; or

(ii) the employer is performing work at one or more facilities at which the employer was obligated to contribute under the plan at the time of its complete withdrawal, of the type for which the employer had been obligated to contribute under the plan before its complete withdrawal, without being obligated to contribute to the plan for that work.

In plan years beginning after the employer reenters, proposed § 2647.5(c)(2) required the sponsor to consider only work performed after the employer's reentry and work for which the employer was obligated to contribute after its reentry in determining whether there was a partial cessation of the employer's contribution obligation.

One commenter objected to the exclusion of years of complete withdrawal in determining whether there has been a 70 percent contribution

decline after reentry. It argued that greater parity between ongoing and reentered employers would be achieved if a year of withdrawal is treated as a zero contribution year, instead of being excluded from the calculations.

The PBGC has considered and rejected this suggestion. Contrary to the commenter's contention, years of withdrawal are not analogous to zero contribution years for a continuing employer. Unlike the zero contributor, the withdrawn employer has made payments to the plan in those years in the form of withdrawal liability payments. Including withdrawal years could also discourage reentry, specifically by employers that had withdrawn three or more years before reentry, by exposing them to partial withdrawal liability immediately upon reentry.

The same commenter also objected to the proposed rules for determining whether a reentered employer has a partial withdrawal under section 4205(a)(2) of ERISA. Section 4205 (a)(2) imposes partial withdrawal liability when there has been a partial cessation of the employer's contribution obligation. Section 4205(b)(2)(A) provides that there is a partial cessation of the employer's contribution obligation for the plan year if, during such year—

(i) the employer permanently ceases to have an obligation to contribute under one or more but fewer than all collective bargaining agreements under which the employer has been obligated to contribute under the plan but continues to perform work in the jurisdiction of the collective bargaining agreement of the type for which contributions were previously required or transfers such work to another loction, or

(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased.

Under the proposed regulation, if during the plan year of reentry the employer is performing work within the jurisdiction of a collective bargaining agreement under which it was obligated to contribute at the time of its complete withdrawal but for which it is not obligated in the plan year of reentry, the employer would incur partial withdrawal liability. Similarly, a partial withdrawal would occur in the plan year of reentry if the employer is performing work at a facility for which it was obligated to contribute at the time of its complete withdrawal, but is not obligated to contribute for that facility in the plan year of reentry. For plan years after the plan year of reentry, the proposed regulation required the plan sponsor to consider only work for which the employer was obligated to contribute after its reentry in determining whether there has been a partial cessation of the employer's contribution obligation.

The commenter argued that the proposed regulation created a potential for abuse by limiting the application of section 4205(a)(2) in years after the year of reentry. It noted that an employer could avoid withdrawal liability by manipulating its operations. An employer contributing to a plan for two facilities could, for example, close one facility and begin operating its other facility on a noncovered basis, incurring liability for a complete withdrawal. It could then have its complete withdrawal liability waived and not be exposed to partial withdrawal liability under the proposed regulation, by closing the noncovered facility, shifting its work to the other facility, and reentering the plan for the second facility. Once it obtains a waiver of its withdrawal liability, § 2647.5(c)(2) of the proposed regulation allowed the employer to shift work back to the non-contributory facility after the year of reentry without incurring partial withdrawal liability for continuing work at the non-contributory facility because under the proposed regulation the plan may not consider the employer's covered work at that facility prior to its reentry.

The PBGC agrees that the proposed regulation might have protected a reentered employer from partial withdrawal liability under section 4205(a)(2) that an ongoing employer would incur. While the PBGC also agrees that reentered employers should be treated as though they had never withdrawn in determining whether a partial withdrawal occurred, deleting § 2647.5(c)(2), as the commenter suggested, is not the proper solution. Without that section, the regulation would address the application of section 4205(a)(2) only for the year of reentry.

To remedy the problem highlighted by the commenter, § 2647.5(c) of the final rule adopts the same approach for partial withdrawals under section 4205(a)(2) as for partial withdrawals caused by a 70 percent contribution decline. Thus, in determining whether there is a partial withdrawal in the year of reentry and in subsequent plan years, as a result of the employer's partial cessation of its contribution obligation, the plan sponsor shall ignore all plan years during the period of the complete withdrawal. By looking at all prior operations, this rule has the effect of treating the reentered employer in the same manner as a continuing employer for purposes of determining a partial withdrawal with respect to facilities or agreements for which it was obligated to contribute prior to its reentry.

Finally, a commenter contended that the proposed regulation might be confusing because the circumstances triggering a partial withdrawal were stated differently, albeit consistently, in the preamble and § 2647.5(c)(1)(i) of the proposed regulation. This issue has been mooted by the change in § 2647.5(c) discussed above, which eliminates the language that the commenter contended might be confusing.

Determining Liability for Subsequent Complete Withdrawals

Section 2647.6 of the proposed regulation contained rules that modified each of the allocation methods in section 4211 of ERISA for determining the liability of a reentered employer in the event it subsequently completely withdraws from the plan. These rules were designed to protect plans from an employer's withdrawing with substantial liability and later reentering as a new employer with its liability waived. Without these special rules, such an employer could withdraw shortly after reentry with little or no liability.

The PBGC has added new language to § 2647.6(a) to clarify the application of the modifications to the allocation methods in cases where there has been a merger, acquisition or other combination. As discussed above, the eligible employer in these situations is the combined entity. However, in the case of a combination involving a withdrawn employer and a contributing employer, it is neither necessary nor appropriate to adjust the section 4211 allocation for the entire employer, because a portion of the employer has an uninterrupted contribution history. Thus, in this case, the employer's liability for a subsequent withdrawal will be comprised of two pieces: The unfunded vested benefits allocable to the non-withdrawn portion of the employer, determined under the plan's allocation method without regard to the modifications in § 2647.6; and the unfunded vested benefits allocable to the withdrawn portion of the employer, determined under the plan's allocation method as modified by § 2647.6. Similarly, in the case of a combination involving two withdrawn employers, the modifications in § 2647.6 are applied separately with respect to each in order to determine the unfunded vested benefits allocable to the eligible employer.

One commenter complained that the rules in § 2647.6 do not enable a

reentered employer to determine the amount of withdrawal liability that it will have if it subsequently withdraws. The PBGC notes that the nature of withdrawal liability calculations precludes all employers, reentering and continuing, from determining precisely what their liability will be prior to the withdrawal. The amount of withdrawal liability that an employer owes depends on a number of factors that cannot be determined in advance, such as when the employer withdraws, the plan's unfunded vested benefits at that time, withdrawals of other employers in the interim and the employer's share of total plan contributions.

A commenter objected that the rules for the presumptive method in § 2647.6(b) of the proposed regulation will create admininstrative burdens, because plans will have to treat the reentered employer's credit as a reallocated amount under section 4211(b)(4) in the year of reentry and allocate that amount in that year. It claimed that if the reentered employer is ultimately determined not to qualify for abatement, which could occur under the proposed regulation eighteen months after reentry, the plan would have to recalculate its allocations and adjust the withdrawal liability of employers that had withdrawn in the interim.

Contrary to the commenter's contention, the rules in the proposed regulation for plans using the presumptive method will rarely require plans to recalculate their allocations and adjust the withdrawal liability of employers that had withdrawn in the interim. Information that is necessary to calculate withdrawal liability, such as contribution data and the change in unfunded vested benefits, often will not be available for several months after the close of the plan year. Thus, sufficient time will typically have elapsed for the plan to have made its abatement determination prior to the date on which the plan will have all the information necessary to calculate withdrawal liability for the plan year of reentry. This is especially true under the final rule, since it shortens to twelve months the maximum period a plan must wait to determine whether an employer qualifies for abatement. Having made that determination, the plan will be able to calculate withdrawal liability for the plan year of reentry correctly the first time, eliminating the need for the recalculations the commenter predicted.

The commenter proposed a number of changes to the allocation adjustments that it believes would result in a simpler, more equitable system of calculating liability for subsequent withdrawals. For plans using the presumptive and direct attribution methods, the commenter would allocate unfunded vested benefits as if the employer had not previously withdrawn and reduce that amount by the total amount of withdrawal liability payments that the employer had already made, with interest at the plan's funding rate to the date of the subsequent withdrawal.

The PBGC disagrees with this suggestion. The suggested approach would effectively give reentered employers a double credit for their withdrawal liability payments, since those payments are included in the plan's assets and thus serve to lower the unfunded vested benefits allocable to the reentered employer, as well as other employers. The reentered employer would therefore be allocated less than its fair share of unfunded vested benefits and other employers would have their liabilities unfairly increased. Because withdrawal liability payments are meant to replace contributions, the PBGC sees no reason to treat those payments in a significantly different manner from contributions under the contribution-based allocation methods. Employers that did not withdraw receive no special offset for their contributions under these methods.

For plans using the presumptive, modified presumptive or rolling-5 method, the commenter's proposed adjustments would treat employers as having made, for any year during the period of withdrawal, contributions equal to the greater of: (1) The employer's actual contributions for the year, or (2) the employer's average annual contribution base units for the three years preceding its withdrawal, multipled by the contribution rate in effect for the year of withdrawal for all similar employers then contributing.

The PBGC has not adopted the commenter's proposed changes to the definition of "imputed contributions." The suggested definition is arguably a better approximation of what the withdrawn employer would have contributed than is the definition in § 2647.6(b) of the proposed rule *i.e.* "the average annual required contributions of the employer for the three plan years preceding the initial withdrawal"). However, the suggested change would impose administrative burdens on plans that are likely to outweigh the benefits of increased accuracy. This approach would require plans to review their records every time that an employer reentered to identify "similar employers" and the contribution rates that those employers paid. If the "similar employers" paid different contribution rates, the plan would have to determine which employer was most "similar." Inevitably, this approach would lead to numerous disputes over the proper rate to be applied to reentering employers. Accordingly, the PBGC has retained the proposed regulation's definition in the final rule.

The commenter also suggested changing the proposed rule's approach under the presumptive method by eliminating annual credits for years during the period of withdrawal. The annual credit in § 2647.6(b)(2) is needed to give employers that paid more in withdrawal liability than they would have contributed as a continuing employer credit for their larger payments. The PBGC has therefore retained in the final rule the basic approach of the proposed regulation for plans using the presumptive method. That approach restores the reentered employer to approximately the same position in which it would have been if it had never withdrawn. Unlike the method suggested by the commenter, the method in the proposed regulation neither penalizes nor overly compensates the reentered employer.

A commenter observed that § 2647.6(d) of the proposed rule could be misread to require imputed contributions and the reallocated credit to increase unfunded vested benefits for employers that withdraw *during* the plan year of reentry. The PBGC agrees. Accordingly, § 2647.6(d) has been amended, as suggested by the commenter, to read as follows:

> In a plan using the "presumptive" allocation method under section 4211(b) of the Act, when the plan has abated the withdrawal liability of a reentered employer pursuant to this part, the following adjustments to the allocation method shall be made in computing the unfunded vested benefits allocable to any employer that withdraws from the plan *in a plan year beginning* after the reentry: . . . (emphasis added)

The final comment on the presumptive method related to the inclusion of imputed contributions of reentered employers in the denominators of the fractions used in sections 4211(b)(2)(E) and (b)(4)(D) of ERISA to determine, respectively, an employer's proportional share of the unamortized amount of a change in unfunded benefits and its proportional share of the unamortized amount of the reallocated unfunded vested benefits. The commenter stated that plans using the presumptive method should not be required to include imputed contributions in those denominators unless the reentered employer is "significant" within the

meaning of § 2642.6(c)(2)(ii) of the PBGC's regulation on Allocating Unfunded Vested Benefits. It argued that excluding imputed contributions of reentered employers that do not contribute large sums to the plan will "avoid subjecting plans to administrative burdens and expenses that are disporportionately large when compared to the amount by which any allocation would be changed."

The administrative burdens that justify excluding some employers under the allocation regulation do not exist in abatement cases. Under the allocation regulation, plans would, absent the exclusion, have to identify every employer that had ceased to contribute, determine whether the employer had withdrawn and then adjust the denominators. In abatement cases, the identity of the employer is known. (In this regard it should be noted that the regulation cited by the commenter also includes as "significant" all employers "to whom the plan has sent a notice of withdrawal liability under section 4219 of the Act.") Since these adjustments will not impose undue burdens on plans, the PBGC has retained them in the final rule.

One commenter contended that the rules for the rolling-5 and modified presumptive methods in § 2647.6(c) of the proposed regulation "provide an opportunity for employers to reenter plans for a short time to 'dump' large portions of their withdrawal liability on the plan." According to the commenter, under both methods, if the reentered employer is treated as a new employer, the allocation to it will be small because it will have contributed for only a portion of the five-year period upon which the rule is based. The commenter added that the rule provided in the proposed regulation for these allocation methods is also likely to result in an "unfairly small" allocation, "since it is reduced by subsequent contributions and interest thereon." It noted that continuing employers are not entitled to offset their contributions against withdrawal liability they may subsequently owe.

The same commenter also contended that the proposed regulation's adjustments to the rolling-5 and modified presumptive methods could result in inequities to reentered employers. If such an employer contributed for five or more years after reentry, it could have as much liability upon a subsequent withdrawal as an employer that had never withdrawn because it would receive no credit for the withdrawal liability payments it made for its previous withdrawal.

For rolling-5 and modified presumptive method plans, the commenter would calculate unfunded vested benefits of a reentered employer that subsequently withdraws as the greater of: (1) The withdrawal liability calculated as if the employer had never previously withdrawn, reduced by the total amount of withdrawal liability payments the employer had already made, with interest at the plan's funding rate to the date of the subsequent withdrawal; or (2) the unpaid principal balance of the employer's withdrawal liability as of the date of reentry, reduced by five percent for each full year of participation in the plan following reentry. It asserted that this formula will prevent employers from reentering rolling-5 and modified presumptive method plans that are, or are becoming, fully funded on a temporary basis in order to obtain waiver of their prior withdrawal liability and then withdraw again.

The PBGC disagrees with the commenter's recommendation that the unpaid principal balance of the reentered employer's withdrawal liability be written down by five percent for each full plan year after reentry under the rolling-5 and modified presumptive methods. While the PBGC agrees that modifications are necessary to prevent employers from shedding their withdrawal liability be reentering and then withdrawing a short time later, the five percent write-down suggested by the commenter is unduly harsh on reentered employers. Those employers could be saddled with a portion of their pre-entry withdrawal liability for twenty years, without regard to the plan's financial condition at the time of the subsequent withdrawal. Moreover, the suggested approach could result in the reentered employer's having higher liability for a subsequent withdrawal than if it had not withdrawn earlier. These consequences are inequitable and contrary to the regulation's objective of encouraging reentry.

Section 2647.6(c) of the final rule does, however, include significant changes to the modified presumptive and rolling-5 allocation methods in the proposed regulation to deal with problems noted by the commenters. The proposed regulation provided that the unfunded vested benefits allocable under those methods to a reentered employer in the event of a subsequent withdrawal shall be the greater of—

(1) The amount determined under section 4211(c)(2) or (c)(3), as appropriate, as if the date of reentry was the employer's initial date of participation in the plan; or

(2) The adjusted amount of unfunded vested benefits allocated to the employer for its initial withdrawal, less the sum of—

(i) Withdrawal liability payments made accumulated with interest at the plan's funding rate to the end of the plan year preceding the year of subsequent withdrawal; and

(ii) Contributions made after reentry, accumulated with interest at the plan's funding rate to the end of the plan year preceding the year of the subsequent withdrawal.

The adjusted amount of unfunded vested benefits is the amount allocated to the employer as of the date of its initial withdrawal, accumulated with interest at the plan's funding rate to the end of the plan year preceding the subsequent withdrawal.

As the commenters have observed, this rule is complex and would impose administrative burdens on plans. The proposed regulation would require plans using these allocation methods to keep track of a number of items for longer periods than they would otherwise need to maintain those records. For example, a rolling-5 method plan would ordinarily have to retain employer contribution records for only five years. Under the proposed regulation, such a plan would be required to maintain those records for reentering employers for an indefinite period.

The allocation method in the proposed regulation for modified presumptive and rolling-5 plans can also result in inequities for both the plan and the reentered employer. As one commenter has observed, this method may not fairly approximate the amount of liability the employer would have had if it had not previously withdrawn. The proposed method allocated liability based on the greater of the amount the employer would be allocated if it had not participated in the plan prior to reentry and the amount of its original withdrawal liability, adjusted to reflect its withdrawal liability payments, contributions made after reentry and interest on each of those elements.

Because the proposed method included liability from only one of the employer's two periods of participation, it may result in an unfairly small allocation. On the other hand, a reentering employer that remains in the plan for more than five years after reentry may be worse off under the proposed method than if it had never withdrawn, since it may be liable indefinitely for a portion of the liability for its prior withdrawal.

To remedy these problems, § 2647.6(c) of the final rule bases the allocation for subsequent withdrawals in modified presumptive and rolling-5 method plans

on both the reentered employer's original withdrawal liability, written down over an appropriate period of time, and its share of unfunded vested benefits calculated as if it were a new employer. This method is a better approximation of what the employer's liability would have been if it had not previously withdrawn, since it considers all of the employer's participation in the plan. It also protects the plan against potential abuse, since the reentered employer cannot shed its initial withdrawal liability upon reentry and withdraw a short time thereafter. At the same time, it is equitable for reentered employers, since their pre-reentry liability will be amortized in the same length of time as any other employer's under those methods.

The period over which the reentered employer's original liability is written down under the final rule is based on the statutory allocation formula used by the plan, in order to restore employers to the positions in which they would have been if they had not previously withdrawn. For employers in plans using the rolling-5 method, the original withdrawal liability is amortized over five years, since liability under that method is based solely on the employer's last five years of participation prior to withdrawal.

The formula is more complicated for employers in plans using the modified presumptive method, because that method allocates liability based on both the employer's last five years of participation and the unamortized balance of the employer's share of the plan's pre-1980 unfunded vested benefits. The latter portion is written down over the fifteen-year-period beginning with the first plan year beginning after September 25, 1980, Thus, for plan years beginning after 1995, the modified presumptive method will be identical to the rolling-5 method.

To account for employers' responsibility for "old" and "new" liabilities until 1995, the write-down period in § 2647.6(c)(4) of the final rule for modified presumptive method plans is the greater of: (1) Five years, or (2) the number of full plan years remaining on the amortization schedule under section 4211(c)(2)(B)(i). This formulation phases the reentered employer into the position in which it would have been if it had never withdrawn. For plan years beginning after 1990, its original withdrawal liability will be written down over five years; before then, the amortization period will be the same as the plan's schedule for writing down pre-1980 liabilities.

One commenter questioned the propriety of treating a reentered employer that does not qualify for abatement as a new employer in a plan using the direct attribution method. (See § 2647.2(d)(4)—"Effects of non-abatement".) The PBGC agrees with the commenter that a change in the proposed regulation is necessary in this situation to protect other employers. Treating such employers as new employers would allow them to escape liability for nonforfeitable benefits that are attributable to pre-reentry service with the employer for which the employer was not assessed withdrawal liability, such as benefit increases applicable to pre-reentry service and benefits that become nonforfeitable after reentry.

To eliminate this inequity, the PBGC has revised § 2647.2(d)(4) in the final rule to provide an exception for plans using the direct attribution to method. Under this rule, plans using the direct attribution method shall treat a reentered employer that does not qualify for abatement as a new employer, except that nonforfeitable benefits attributable service with that employer shall include nonforfeitable benefits attributable to service with the employer prior to its reentry that were not nonforfeitable at that time.

One commenter asked that the final rules provide more specific guidance for plans using non-statutory alternative allocation methods to determine liability for subsequent withdrawals. After considering this comment, the PBGC has determined that the proposed regulation did not provide sufficient guidance. Section 2647.6(f) of the proposed regulation provided that plans that have adopted an alternative allocation method under section 4211(c)(5) and Part 2642 of the PBGC's regulations:

> Shall adopt by plan amendment a method of determining a reentered employer's allocable share of the plan's unfunded vested benefits upon its subsequent withdrawal. The method shall treat the reentered employer and other withdrawing employers in a manner consistent with the treatment under paragraphs (b)–(e) of this section for plans using allocation methods under sections 4211(b), (c)(2), (c)(3), or (c)(4) of the Act.

All of the alternative allocation methods approved to date by the PBGC are modified versions of one of the statutory methods. Section 2647.6(f) of the final rule this clarifies that a plan should use its alternative allocation method, modified in a manner consistent with the paragraph(s) of § 2647.6 applicable to the statutory method from which its alternative method is derived. It is preferable not to be more specific than "in a manner consistent with" in order to allow plans the flexibility to tailor the regulation's adjustments to their particular alternative allocation methods. Providing more guidance would deprive plans of the discretion they need to fashion adjustments that are suited to their unique allocation methods. At the same time, by requiring that the plan's adjustments be consistent with those in the regulation for the statutory method most closely resembling its alternative allocation method, the regulation assures that plans will adopt plan amendments that provide equitable treatment to reentering employers while protecting other contributing employers from becoming responsible for amounts allocable to reentered employers for their previous withdrawals.

Other Issues

One commenter argued that the proposed regulation illegally allowed plans to determine whether an employer qualifies for waiver of its withdrawal liability contending that section 4207(a) does not permit the PBGC to delegate to a private party the function of making that determination. It also argued that delegating that decision-making power to plans is a denial of employers' constitutional due process rights because plans, as fiduciaries, are required by law to hold against employers.

The final rule sets objective criteria by which plans must determine whether a reentered employer qualifies for abatement of its withdrawal liability. Plans have no discretion in making that determination. The PBGC therefore has not delegated any substantive power to plans and the commenter's concern is unfounded.

A commenter stated that the term "initial withdrawal" in the proposed regulation could be confusing in the case of an empolyer that has withdrawn and reentered more than once. That situation is addressed by § 2647.8(b)(3) of the proposed regulation, which provided that in such cases, "§§ 2647.5 and 2647.6 shall be applied as if the employer's earliest complete withdrawal is its initial complete withdrawal." Accordingly, there should be no confusion in such cases and the final rule has not been modified in response to this comment.

While the PBGC agrees with other technical points made by the commenter, it does not believe that they warrant changes in the regulation. For instance, the commenter is clearly correct in citing section 4221(a)(1) as support for the proposed regulation's provision for arbitration to settle waiver of withdrawal liability disputes. That section provides that:

Any dispute between an employer and the plan sponsor . . . concerning a determination under sections 4201 through 4219 shall be resolved through arbitration.

The PBGC believes, however, that the statute speaks for itself and that this point need not be made in the final rule.

The same commenter argued that plans should be allowed to bring suit to collect scheduled withdrawal liability payments during the pendency of arbitration. The PBGC agrees; see the preamble to the regulation on Notice and Collection of Withdrawal Liability, 49 FR 22642 (May 31, 1984). There is no need to provide that remedy again in this regulation.

The commenter also raised another point that has been addressed by the PBGC in the notice and collection regulation. (29 CFR Part 2644). It argued that plans should be required to pay interest on employers' overpayments only if they are made in response to a demand from the plan. The PBGC rejected this argument when it adopted the Notice and Collection of Withdrawal Liability regulation (see 49 FR 22645). The commenter has provided no basis for changing the approach adopted in Part 2644 and, in any event, this is not the proper forum for considering changes to that regulation.

Another commenter asked for clarification of how a seller of assets under section 4204 that is contingently liable for the purchaser's withdrawal may have its contingent liability abated. Until the seller's liability has legally matured, *i.e.*, until the purchaser has withdrawn during the first five plan years beginning after the sale and failed to pay its liability, the plan cannot collect withdrawal liability from the seller. Thus, there are no liability payments to be waived upon reentry. The seller may, however, apply to the plan for a waiver of its secondary liability in accordance with PBGC Multiemployer Bulletin No. 2.

The final comment related to employers that reentered prior to the effective date of this regulation. Section 2647.6(a) of the proposed regulation provided that an employer that reentered a plan prior to the effective date of this rule may apply for waiver of its withdrawal liability. Pending the plan sponsor's determination, such an employer may provide the plan with a bond or escrow in lieu of making its withdrawal liability payments due after its application for abatement. If the sponsor determines that the employer qualifies for abatement, the plan is required to refund to the employer payments made after its reentry, with interest on those made prior to the application for waiver of withdrawal liability, and to notify the bonding or escrow agent.

One commenter objected that this provision would undermine reasonable actions taken by plans in reliance on section 405(a) of the Multiemployer Pension Plan Amendments Act of 1980, which provides that:

If the way in which any [Multiemployer Act] amendment will apply to a particular circumstance is to be set forth in regulations, any reasonable action during the period before such regulations take effect shall be treated as complying with such regulations for such period.

It urged that the retroactive application of the regulation not be allowed to upset reasonable arrangements made by plans and employers to waive withdrawal liability in reliance on section 405(a) and PBGC Opinion Letter 83-17, dated August 1, 1983, which affirms the authority of plans to adopt reasonable waiver rules prior to the effective date of this regulation. To avoid this result, the commenter urged that this regulation be applied only prospectively.

The commenter's concern is misplaced. Making the final rule retroactive will not interfere with reasonable actions taken by plans in reliance on section 405(a). Rather, retroactive application of the final rule will provide additional relief to employers that reentered a plan that had not adopted an interim rule pursuant to section 405(a) and had satisfied the final regulations's requirement for abatement prior to the regulation's effective date.

Executive Order 12291 and Regulatory Flexibility Act

The PBGC has determined that this regulation is not a "major rule" for the purpose of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This regulation is required by ERISA and will reduce costs that would otherwise be imposed by that statute.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have a signifcant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The proposed regulation affects only multiemployer plans covered by the PBGC. Defining "small plans" as those with under 100 participants, such plans represent less than 14 percent of all multiemployer plans covered by the PBGC (346 out of 2485). Further, small multiemployer plans represent only 0.4 percent of all small plans covered by the PBGC (346 out of 84,288). Approximately 500,000 employers contribute to multiemployer plans, most of them small employers (under 100 employees). The PBGC estimates that fewer than 25,000 (5 percent) of these employers will be required to pay withdrawal liability in any year, and an even smaller percentage will subsequently reenter a plan and thereby become subject to these rules. Therefore, the PBGC waives compliance with sections 603 and 604 of the Regulatory Flexibility Act.

List of Subjects in 29 CFR Parts 2640 and 2647

Employee benefit plans, Pensions.

In consideration of the foregoing, subchapter F of Chapter XXVI, Title 29, Code of Federal Regulations is amended as follows:

PART 2640—[AMENDED]

1. The authority for Part 2640 continues to read as follows:

Authority: Sec. 4002(b)(3), Pub. L. 93-406, as amended by sec. 403 (1), Pub. L. 96-364, 94 Stat. 1208, 1302 (1980) [29 U.S.C. 1302(b)(3)].

2. Part 2640 is amended by adding a new § 2640.6 to read as follows:

§ 2640.6 Reduction or waiver of complete withdrawal liability.

For purposes of Part 2647—

"Complete withdrawal" means a complete withdrawal as described in section 4203 of the Act.

"Eligible employer" means the employer, as defined in section 4001(b) of the Act, as it existed on the date of its initial complete withdrawal. An eligible employer shall continue to be an eligible employer notwithstanding the occurrence of any of the following events:

(1) A reorganization involving a mere change in identity, form or place of organization, however effected.

(2) A reorganization involving a liquidation into a parent corporation.

(3) A merger, consolidation or division solely between (or among) trades or businesses (whether or not incorporated) of the employer.

(4) An acquisition by or for, or a merger or combination with another trade or business.

"Multiemployer Act" means the Multiemployer Pension Plan

Amendments Act of 1980, Pub. L. 96–364, Stat. 1208 (1980).

"Period of withdrawal" means the plan year in which the employer completely withdrew from the plan, the plan year in which the employer reentered the plan and all intervening plan years.

3. A new Part 2647 is added to read as follows:

PART 2647—REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Sec.
2647.1 Purpose and scope.
2647.2 Abatement.
2647.3 Withdrawal liability payments during pendency of abatement determination.
2647.4 Requirements for abatement.
2647.5 Partial withdrawals after reentry.
2647.6 Liability for subsequent complete withdrawals and related adjustments for allocating unfunded vested benefits.
2647.7 Liability for subsequent partial withdrawals.
2647.8 Special rules.

Authority: Secs. 4002(b)(3) and 4207(a), Pub. L. 93–406, as amended by secs. 403(1) and 104 (respectively), Pub. L. 96–364, 94 Stat. 1302 and 1223 (1980) (29 U.S.C. 1302(b)(3) and 1387(a)).

§ 2647.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules, pursuant to section 4207(a) of the Act, for reducing or waiving the withdrawal liability of certain employers that have completely withdrawn from a multiemployer plan and subsequently resume covered operations under the plan. This part prescribes rules pursuant to which the plan must waive the employer's obligation to make future liability payments with respect to its complete withdrawal and must calculate the amount of the employer's liability for a partial or complete withdrawal from the plan after its reentry into the plan.

(b) *Scope.* This part applies to multiemployer plans covered under section 4021(a) of the Act and not excluded by section 4021(b), and to employers that have completely withdrawn from such plans after September 25, 1980, and that have not, as of the date of their reentry into the plan, fully satisfied their obligation to pay withdrawal liability arising from the complete withdrawal.

§ 2647.2 Abatement.

(a) *General.* Whenever an eligible employer that has completely withdrawn from a multiemployer plan reenters the plan, it may apply to the plan for abatement of its complete withdrawal liability. Applications shall be filed by the date of the first scheduled withdrawal liability payment falling due after the employer resumes covered operations. Applications shall identify the eligible employer, the withdrawn employer, if different, the date of withdrawal, and the date of resumption of covered operations. Upon receiving an application for abatement, the plan sponsor shall determine, in accordance with paragraph (b) of this section, whether the employer satisfies the requirements for abatement of its complete withdrawal liability under § 2647.4 or, if applicable, § 2647.8. If the plan sponsor determines that the employer satisfies the requirements for abatement of its complete withdrawal liability, the provisions of paragraph (c) of this section shall apply. If the plan sponsor determines that the employer does not satisfy the requirements for abatement of its complete withdrawal liability, the provisions of paragraphs (d) and (e) of this section shall apply.

(b) *Determination of abatement.* As soon as practicable after an eligible employer that completely withdrew from a multiemployer plan applies for abatement, the plan sponsor shall determine whether the employer satisfies the requirements for abatement of its complete withdrawal liability under this part and shall notify the employer in writing of its determination and of the consequences of its determination, as described in paragraphs (c) or (d) and (e) of this section, as appropriate. If a bond or escrow has been provided to the plan under § 2647.3, the plan sponsor shall send a copy of the notice to the bonding or escrow agent.

(c) *Effects of abatement.* If the plan sponsor determines that the employer satisfies the requirements for abatement of its complete withdrawal liability under this part, then—

(1) The employer shall have no obligation to make future withdrawal liability payments to the plan with respect to its complete withdrawal;

(2) The employer's liability for a subsequent withdrawal shall be determined in accordance with § 2647.6 or § 2647.7, as applicable;

(3) Any bonds furnished under § 2647.3 shall be cancelled and any amounts held in escrow under § 2647.3 shall be refunded to the employer; and

(4) Any withdrawal liability payments due after the reentry and made by the employer to the plan shall be refunded by the plan without interest.

(d) *Effects of non-abatement.* If the plan sponsor determines that the employer does not satisfy the requirements for abatement of its complete withdrawal liability under this part, then—

(1) The bond or escrow furnished under § 2647.3 shall be paid to the plan within 30 days after the date of the plan sponsor's notice under paragraph (b) of this section;

(2) The employer shall pay to the plan within 30 days after the date of the plan sponsor's notice under paragraph (b) of this section, the amount of its withdrawal liability payment or payments, with respect to which the bond or escrow was furnished, in excess of the bond or escrow;

(3) The employer shall resume making its withdrawal liability payments as they are due to the plan; and

(4) The employer shall be treated as a new employer for purposes of any future application of the withdrawal liability rules in sections 4201–4225 of Title IV with respect to its participation in the plan after its reentry into the plan, except that in plans using the "direct attribution" method (section 4211(c)(4) of the Act), the nonforfeitable benefits attributable to service with the employer shall include nonforfeitable benefits attributable to service prior to reentry that were not nonforfeitable at that time.

(e) *Collection of payments due and review of non-abatement determination.* The rules in Part 2644 of this subchapter (relating to notice and collection of withdrawal liability) shall apply with respect to all payments required to be made under paragraphs (d)(2) and (d)(3) of this section. For this purpose, a payment required to be made under paragraph (d)(2) shall be treated as a withdrawal liability payment due on the 30th day after the date of the plan sponsor's notice under paragraph (b) of this section.

(1) *Review of non-abatement determination.* A plan sponsor's determination that the employer does not satisfy the requirements for abatement under this part shall be subject to plan review under section 4219(b)(2) of the Act and to arbitration under section 4221 of the Act, within the times prescribed by those sections. For this purpose, the plan sponsor's notice under paragraph (b) of this section shall be treated as a demand under section 4219(b)(1) of the Act.

(2) *Determination of abatement.* If the plan sponsor or an arbitrator determines that the employer satisfies the requirements for abatement of its complete withdrawal liability under this part, the plan sponsor shall immediately refund the following payments (plus interest, except as indicated below, determined in accordance with § 2644.2(d) of this subchapter as if the

payments were overpayments of withdrawal liability) to the employer in a lump sum:

(i) The amount of the employer's withdrawal liability payment or payments, without interest, due after its reentry and made by the employer.

(ii) The bond or escrow paid to the plan under paragraph (d)(1) of this section.

(iii) The amount of the employer's withdrawal liability payment or payments in excess of the bond or escrow, paid to the plan under paragraph (d)(2) of this section.

(iv) Any withdrawal liability payment made by the employer to the plan pursuant to paragraph (d)(3) of this section after the plan sponsor's notice under paragraph (b) of this section.

§ 2647.3 Withdrawal liability payments during pendency of abatement determination.

(a) *General rule.* An eligible employer that completely withdraws from a multiemployer plan and subsequently reenters the plan may, in lieu of making withdrawal liability payments due after its reentry, provide a bond to, or establish an escrow account for, the plan that satisfies the requirements of paragraph (b) of this section or any plan rules adopted under paragraph (d) of this section, pending a determination by the plan sponsor under § 2647.2(b) of whether the employer satisfies the requirements for abatement of its complete withdrawal liability. An employer that applies for abatement and neither provides a bond/escrow nor pays its withdrawal liability payments remains eligible for abatement.

(b) *Bond/escrow.* The bond or escrow allowed by this section shall be in an amount equal to 70 percent of the withdrawal liability payments that would otherwise be due. The bond or escrow relating to each payment shall be furnished before the due date of that payment. A single bond or escrow may be provided for more than one payment due during the pendency of the plan sponsor's determination. The bond or escrow agreement shall provide that if the plan sponsor determines that the employer does not satisfy the requirements for abatement of its complete withdrawal liability under this part, the bond or escrow shall be paid to the plan upon notice from the plan sponsor to the bonding or escrow agent. A bond provided under this paragraph shall be issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Act.

(c) *Notice of bond/escrow.* Concurrently with posting a bond or establishing an escrow account under paragraph (b) of this section, the employer shall notify the plan sponsor. The notice shall include a statement of the amount of the bond or escrow, the scheduled payment or payments with respect to which the bond or escrow is being furnished, and the name and address of the bonding or escrow agent.

(d) *Plan amendments concerning bond/escrow.* A plan may, by amendment, adopt rules decreasing the amount specified in paragraph (b) of a bond or escrow allowed under this section. A plan amendment adopted under this paragraph may be applied only to the extent that it is consistent with the purposes of the Act.

§ 2647.4 Requirements for abatement.

(a) *General rule.* Except as provided in § 2647.8 (d) and (e) (pertaining to acquisitions, mergers and other combinations), an eligible employer that completely withdraws from a multiemployer plan and subsequently reenters the plan shall have its liability for that withdrawal abated in accordance with § 2647.2(c) if the employer resumes covered operations under the plan, and the number of contribution base units with respect to which the employer has an obligation to contribute under the plan for the measurement period (as defined in paragraph (b) of this section) after it resumes covered operations exceeds 30 percent of the number of contribution base units with respect to which the employer had an obligation to contribute under the plan for the base year (as defined in paragraph (c) of this section).

(b) *Measurement period.* If the employer resumes covered operations under the plan at least six full months prior to the end of a plan year and would satisfy the test in paragraph (a) based on its contribution base units for that plan year, then the measurement period shall be the period from the date it resumes covered operations until the end of that plan year. If the employer would not satisfy this test, or if the employer resumes covered operations under the plan less than six full months prior to the end of the plan year, the measurement period shall be the first twelve months after it resumes covered operations.

(c) *Base year.* For purposes of paragraph (a) of this section, the employer's number of contribution base units for the base year is the average number of contribution base units for the two plan years in which its contribution base units were the highest, within the five plan years immediately preceding the year of its complete withdrawal.

§ 2647.5 Partial withdrawals after reentry.

(a) *General rule.* For purposes of determining whether there is a partial withdrawal of an eligible employer whose liability is abated under this part upon the employer's reentry into the plan or at any time thereafter, the plan sponsor shall apply the rules in section 4205 of the Act, as modified by the rules in this section, and section 108 of the Multiemployer Act. A partial withdrawal of an employer whose liability is abated under this part may occur under these rules upon the employer's reentry into the plan. However, a plan sponsor may not demand payment of withdrawal liability for a partial withdrawal occurring upon the employer's reentry before the plan sponsor has determined that the employer's liability for its complete withdrawal is abated under this part and has so notified the employer in accordance with § 2647.2(b).

(b) *Partial withdrawal—70-percent contribution decline.* The plan sponsor shall determine whether there is a partial withdrawal described in section 4205(a)(1) of the Act (relating to a 70-percent contribution decline) in accordance with the rules in section 4205 of the Act and section 108 of the Multiemployer Act, as modified by the rules in this paragraph, and shall determine the amount of an employer's liability for that partial withdrawal in accordance with the rules in § 2647.7(b).

(1) *Definition of "3-year testing period."* For purposes of section 4205(b)(1) of the Act, the term "3-year testing period" means the period consisting of the plan year for which the determination is made and the two immediately preceding plan years, excluding any plan year during the period of withdrawal.

(2) *Contribution base units for high base year.* For purposes of section 4205(b)(1) of the Act and except as provided in section 108(d)(3) of the Multiemployer Act, in determining the number of contribution base units for the high base year, if the five plan years immediately preceding the beginning of the 3-year testing period include a plan year during the period of withdrawal, the number of contribution base units for each such year of withdrawal shall be deemed to be the greater of—

(i) The employer's contribution base units for that plan year; or

(ii) The average of the employer's contribution base units for the three plan years preceding the plan year in which the employer completely withdrew from the plan.

(c) *Partial withdrawal—partial cessation of contribution obligation.* The

plan sponsor shall determine whether there is a partial withdrawal described in section 4205(a)(2) of the Act (relating to a partial cessation of the employer's contribution obligation) in accordance with the rules in section 4205 of the Act, as modified by the rules in this paragraph, and section 108 of the Multiemployer Act. In making this determination, the sponsor shall exclude all plan years during the period of withdrawal. A partial withdrawal under this paragraph can occur no earlier than the plan year of reentry. If the sponsor determines that there was a partial withdrawal, it shall determine the amount of an employer's liability for that partial withdrawal in accordance with the rules in § 2647.7(c).

§ 2647.6 Liability for subsequent complete withdrawals and related adjustments for allocating unfunded vested benefits.

(a) *General.* When an eligible employer that has had its liability for a complete withdrawal abated under this part completely withdraws from the plan, the employer's liability for that subsequent withdrawal shall be determined in accordance with the rules in sections 4201–4225 of Title IV, as modified by the rules in this section, and section 108 of the Multiemployer Act. In the case of a combination described in § 2647.8(d), the modifications described in this section shall be applied only with respect to that portion of the eligible employer that had previously withdrawn from the plan. In the case of a combination described in § 2647.8(e), the modifications shall be applied separately with respect to each previously withdrawn employer that comprises the eligible employer. In addition, when a plan has abated the liability of a reentered employer, if the plan uses either the "presumptive" or the "direct attribution" method (section 4211 (b) or (c)(4), respectively) for allocating unfunded vested benefits, the plan shall modify those allocation methods as described in this section in allocating unfunded vested benefits to any employer that withdraws from the plan after the reentry.

(b) *Allocation of unfunded vested benefits for subsequent withdrawal in plans using "presumptive" method.* In a plan using the "presumptive" allocation method under section 4211(b) of the Act, the amount of unfunded vested benefits allocable to a reentered employer for a subsequent withdrawal shall equal the sum of—

(1) The unamortized amount of the employer's allocable shares of the amounts described in section 4211(b)(1), for the plan years preceding the initial withdrawal, determined as if the employer had not previously withdrawn;

(2) The sum of the unamortized annual credits attributable to the year of the initial withdrawal and each succeeding year ending prior to reentry; and

(3) The unamortized amount of the employer's allocable shares of the amounts described in section 4211(b)(1) (A) and (C) for plan years ending after its reentry.

For purposes of paragraph (b)(2), the annual credit for a plan year is the amount by which the employer's withdrawal liability payments for the year exceed the greater of the employer's imputed contributions or actual contributions for the year. The employer's imputed contributions for a year shall equal the average annual required contributions of the employer for the three plan years preceding the initial withdrawal. The amount of the credit for a plan year is reduced by 5 percent of the original amount for each succeeding plan year ending prior to the year of the subsequent withdrawal.

(c) *Allocation of unfunded vested benefits for subsequent withdrawal in plans using "modified presumptive" or "rolling-5" method.* In a plan using either the "modified presumptive" allocation method under section 4211(c)(2) of the Act or the "rolling-5" method under section 4211(c)(3), the amount of unfunded vested benefits allocable to a reentered employer for a subsequent withdrawal shall equal the sum of—

(1) The amount determined under section 4211(c)(2) or (c)(3) of the Act, as appropriate, as if the date of reentry were the employer's initial date of participation in the plan; and

(2) The outstanding balance, as of the date of reentry, of the unfunded vested benefits allocated to the employer for its previous withdrawal (as defined in paragraph (c)(2)(i) of this section) reduced as if that amount were being fully amortized in level annual installments, at the plan's funding rate as of the date of reentry, over the period described in paragraph (c)(2)(ii), beginning with the first plan year after reentry.

(i) The outstanding balance of the unfunded vested benefits allocated to an employer for its previous withdrawal is the excess of the amount determined under section 4211(c)(2) or (c)(3) of the Act as of the end of the plan year in which the employer initially withdrew, accumulated with interest at the plan's funding rate for that year, from that year to the date of reentry, over the withdrawal liability payments made by the employer, accumulated with interest from the date of payment to the date of reentry at the plan's funding rate for the year of entry.

(ii) The period referred to in paragraph (c)(2) for plans using the modified presumptive method is the greater of five years, or the number of full plan years remaining on the amortization schedule under section 4211(c)(2)(B)(i) of the Act. For plans using the rolling-5 method, the period is five years.

(d) *Adjustments applicable to all employers in plans using "presumptive" method.* In a plan using the "presumptive" allocation method under section 4211(b) of the Act, when the plan has abated the withdrawal liability of a reentered employer pursuant to this part, the following adjustments to the allocation method shall be made in computing the unfunded vested benefits allocable to any employer that withdraws from the plan in a plan year beginning after the reentry:

(1) The sum of the unamortized amounts of the annual credits of a reentered employer shall be treated as a reallocated amount under section 4211(b)(4) of the Act in the plan year in which the employer reenters.

(2) In the event that the 5-year period used to compute the denominator of the fraction described in section 4211(b)(2)(E) and (b)(4)(D) of the Act includes a year during the period of withdrawal of a reentered employer, the contributions for a year during the period of withdrawal shall be adjusted to include any actual or imputed contributions of the employer, as determined under paragraph (b) of this section.

(e) *Adjustments applicable to all employers in plans using "direct attribution" method.* In a plan using the "direct attribution" method under section 4211(c)(4) of the Act, when the plan has abated the withdrawal liability of a reentered employer pursuant to this part, the following adjustments to the allocation method shall be made in computing the unfunded vested benefits allocable to any employer that withdraws from the plan in a plan year beginning after the reentry:

(1) The nonforfeitable benefits attributable to service with a reentered employer prior to its initial withdrawal shall be treated as benefits that are attributable to service with that employer.

(2) For purposes of section 4211(c)(4)(D)(ii) and (iii) of the Act, withdrawal liability payments made by a reentered employer shall be treated as contributions made by the reentered employer.

(f) *Plans using alternative allocation methods under section 4211(c)(5).* A plan that has adopted an alternative method of allocating unfunded vested benefits pursuant to section 4211(c)(5) of the Act and Part 2642 of this subchapter shall adopt by plan amendment a method of determining a reentered employer's allocable share of the plan's unfunded vested benefits upon its subsequent withdrawal. The method shall treat the reentered employer and other withdrawing employers in a manner consistent with the treatment under the paragraph(s) of this section applicable to plans using the statutory allocation method most similar to the plan's alternative allocation method.

(g) *Adjustments to amount of annual withdrawal liability payments for subsequent withdrawal.* For purposes of section 4219(c)(1)(C)(i)(I) and (ii) (I) of the Act, in determining the amount of the annual withdrawal liability payments for a subsequent complete withdrawal, if the period of ten consecutive plan years ending before the plan year in which the withdrawal occurs includes a plan year during the period of withdrawal, the employer's number of contribution base units, used in section 4219(c)(1)(C)(i)(I), or the required employer contributions, used in section 4219(c)(1)(C)(ii)(I), for each such plan year during the period of withdrawal shall be deemed to be the greater of—

(1) The employer's contribution base units or the required employer contributions, as applicable, for that year; or

(2) The average of the employer's contribution base units or of the required employer contributions, as applicable, for those plan years not during the period of withdrawal, within the ten consecutive plan years ending before the plan year in which the employer's subsequent complete withdrawal occurred.

§ 2647.7 Liability for subsequent partial withdrawals.

(a) *General.* When an eligible employer that has had its liability for a complete withdrawal abated under this part partially withdraws from the plan, the employer's liability for that subsequent partial withdrawal shall be determined in accordance with the rules in sections 4201–4225 of the Act, as modified by the rules in § 2647.6(b)–(g) of this part and the rules in this section, and section 108 of the multiemployer Act.

(b) *Liability for a 70-percent contribution decline.* The amount of an employer's liability under section 4206(a) (relating to the calculation of liability for a partial withdrawal), section 4208 (relating to the reduction of liability for a partial withdrawal) and section 4219(c)(1) (relating to the schedule of partial withdrawal liability payments) of the Act, for a subsequent partial withdrawal described in section 4205(a)(1) of the Act (relating to a 70-percent contribution decline) shall be modified in accordance with the rules in this paragraph.

(1) *Definition of "3-year testing period."* For purposes of sections 4206(a) and 4219(c)(1) of the Act, and paragraphs (b)(2)–(b)(4) of this section, the term "3-year testing period" means the period consisting of the plan year for which the determination is made and the two immediately preceding plan years, excluding any plan year during the period of withdrawal.

(2) *Determination date of section 4211 allocable share.* For purposes of section 4206(a)(1)(B) of the Act, the amount determined under section 4211 shall be determined as if the employer had withdrawn from the plan in a complete withdrawal on the last day of the first plan year in the 3-year testing period or the last day of the plan year in which the employer reentered the plan, whichever is later.

(3) *Calculation of fractional share of section 4211 amount.* For purposes of sections 4206(a)(2)(B)(ii) and 4219(c)(1)(E)(ii) of the Act, if the five plan years immediately preceding the beginning of the 3-year testing period include a plan year during the period of withdrawal, then, in determining the denominator of the fraction described in section 4206 (a)(2), the employer's contribution base units for each such year of withdrawal shall be deemed to be the greater of—

(i) The employer's contribution base units for that plan year; or

(ii) The average of the employer's contribution base units for the three plan years preceding the plan year in which the employer completely withdrew from the plan.

(4) *Contribution base units for high base year.* If the five plan years immediately preceding the beginning of the 3-year testing period include a plan year during the period of withdrawal, then for purposes of section 4208(a) and (b)(1) of the Act, the number of contribution base units for the high base year shall be the number of contribution base units determined under paragraph (b)(3) of this section.

(c) *Liability for partial cessation of contribution obligation.* The amount of an employer's liability under section 4206(a) (relating to the calculation of liability for a partial withdrawal) and section 4219(c)(1) (relating to the amount of the annual partial withdrawal liability payments) of the Act, for a subsequant partial withdrawal described in section 4205(a)(2) of the Act (relating to a partial cessation of the contribution obligation) shall be modified in accordance with the rules in this paragraph. For purposes of sections 4206(a)(2)(B)(i) and 4219(c)(1)(E)(ii) of the Act, if the five plan years immediately preceding the plan year in which the partial withdrawal occurs include a plan year during the period of withdrawal, the denominator of the fraction described in section 4206(a)(2) shall be determined in accordance with the rule set forth in paragraph (b)(3) of this section.

§ 2647.8 Special rules.

(a) *Employer that has withdrawn and reentered the plan before the effective date of this part.* This part shall apply, in accordance with the rules in this paragraph, with respect to an eligible employer that completely withdraws from a multiemployer plan after September 25, 1980, and is performing covered work under the plan on the effective date of this part. Upon the application of an employer described in the preceding sentence, the plan sponsor of a multiemployer plan shall determine whether the employer satisfies the requirements for abatement of its complete withdrawal liability under this part. Pending the plan sponsor's determination, the employer may provide the plan with a bond or escrow that satisfies the requirements of § 2647.3, in lieu of making its withdrawal liability payments due after its application for an abatement determination. The plan sponsor shall notify the employer in writing of its determination and the consequences of its determination as described in § 2647.2(c) or (d) and (e), as applicable. If the plan sponsor determines that the employer qualifies for abatement, only withdrawal liability payments made prior to the employer's reentry shall be retained by the plan; payments made by the employer after its reentry shall be refunded to the employer, with interest on those made prior to the application for abatement, in accordance with § 2647.2(e)(2). If a bond or escrow has been provided to the plan in accordance with § 2647.3, the plan sponsor shall send a copy of the notice to the bonding or escrow agent. Sections 2647.5–2647.7 shall apply with respect to the employer's subsequent complete withdrawal occurring on or after the effective date of this part, or partial withdrawal occurring either before or after that date. This paragraph shall not

negate reasonable actions taken by plans prior to the effective date of this part under plan rules implementing section 4207(a) that were validly adopted pursuant to section 405 of the Multiemployer Act.

(b) *Employer with multiple complete withdrawals that has reentered the plan before effective date of this part.* If an employer described in paragraph (a) of this section has completely withdrawn from a multiemployer plan on two or more occasions before the effective date of this part, the rules in paragraph (a) of this section shall be applied as modified by this paragraph.

(1) The plan sponsor shall determine whether the employer satisfies the requirements for abatement under § 2647.4 based on the most recent complete withdrawal.

(2) If the employer satisfies the requirements for abatement, the employer's liability with respect to all previous complete withdrawals shall be abated.

(3) If the liability is abated, §§ 2647.5 and 2647.6 shall be applied as if the employer's earliest complete withdrawal were its initial complete withdrawal.

(c) *Employer with multiple complete withdrawals that has not reentered the plan as of the effective date of this part.* If an eligible employer has completely withdrawn from a multiemployer plan on two or more occasions between September 26, 1980 and the effective date of this part and is not performing covered work under the plan on the effective date of this regulation, the rules in this part shall apply, subject to the modifications specified in paragraphs (b)(1)–(b)(3) of this section, upon the employer's reentry into the plan.

(d) *Combination of withdrawn employer with contributing employer.* If a withdrawn employer merges or otherwise combines with an employer that has an obligation to contribute to the plan from which the first employer withdrew, the combined entity is the eligible employer, and the rules of § 2647.4 shall be applied—

(1) By subtracting from the measurement period contribution base units the contribution base units for which the non-withdrawn portion of the employer was obligated to contribute in the last plan year ending prior to the combination;

(2) By determining the base year contribution base units solely by reference to the contribution base units of the withdrawn portion of the employer; and

(3) by using the date of the combination, rather than the date of resumption of covered operations, to begin the measurement period.

(e) *Combination of two or more withdrawn employers.* If two or more withdrawn employers merge or otherwise combine, the combined entity is the eligible employer, and the rules of § 2647.4 shall be applied by combining the number of contribution base units with respect to which each portion of the employer had an obligation to contribute under the plan for its base year. However, the combined number of contribution base units shall not include contribution base units of a withdrawn portion of the employer that had fully paid its withdrawal liability as of the date of the resumption of covered operations.

Issued at Washington, DC on February 27, 1986.

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its chairman to issue same.

Edward R. Mackiewicz,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

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29 CFR Parts 2640 and 2648

Multiemployer Pension Plans; Redetermination of Withdrawal Liability Upon Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation provides rules for redetermining an employer's withdrawal liability and for fully allocating the total unfunded vested benefits of a multiemployer plan upon either the termination of the plan through the withdrawal of every employer, or the withdrawal of substantially all the employers. The Pension Benefit Guaranty Corporation is required to issue these rules under the Emloyee Retirement Income Security Act, as amended. This regulation is needed to protect the multiemployer insurance program and plans required to pay premiums under it against potential claims for large unallocated unfunded benefits, as well as to protect the benefits of plan participants and beneficiaries by requiring that all unfunded vested benefits be allocated to withdrawing employers. In addition, in the case of a plan from which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw, the full allocation of unfunded vested benefits to withdrawing employers is intended to reduce the burden on employers that remain in the plan, thus encouraging continuation of the plan. The effect of this regulation is to prescribe a method for redetermining withdrawal liability and allocating a plan's total unfunded vested benefits upon a mass withdrawal.

DATES: Effective date: April 24, 1986. This part applies to plans that experience mass withdrawals on or after April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Ellan H Spring, Corporate Policy and Regulations Department (35100), 2020 K Street, NW., Washington, DC 20006; 202-965-5051 (202-956-5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: On November 14, 1984, the Pension Benefit Guaranty Corporation ("the PBGC") published in the **Federal Register** a proposed rule on Redetermination of Withdrawal Liability upon Mass Withdrawal (49 FR 45018). One organization submitted comments on the proposal. The PBGC has reviewed those comments and has adopted some of the suggested changes for the reasons stated below. In addition, the PBGC has made a few minor changes in the regulation.

"Free-Look" Employers

Section 4210 of the Employee Retirement Income Security Act, as amended ("ERISA or "the Act"), allows plans to adopt rules to permit certain employers to enter the plan and withdraw without liability within the lesser of 6 years or the number of years required for vesting under the plan. One comment suggested that the imposition of reallocation liability upon employers that have no withdrawal liability because of the application of this "free-look" rule would be contrary to the purpose of the rule (*i.e.*, to encourage new entrants into plans).

Free-look employers are, by definition, relatively small contributors (their required contributions must be less than two percent of all contributions), and the protection of the free-look rule extends for no more than 6 years. As a result, the adverse effect of reallocation liability on their entry should be minimal. Because the Act provides that the plan's unfunded vested benefits upon mass withdrawal shall be allocated among all withdrawing employers "notwithstanding any other provision" of Part 1 ("Employer Withdrawals"), the PBGC believes that free-look employers must be included in

those liable for reallocation liability. Accordingly, in the final rule, the PBGC has not changed the provision including free-look employers among the liable for reallocation liability.

Section 4225 Limitation

Another comment suggested that the section 4225 limitation should not apply to redetermination liability or to reallocation liability. Section 4225 contains special rules that provide some relief for employers that are: (1) Insolvent and liquidating or dissolving; (2) selling all or substantially all of their assets; or (3) sole proprietors or members of partnerships. The commenter supported the suggestion by stating that: (1) Section 4225 was not intended to "interfere" with the operation of section 4219; (2) the application of section 4225 would result in less than full allocations of mass withdrawal liability; and (3) the rationale underlying the section 4225 limitation does not apply in a mass withdrawal situation and the interests of a liquidating or bankrupt employer are outweighed by those of the plan, participants and the insurance system.

The commenter argued that the language of section 4225 indicating that the limitation is to be applied "after the application of all sections of this part having a lower number designation than this section" merely clarifies the order in which the other limitations on liability are to be applied, and that the language of section 4219(c)(1)(D)(ii), *i.e.*, that reallocation liability is to be determined "notwithstanding any other provision of this part," is governing.

The PBGC has not adopted this suggestion in the final rule. The PBGC believes that the application of this limitation to mass withdrawal liability is consistent with its underlying rationale. Section 4225 is a narrowly drawn provision that provides special relief to specific persons. It limits the liability of insolvent employers that are undergoing liquidation or dissolution, employers that are selling all or substantially all of their assets and employers that are "individuals". These limitations on liability serve to protect employers' creditors and personal property. The PBGC does not believe that there is a compelling argument for eliminating the specific relief the Congress intended to confer on these parties by barring the application of these limitations in the event of a mass withdrawal. Furthermore, the legislative history of the multiemployer amendments to the Act supports this position. In colloquy on the Conference Committee report on these amendments, the sponsor of the technical amendment that added the phrase "notwithstanding any other provision of this part" to section 4219(c)(1)(D) stated that the phrase was not intended to affect section 4225. 126 Cong. Rec. H9179 (daily ed. Sept. 19, 1980) (statement of Rep. Thompson).

Moreover, the PBGC believes that, in most cases, the effect of this limitation upon a full allocation will not be significant. The section 4225 limitation will have already been invoked by some employers during the assessment of initial or redetermination liability; those employers are excluded from reallocation liability under § 2648.3(c) of the rule. At the time when reallocation liability is determined, the plan sponsor may know that the section 4225 limitation will limit the liability of other employers. In such cases, the plan sponsor is required by § 2648.6(c)(2) to allocate those unassessable liabilities among all other liable employers. To the extent that additional amounts become unassessable as a result of the section 4225 limitation, the PBGC believes they are no different from other uncollected withdrawal liability amounts. The Act does not guarantee collection of all initial and mass withdrawal liability in every case, and the section 4225 limitation is merely one factor that could result in less than full collection.

The PBGC has made an unrelated change in the definitions of the terms "reallocation liability" and "redetermination liability" in § 2640.7. As proposed, the definitions included a statement that these amounts were "adjusted in accordance with section 4225 of the Act." Because the regulation clearly provides that these liabilities are limited by section 4225 in §§ 2648.4, 2648.5 and 2648.6, which prescribe how the liabilities are to be computed, the PBGC has deleted the references to section 4225 in the definitions.

Liability for De Minimis Amounts

A comment suggested that an employer that withdraws from a mass-withdrawal-terminated plan in the two years preceding the year of termination should be liable for redetermination liability for *de minimis* amounts, even if its withdrawal was not pursuant to an agreement or arrangement to withdraw. The PBGC does not believe that the language of section 4209(c) permits an extension of liability for *de minimis* amounts to such employers. Section 4219(c)(1)(D), which establishes liability for 20-year limitation amounts and reallocation liability, and section 4209(c), which establishes liability for *de minimis* amounts, both apply to employers that withdraw pursuant to an agreement or arrangement to withdraw from a plan from which substantially all employers have withdrawn pursuant to such agreement or arrangement (*i.e.*, such employers are not entitled to the *de minimis* reduction). However, in the case of a withdrawal that is not pursuant to an agreement or arrangement, section 4209(c)(1) provides that the *de minimis* limitation ceases to apply only "to an employer who withdraws *in a plan year* in which substantially all employers withdraw from the plan" (emphasis supplied). Section 4219(c)(1)(D) has no parallel limitation on its scope. Because the express scope of section 4209(c)(1) is clearly different from that of section 4219(c)(1)(D), the PBGC believes that it has no authority to extend liability for *de minimis* amounts as suggested by the comment.

A related change has been made in the final rule in order to reduce the inequities that might otherwise result from this application of the *de minimis* rule. In the proposed rule, reallocation liability was prorated among liable employers based on the amount of each employer's initial and redetermination liabilities. Because a *de minimis* employer's initial withdrawal liability would be zero or a reduced amount and it would have no redetermination liability, it would effectively be excluded from or have a reduced share of the reallocation liability. To avoid this result, § 2648.6(c)(1) has been revised in the final rule to provide that, if an employer's initial withdrawal liability was reduced because of the *de minimis* rule, the employer's share of the amount to be reallocated shall be based on what the employer's initial withdrawal liability would have been if the *de minimis* rule had not applied.

Finally, § 2648.3(c), which defines the look-back period for determining the employers that are liable for reallocation liability, has been revised to provide that, in the case of a mass-withdrawal termination, employers that withdraw after the beginning of the second full plan year preceding the date of termination shall be liable. As proposed, the provision contained a look-back of three full plan years. The change in the final rule is intended to make the look-back period identical to the period during which an employer is presumed, under sections 4209(d) and 4219(c)(1)(D)(ii) of the Act, to have withdrawn pursuant to an agreement or arrangement of substantially all employers to withdraw from the plan.

Timing of Determinations

Another comment objected to the deadlines established in § 2648.2(b) for determining employers' mass

withdrawal liability, noting that an employer's initial withdrawal liability must be determined before its redetermination liability and reallocation liability can be determined, and that the Act requires only that employers be notified of their (initial) withdrawal liability "as soon as practicable" after the withdrawal. Further, the comment stated that the Act's detailed procedure for assessment of liability may be time-consuming, and that it is unreasonable to expect plans to meet the deadlines established in the proposed rule if a large number of employers withdraw from a plan on or just before the mass withdrawal valuation date. Therefore, the comment suggested that the deadline for completion of redetermination liability determinations be one year after the mass withdrawal valuation date (which is defined as the last day of the plan year as of which substantially all employers have withdrawn or the last day of the plan year in which the plan terminates), and that the deadline for determination of reallocation liability be two years after the mass withdrawal valuation date. In addition, the comment suggested that plans be permitted to apply to PBGC for a waiver of these deadlines upon a showing of good cause.

In response to this comment, the PBGC first notes that a plan sponsor is not required to complete its assessment of initial withdrawal liability before it computes and notifies employers of their redetermination liability. Redetermination liability is actually the initial withdrawal liability before application of the *de minimis* and 20-year limitations. Thus, redetermination liability is computed when initial withdrawal liability is computed. The PBGC anticipated that plan sponsors could reduce their administrative workload by combining notices of initial withdrawal liability with notices of redetermination liability and § 2648.7(e) so provides.

In the case of an ongoing plan, it is true that the Act does not provide a specific deadline for plans to notify employers of their withdrawal liability. However, the PBGC believes that the establishment of deadlines for determination of mass withdrawal liability is appropriate. An ongoing plan will continue to receive contributions and thus will not normally be harmed by a delay in assessing and collecting withdrawal liability. The flow of contributions into a plan from which all or substantially all employers have withdrawn is greatly reduced, so that the interests of participants and of the insurance system are both served by the establishment of deadlines.

Nevertheless, the PBGC agrees that the determination of reallocation liability may require more time than was allowed in the proposed rule. Because the determination of the amount of unfunded vested benefits to be reallocated requires that initial and redetermination liability have been determined, the deadline for determining reallocation liability should follow the deadline for computing redetermination liability by a long enough period for most disputes over the latter amounts to have been resolved. Accordingly, the PBGC has revised §§ 2648.2(b)(3) and 2648.7(c), which prescribe the deadlines for determining reallocation liability and notifying employers of their liabilities, to allow plan sponsors one year after the reallocation record date to determine reallocation liability and an additional 30 days to notify employers of their liabilities.

Finally, the PBGC has added a new paragraph (§ 2648.2(c)) that allows plan sponsors to apply to the PBGC for extensions of the deadlines for determining redetermination and reallocation liability. The PBGC will approve such requests only if it determines that failure to extend the deadlines will create an unreasonable risk of loss to participants or to the PBGC. Such a risk of loss might exist, for example, when there is protracted arbitration over complex issues and the outcome of the aribitration could have a significant effect on the allocation of unfunded vested benefits.

Alternative Rules

Under § 2648.6(d) of the proposed rule, in determining reallocation liability, plans are permitted to adopt rules for calculating employers' initial allocable shares of the plan's unfunded vested benefits in a manner other than the method prescribed in the rule. The proposed rule allowed such alternative methods only if they were adopted three full plan years before they were placed in effect. The comment suggested that, to allow maximum flexibility, plans be permitted to adopt alternative rules that would be effective upon adoption, as long as they did not retroactively increase the withdrawal liability of previously withdrawn employers without their consent.

The PBGC agrees with this suggestion and has adopted it in the final rule. Accordingly, § 2648.6(d) has been revised to provide that a plan may adopt rules that are effective within three plan years after adoption only if the rules would not increase the liability that any employer would otherwise be assessed without the employer's consent. Of course, such alternative rules must meet the other standards established in the regulation.

Plan Review and Arbitration

Proposed § 2648.7(g) provided that determinations of mass withdrawal liability shall be subject to plan review and arbitration under sections 4219(b)(2) and 4221 of the Act, but employers were precluded from raising matters relating solely to the amount of, and schedule of payments for, initial withdrawal liability in connection with a request for review or arbitration of mass withdrawal liability.

One comment suggested that the final rule provide that, in reviews or arbitrations of mass withdrawal liability determinations, employers also be precluded from raising issues that are pertinent to the calculation of both initial and mass withdrawal liability and issues that were relevant to, but not raised in an arbitration of, initial withdrawal liability.

The PBGC has not adopted this suggestion because it believes that employers should not be estopped from raising issues arising from initial withdrawal liability determinations if those issues have an impact on the determination of mass withdrawal liability and have not previously been raised. In addition, the suggested changes could result in an unnecessary increase in the volume of issues raised during review or arbitration of initial withdrawal liability, because employers would feel compelled to contest issues that otherwise would be uncontested in order to protect themselves against the possibility of the occurrence of a mass withdrawal at a later time.

Procedural Requirements

The final comment recommended that the final rule make clear that the procedural requirements of the rule are not applicable retroactively to plans that have experienced mass withdrawals prior to the promulgation of the rule. The PBGC is issuing this regulation on a prospective basis, with an effective date 30 days after the date of publication in the **Federal Register**. Mass withdrawals occurring prior to that date are not covered by this regulation.

However, the PBGC points out that the requirement of assessing withdrawal liability applies by statute to all mass withdrawals occurring after September 25, 1980. A plan's implementation of that requirement is governed by section 405 of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA),

which provides that if MPPAA requires the issuance of regulations, during the period prior to their issuance "any reasonable action . . . shall be treated as complying with such regulations for such period."

E.O. 12291 and Regulatory Flexibility Act

The Pension Benefit Guaranty Corporation has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Moreover, ERISA requires the reallocation of a multiemployer plan's total unfunded vested benefits upon a mass withdrawal. This regulation implements that requirement. While the method of reallocation prescribed by the regulation will shift the burden for these liabilities among employers, it does not create new liabilities.

Under section 605(b) of the Regulatory Flexibility Act, the Pension Benefit Guaranty Corporation certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The proposed regulation affects only multiemployer plans covered by PBGC. Defining "small plans" as those with under 100 participants, such plans represent less than 14% of all multiemployer plans covered by PBGC (346 out of 2485). Further, small multiemployer plans represent only .4% of all small plans covered by the PBGC (346 out of 84,288). Approximately 500,000 employers contribute to multiemployer plans; most of these employers are small employers (under 100 employees). The PBGC estimates that no more than 5% of such employers will be required to pay withdrawal liability in any year. This regulation will affect only those plans that experience a mass withdrawal or the withdrawal of substantially all employers in a single plan year. Based on the PBGC's experience to date, it is estimated that no more than 10 multiemployer plans will be terminated by mass withdrawal in any given year, and even fewer plans will experience a withdrawal of substantially all the employers pursuant to an agreement or arrangement to withdraw. Thus, the PBGC expects there to be few plans that may need to determine or redetermine withdrawal liability under these rules. The regulation will affect only employers that have withdrawn from such plans and that are liable under the regulation. Therefore, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

OMB Clearance of Information Collection

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and have been assigned OMB control number 1212-0034.

List of Subjects in 29 CFR Parts 2640 and 2648

Employee benefit plans, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2640—[AMENDED]

1. The authority for Part 2640 continues to read as follows:

Authority: Sec. 4002(b)(3), Pub. L. 93-406, as amended by Section 403(1), Pub. L. 96-364, 94 Stat. 1208, 1302 (1980) (29 U.S.C. 1302).

2. Part 2640 is amended by adding a new § 2640.7 at the end to read as follows:

§ 2640.7 Definitions for withdrawal liability upon a mass withdrawal.

For purposes of Part 2648—

"Initial withdrawal liability" means the amount of withdrawal liability determined in accordance with sections 4201-4225 of Title IV without regard to the occurrence of a mass withdrawal.

"Mass withdrawal" means the withdrawal of every employer from the plan, or the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw.

"Mass withdrawal liability" means the sum of an employer's liability for *de minimis* amounts, liability for 20-year-limitation amounts, and reallocation liability.

"Mass withdrawal valuation date" means: (a) In the case of a termination by mass withdrawal, the last day of the plan year in which the plan terminates; or (b) in the case of a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw, the last day of the plan year as of which substantially all employers have withdrawn.

"Reallocation liability" means the amount of unfunded vested benefits allocated to an employer in the event of a mass withdrawal.

"Reallocation record date" means a date selected by the plan sponsor, which shall be not earlier than the date of the plan's actuarial report for the year of the mass withdrawal and not later than one year after the mass withdrawal valuation date.

"Redetermination liability" means the sum of an employer's liability for *de minimis* amounts and the employer's liability for 20-year-limitation amounts.

"Unfunded vested benefits" means the amount by which the present value of a plan's vested benefits exceeds the value of plan assets (including claims of the plan for unpaid initial withdrawal liability and redetermination liability), determined in accordance with section 4281 of the Act and PBGC's multiemployer valuation regulation.

"Withdrawal" means a complete withdrawal as defined in section 4203 of the Act.

3. A new Part 2648 is added to read as follows:

PART 2648—WITHDRAWAL LIABILITY UPON MASS WITHDRAWAL

Sec.
2648.1 Purpose and scope.
2648.2 Withdrawal liability upon mass withdrawal.
2648.3 Employers liable upon mass withdrawal.
2648.4 Amount of liability for *de minimis* amounts.
2648.5 Amount of liability for 20-year-limitation amounts.
2648.6 Determination of reallocation liability.
2648.7 Imposition of liability.
2648.8 Filings with PBGC.
2648.9 Withdrawal in a plan year in which substantially all employers withdraw.
2648.10 Information collection.

Authority: Secs. 4002(b)(3), 4209 (c) and (d) and 4219(c)(1)(D), Pub. L. 93-406, 88 Stat. 829, 1004 (1974), as amended by sections 403(1) and 104, respectively, Pub. L. 96-364, 94 Stat. 1302, 1226 and 1237-8 (1980) (29 U.S.C. 1302(b)(3), 1389(c) and (d) and 1399 (c)(1)(D)).

§ 2648.1 Purpose and scope.

(a) *Purpose.* When a multiemployer plan terminates by the withdrawal of every employer from the plan, or when substantially all employers withdraw from a multiemployer plan pursuant to an agreement or arrangement to withdraw from the plan, section 4219(c)(1)(D)(i) of the Act requires that the liability of such withdrawing employers be determined (or

redetermined) without regard to the 20-year limitation on annual payments established in section 4219(c)(1)(B) of the Act. In addition, section 4219(c)(1)(D)(ii) requires that, upon the occurrence of a withdrawal described above, the total unfunded vested benefits of the plan be fully allocated among such withdrawing employers in a manner that is not inconsistent with PBGC regulations. Section 4209(c) of the Act provides that the *de minimis* reduction established in sections 4209 (a) and (b) shall not apply to an employer that withdraws in a plan year in which substantially all employers withdraw from the plan, or to an employer that withdraws pursuant to an agreement to withdraw during a period of one or more plan years during which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw. The purpose of this part is to prescribe rules, pursuant to sections 4219(c)(1)(D) and 4209(c) of the Act, for redetermining an employer's withdrawal liability and fully allocating the unfunded vested benefits of a multiemployer plan in either of two mass-withdrawal situations: the termination of a plan by the withdrawal of every employer and the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw. This part also prescribes rules for redetermining the liability of an employer without regard to section 4209 (a) or (b) when the employer withdraws in a plan year in which substantially all employers withdraw, regardless of the occurrence of a mass withdrawal.

(b) *Scope.* This part applies to multiemployer plans covered by section 4021(a) of the Act and not excluded by section 4021(b), with respect to which there is a termination by the withdrawal of every employer (including a plan created by a partition pursuant to section 4233 of the Act) or a withdrawal of substantially all employers in the plan pursuant to an agreement or arrangement to withdraw from the plan, after the effective date of this part, and to employers that withdraw from such multiemployer plans. The obligations of a plan sponsor of a mass-withdrawal-terminated plan under this part shall cease to apply when the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan. This part also applies, to the extent appropriate, to multiemployer plans with respect to which there is a withdrawal of substantially all employers in a single plan year and to employers that withdraw from such plans in that plan year.

§ 2648.2 Withdrawal liability upon mass withdrawal.

(a) *Initial withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall determine initial withdrawal liability pursuant to section 4201 of the Act of every employer that has completely or partially withdrawn from the plan and for whom the liability has not previously been determined and, in accordance with section 4202 of the Act, notify each employer of the amount of the initial withdrawal liability and collect the amount of the initial withdrawal liability from each employer.

(b) *Mass withdrawal liability.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal shall also—

(1) Notify withdrawing employers, in accordance with § 2648.7(a), that a mass withdrawal has occurred;

(2) Within 150 days after the mass withdrawal valuation date, determine the liability of withdrawn employers for *de minimis* amounts and for 20-year-limitation amounts in accordance with §§ 2648.4 and 2648.5;

(3) Within one year after the reallocation record date, determine the reallocation liability of withdrawn emloyers in accordance with § 2648.6;

(4) Notify each withdrawing employer of the amount of mass withdrawal liability determined pursuant to this part and the schedule for payment of such liability, and demand payment of and collect that liability, in accordance with § 2648.7; and

(5) Notify the PBGC of the occurrence of a mass withdrawal and certify, in accordance with § 2648.8, that determinations of mass withdrawal liability have been completed.

(c) *Extensions of time.* The plan sponsor of a multiemployer plan that experiences a mass withdrawal may apply to the PBGC for an extension of the deadlines contained in paragraph (b) of this section. The PBGC shall approve such a request only if it finds that failure to grant the extension will create an unreasonable risk of loss to plan participants or the PBGC.

§ 2648.3 Employers liable upon mass withdrawal.

(a) *Liability for de minimis amounts.* An employer shall be liable for *de minimis* amounts if the employer's initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of the Act and the employer—

(1) Withdrew from a plan in the plan year in which the plan terminated by the withdrawal of every employer; or

(2) Withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw.

(b) *Liability for 20-year-limitation amounts.* An employer shall be liable for 20-year-limitation amounts if the employer's initial withdrawal liability was limited pursuant to section 4219(c)(1)(B) of the Act and the employer—

(1) Withdrew from a plan that terminated by the withdrawal of every employer; or

(2) Withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw.

(c) *Liability for reallocation liability.* An employer shall be liable for reallocation liability if the employer withdrew pursuant to an agreement or arrangement to withdraw from a multiemployer plan from which substantially all employers withdrew pursuant to an agreement or arrangement to withdraw, or if the employer withdrew after the beginning of the second full plan year preceding the date of plan termination from a plan that terminated by the withdrawal of very employer, and, as of the reallocation record date—

(1) The employer has not been completely liquidated or dissolved;

(2) The employer is not the subject of a case or proceeding under Title 11, United States Code, or any case or proceeding under similar provisions of state insolvency laws, except that a plan sponsor may determine that such an employer is liable for reallocation liability if the plan sponsor determines that the employer is reasonably expected to be able to pay its initial withdrawal liability and its redetermination liability in full and on time to the plan; and

(3) The plan sponsor has determined that the employer's initial withdrawal liability or its redetermination liability is limited by section 4225 of the Act.

(d) *General exclusion.* In the event that a plan experiences successive mass withdrawals, an employer that has been determined to be liable under this part for any component of mass withdrawal liability shall not be liable as a result of the same withdrawal for that component of mass withdrawal liability with respect to a subsequent mass withdrawal.

(e) *Free-look rule.* An employer that is not liable for initial withdrawal liability

pursuant to a plan amendment adopting section 4210(a) of the Act shall not be liable for *de minimis* amounts or for 20-year-limitation amounts, but shall be liable for reallocation liability in accordance with paragraph (c) of this section.

(f) *Payment of initial withdrawal liability.* An employer's payment of its total initial withdrawal liability, whether by prepayment or otherwise, for a withdrawal which is later determined to be part of a mass withdrawal shall not exclude the employer from or otherwise limit the employer's mass withdrawal liability under this part.

(g) *Agreement presumed.* Withdrawal by an employer during a period of three consecutive plan years within which substantially all employers withdraw from a plan shall be presumed to be a withdrawal pursuant to an agreement or arrangement to withdraw unless the employer proves otherwise by a preponderance of the evidence.

§ 2648.4 Amount of liability for de minimis amounts.

An employer that is liable for *de minimis* amounts shall be liable to the plan for the amount by which the employer's allocable share of unfunded vested benefits for the purpose of determining its initial withdrawal liability was reduced pursuant to section 4209(a) or (b) of the Act. Any liability for *de minimis* amounts determined under this section shall be limited by section 4225 to the extent that section would have been limiting had the employer's initial withdrawal liability been determined without regard to the *de minimis* reduction.

§ 2648.5 Amount of liability for 20-year-limitation amounts.

An employer that is liable for 20-year-limitation amounts shall be liable to the plan for an amount equal to the present value of all initial withdrawal liability payments for which the employer was not liable pursuant to section 4219(c)(1)(B) of the Act. The present value of such payments shall be determined as of the end of the plan year preceding the plan year in which the employer withdrew, using the assumptions that were used to determine the employer's payment schedule for initial withdrawal liability pursuant to section 4209(c)(1)(A)(ii) of the Act. Any liability for 20-year-limitation amounts determined under this section shall be limited by section 4225 to the extent that section would have been limiting had the employer's initial withdrawal liability been determined without regard to the 20-year limitation.

§ 2648.6 Determination of reallocation liability.

(a) *General rule.* In accordance with the rules in this section, the plan sponsor shall determine the amount of unfunded vested benefits to be reallocated and shall fully allocate those unfunded vested benefits among all employers liable for reallocation liability.

(b) *Amount of unfunded vested benefits to be reallocated.* For purposes of this section, the amount of a plan's unfunded vested benefits to be reallocated shall be the amount of the plan's unfunded vested benefits, determined as of the mass withdrawal valuation date, adjusted to exclude from plan assets the value of the plan's claims for unpaid initial withdrawal liability and unpaid redetermination liability that are deemed to be uncollectible under § 2648.3(c)(1) or (c)(2).

(c) *Amount of reallocation liability.* An employer's reallocation liability shall be equal to the sum of the employer's initial allocable share of the plan's unfunded vested benefits, as determined under paragraph (c)(1) of this section, plus any unassessable amounts allocated to the employer under paragraph (c)(2), limited by section 4225 of the Act to the extent that section would have been limiting had the employer's reallocation liability been included in the employer's initial withdrawal liability. If a plan is determined to have no unfunded vested benefits to be reallocated, the reallocation liability of each liable employer shall be zero.

(1) *Initial allocable share.* Except as otherwise provided in rules adopted by the plan pursuant to paragraph (d) of this section, and in accordance with paragraph (c)(3) of this section, an employer's initial allocable share shall be equal to the product of the plan's unfunded vested benefits to be reallocated, multiplied by a fraction—

(i) The numerator of which is the sum of the employer's initial withdrawal liability and the employer's redetermination liability, if any; and

(ii) The denominator of which is the sum of all initial withdrawal liabilities and all the redetermination liabilities of all employers liable for reallocation liability.

(2) *Allocation of unassessable amounts.* If after computing each employer's initial allocable share of unfunded vested benefits, the plan sponsor knows that any portion of an employer's initial allocable share is unassessable as withdrawal liability because of the limitations in section 4225 of the Act, the plan sponsor shall allocate any such unassessable amounts among all other liable employers. This allocation shall be done by prorating the unassessable amounts on the basis of each such employer's initial allocable share. No employer shall be liable for unfunded vested benefits allocated under paragraph (c)(1) or this paragraph to another employer that are determined to be unassessable or uncollectible subsequent to the plan sponsor's demand for payment of reallocation liability.

(3) *Special rule for certain employers with no or reduced initial withdrawal liability.* If an employer has no initial withdrawal liability because of the application of the free-look rule in section 4210 of the Act, then, in computing the fraction prescribed in paragraph (c)(1), the plan sponsor shall use the employer's allocable share of unfunded vested benefits, determined under section 4211 of the Act at the time of the employer's withdrawal and adjusted in accordance with section 4225 of the Act, if applicable. If an employer's initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of the Act and the employer is not liable for *de minimis* amounts pursuant to § 2648.4, then, in computing the fraction prescribed in paragraph (c)(1), the plan sponsor shall use the employer's allocable share of unfunded vested benefits, determined under section 4211 of the Act at the time of the employer's withdrawal and adjusted in accordance with section 4225 of the Act, if applicable.

(d) *Plan rules.* Plans may adopt rules for calculating an employer's initial allocable share of the plan's unfunded vested benefits in a manner other than that prescribed in paragraph (c)(1) of this section, provided that those rules allocate the plan's unfunded vested benefits to substantially the same extent the prescribed rules would. Plan rules adopted under this paragraph shall operate and be applied uniformly with respect to each employer. If such rules would increase the reallocation liability of any employer, they may be effective with respect to that employer earlier than three full plan years after their adoption only if the employer consents to the application of the rules to itself. The plan sponsor shall give a written notice to each contributing employer and each employee organization that represents employees covered by the plan of the adoption of plan rules under this paragraph.

§ 2648.7 Imposition of liability.

(a) *Notice of mass withdrawal.* Within 30 days after the mass withdrawal valuation date, the plan sponsor shall give written notice of the occurrence of a mass withdrawal to each employer that the plan sponsor reasonably expects may be a liable employer under § 2648.3. The notice shall include—

(1) The mass withdrawal valuation date;

(2) A description of the consequences of a mass withdrawal under this part; and

(3) A statement that each employer obligated to make initial withdrawal liability payments shall continue to make those payments in accordance with its schedule.

Failure of the plan sponsor to notify an employer of a mass withdrawal as required by this paragraph shall not cancel the employer's mass withdrawal liability or waive the plan's claim for such liability.

(b) *Notice of redetermination liability.* Within 30 days after the date as of which the plan sponsor is required under § 2648.2(b)(2) to have determined the redetermination liability of employers, the plan sponsor shall issue a notice of redetermination liability in writing to each employer liable under § 2648.3 for *de minimis* amounts or 20-year-limitation amounts, or both. The notice shall include—

(1) The amount of the employer's liability, if any, for *de minimis* amounts determined pursuant to § 2648.4;

(2) The amount of the employer's liability, if any, for 20-year-limitation amounts determined pursuant to § 2648.5;

(3) The schedule for payment of the liability determined under paragraph (f) of this section;

(4) A demand for payment of the liability in accordance with the schedule; and

(5) A statement of when the plan sponsor expects to issue notices of reallocation liability to liable employers.

(c) *Notice of reallocation liability.* Within 30 days after the date as of which the plan sponsor is required under § 2648.2(b)(3) to have determined the reallocation liability of employers, the plan sponsor shall issue a notice of reallocation liability in writing to each employer liable for reallocation liability. The notice shall include—

(1) The amount of the employer's reallocation liability determined pursuant to § 2648.6;

(2) The schedule for payment of the liability determined under paragraph (f) of this section; and

(3) A demand for payment of the liability in accordance with the schedule.

(d) *Notice to employers not liable.* The plan sponsor shall notify in writing any employer that receives a notice of mass withdrawal under paragraph (a) of this section and subsequently is determined not to be liable for mass withdrawal liability or any component thereof. The notice shall specify the liability from which the employer is excluded and shall be provided to the employer not later than the date by which liable employers are to be provided notices of reallocation liability pursuant to paragraph (c) of this section. If the employer is not liable for mass withdrawal liability, the notice shall also include a statement, if applicable, that the employer is obligated to continue to make initial withdrawal liability payments in accordance with its existing schedule for payment of such liability.

(e) *Combined notices.* A plan sponsor may combine a notice of redetermination liability with the notice of and demand for payment of initial withdrawal liability. If a mass withdrawal and a withdrawal described in § 2648.9 occur concurrently, a plan sponsor may combine—

(1) A notice of mass withdrawal with a notice of withdrawal issued pursuant to § 2648.9(d); and

(2) A notice of redetermination liability with a notice of liability issued pursuant to § 2648.9(e).

(f) *Payment schedules.* The plan sponsor shall establish payment schedules for payment of an employer's mass withdrawal liability in accordance with the rules in section 4219(c) of the Act, as modified by this paragraph. For an employer that owes initial withdrawal liability as of the mass withdrawal valuation date, the plan sponsor shall establish new payment schedules for each element of mass withdrawal liability by amending the initial withdrawal liability payment schedule in accordance with the paragraph (f)(1) of this section. For all other employers, the payment schedules shall be established in accordance with paragraph (f)(2).

(1) *Employers owing initial withdrawal liability as of mass withdrawal valuation date.* For an employer that owes initial withdrawal liability as of the mass withdrawal valuation date, the plan sponsor shall amend the existing schedule of payments in order to amortize the new amounts of liability being assessed, *i.e.*, redetermination liability and reallocation liability. With respect to redetermination liability, the plan sponsor shall add that liability to the total initial withdrawal liability and determine a new payment schedule, in accordance with section 4219(c)(1) of the Act, using the interest assumptions that were used to determine the original payment schedule. For reallocation liability, the plan sponsor shall add that liability to the present value, as of the date following the mass withdrawal valuation date, of the unpaid portion of the amended payment schedule described in the preceding sentence and determine a new payment schedule of level annual payments, calculated as if the first payment were made on the day following the mass withdrawal valuation date using the interest assumptions used for determining the amount of unfunded vested benefits to be reallocated.

(2) *Other employers.* For an employer that had no initial withdrawal liability, or had fully paid its liability prior to the mass withdrawal valuation date, the plan sponsor shall determine the payment schedule for redetermination liability, in accordance with section 4219(c)(1) of the Act, in the same manner and using the same interest assumptions as were used or would have been used in determining the payment schedule for the employer's initial withdrawal liability. With respect to reallocation liability, the plan sponsor shall follow the rules prescribed in paragraph (f)(1) of this section.

(g) *Review of mass withdrawal liability determinations.* Determinations of mass withdrawal liability made pursuant to this part shall be subject to plan review under section 4219(b)(2) of the Act and to arbitration under section 4221 of the Act within the times prescribed by those sections. Matters that relate solely to the amount of, and schedule of payments for, an employer's initial withdrawal liability are not matters relating to the employer's liability under this part and are not subject to review pursuant to this paragraph.

(h) *Cessation of withdrawal liability obligations.* If the plan sponsor of a terminated plan distributes plan assets in full satisfaction of all nonforfeitable benefits under the plan, the plan sponsor's obligation to impose and collect liabilty, and each employer's obligation to pay liability, in accordance with this part ceases on the date of such distribution.

(i) *Determination that a mass withdrawal has not occurred.* If a plan sponsor determines, after imposing mass withdrawal liability pursuant to this part, that a mass withdrawal has not occurred, the plan sponsor shall refund

to employers all payments of mass withdrawal liability with interest, except that a plan sponsor shall not refund payments of liability for *de minimis* amounts to an employer that remains liable for such amounts under § 2648.9. Interest shall be credited at the interest rate prescribed in Part 2644 of this subchapter and shall accrue from the date the payment was received by the plan until the date of the refund.

§ 2648.8 Filings with PBGC.

(a) *Filing requirements.* The plan sponsor shall file with PBGC a notice that a mass withdrawal has occurred and separate certifications that determinations of redetermination liability and reallocation liability have been made and notices provided to employers in accordance with this part.

(b) *Who shall file.* The plan sponsor or a duly authorized representative acting on behalf of the plan sponsor shall sign and file the notice and the certifications.

(c) *When to file.* A notice of mass withdrawal for a plan from which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw shall be filed with the PBGC no later than 30 days after the mass withdrawal valuation date. A notice of mass withdrawal termination shall be filed within the time prescribed for the filing of that notice in Part 2673 of this chapter. Certifications of liability determinations shall be filed with the PBGC no later than 30 days after the date on which the plan sponsor is required to have provided employers with notices pursuant to § 2648.7.

(d) *Where to file.* The notice and certifications may be sent by mail or submitted by hand during normal working hours to the Case Classification and Control Division (25400) [hand deliveries to Room 5300], Insurance Operations Department, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006.

(e) *Filing date.* For purposes of paragraph (c)—

(1) The notice is considered filed on the date of the postmark stamped on the cover in which the notice is mailed if—

(i) The postmark was made by the United States Postal Service; and

(ii) The notice was mailed postage prepaid, properly packaged and addressed to the PBGC.

(2) If both conditions described in paragraph (e)(1) are not met, the notice is considered filed on the date it is received by the PBGC, except that notices received after regular business hours are considered filed on the next regular business day.

(f) *Contents of notice of mass withdrawal.* If a plan terminates by the withdrawal of every employer, a notice of termination filed in accordance with Part 2673 of this chapter shall satisfy the requirements for a notice of mass withdrawal under this Part. If substantially all employers withdraw from a plan pursuant to an agreement or arrangement to withdraw, the notice of mass withdrawal shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) assigned by the plan sponsor to the plan, and, if different, the EIN or PIN last filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so indicate.

(4) The mass withdrawal valuation date.

(5) A description of the facts on which the plan sponsor has based its determination that a mass withdrawal has occurred, including the number of contributing employers withdrawn and the number remaining in the plan, and a description of the effect of the mass withdrawal on the plan's contribution base.

(g) *Contents of certifications.* Each certification shall contain the following information:

(1) The name of the plan.

(2) The name, address and telephone number of the plan sponsor and of the duly authorized representative, if any, of the plan sponsor.

(3) The nine-digit Employer Identification Number (EIN) assigned by the Internal Revenue Service to the plan sponsor and the three-digit Plan Identification Number (PIN) last assigned by the plan sponsor to the plan, and, if different, the EIN or PIN filed with the PBGC. If no EIN or PIN has been assigned, the notice shall so indicate.

(4) Identification of the liability determination to which the certification relates.

(5) A certification, signed by the plan sponsor or a duly authorized representative, that the determinations have been made and the notices given in accordance with this part.

(6) For reallocation liability certifications—

(i) A certification, signed by the plan's actuary, that the determination of unfunded vested benefits has been done in accordance with the PBGC's multiemployer valuation regulation; and

(ii) A copy of plan rules, if any, adopted pursuant to § 2648.6(d).

(h) *Additional information.* In addition to the information described in paragraph (g) of this section, the PBGC may require the plan sponsor to submit any other information the PBGC determines it needs in order to monitor compliance with this part.

§ 2648.9 Withdrawal in a plan year in which substantially all employers withdraw.

(a) *General rule.* An employer that withdraws in a plan year in which substantially all employers withdraw from the plan shall be liable to the plan for *de minimis* amounts if the employer's initial withdrawal liability was reduced pursuant to section 4209 (a) or (b) of the Act.

(b) *Amount of liability.* An employer's liability for *de minimis* amounts under this section shall be determined pursuant to § 2648.4.

(c) *Plan sponsor's obligations.* The plan sponsor of a plan that experiences a withdrawal described in paragraph (a) shall—

(1) Determine and collect initial withdrawal liability of every employer that has completely or partially withdrawn, in accordance with sections 4201 and 4202 of the Act;

(2) Notify each employer that is or may be liable under this section, in accordance with paragraph (d) of this section;

(3) Within 90 days after the end of the plan year in which the withdrawal occurred, determine, in accordance with paragraph (b) of this section, the liability of each withdrawing employer that is liable under this section;

(4) Notify each liable employer, in accordance with paragraph (e) of this section, of the amount of its liability under this section, demand payment of and collect that liability; and

(5) Certify to the PBGC that determinations of liability have been completed, in accordance with paragraph (g) of this section.

(d) *Notice of withdrawal.* Within 30 days after the end of a plan year in which a plan experiences a withdrawal described in paragraph (a), the plan sponsor shall notify in writing each employer that is or may be liable under this section. The notice shall specify the plan year in which substantially all employers have withdrawn, describe the consequences of such withdrawal under this section, and state that an employer obligated to make initial withdrawal liability payments shall continue to

make those payments in accordance with its schedule.

(e) *Notice of liability.* Within 30 days after the detemination of liability, the plan sponsor shall issue a notice of liability in writing to each liable employer. The notice shall include—

(1) The amount of the employer's liability for *de minimis* amounts;

(2) A schedule for payment of the liability, determined under § 2648.7(f); and

(3) A demand for payment of the liability in accordance with the schedule.

(f) *Review of liability determinations.* Determinations of liability made pursuant to this section shall be subject to plan review under section 4219(b)(2) of the Act and to arbitration under section 4221 of the Act, subject to the limitations contained in § 2648.7(g).

(g) *Notice to the PBGC.* No later than 30 days after the notices of liability under this section are required to be provided to liable employers, the plan sponsor shall file with the PBGC a notice. The notice shall include the items described in § 2648.7(g)(1)–(g)(3), as well as the information listed below. In addition, the PBGC may require the plan sponsor to submit any further information that the PBGC determines it needs in order to monitor compliance with this section.

(1) The plan year in which the withdrawal occurred.

(2) A description of the effect of the withdrawal, including the number of contributing employers that withdrew in the plan year in which substantially all employers withdrew, the number of employers remaining in the plan, and a description of the effect of the withdrawal on the plan's contribution base.

(3) A certification, signed by the plan sponsor or duly authorized representative, that determinations have been made and notices given in accordance with this section.

§ 2648.10 Information Collection.

The information collection requirements contained in §§ 2648.7, 2648.8, and 2648.9 have been approved by the Office of Management and Budget under control number 1212–0034.

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

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its Chairman to issue same.

Edward R. Mackiewicz,

Secretary to the Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 86–6119 Filed 3–24–86; 8:45 am]

BILLING CODE 7708-01-M

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29 CFR Part 2676

Multiemployer Pension Plans; Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This regulation establishes rules for valuing assets and benefits of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act. Under section 4219(c)(1)(D), a multiemployer plan from which all or substantially all contributing employers have withdrawn must allocate unfunded vested benefits among the withdrawing employers, and for that purpose the amount of unfunded vested benefits must be determined. Under section 4281(b) of ERISA, a multiemployer plan that terminates because of the withdrawal of all employers or the cessation of all employers' obligations to contribute must value its assets and vested benefits each year to determine whether and to what extent benefits must be reduced. This regulation prescribes methods for valuing plan assets (including claims for withdrawal liability) and benefits in plans that are subject to section 4219(c)(1)(D) or section 4281(b) of ERISA.

EFFECTIVE DATE: This regulation is effective April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (35100), 2020 K Street, NW., Washington, DC 20006; 202–956–5051 (202–956–5059 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On February 19, 1985, the Pension Benefit Guaranty Corporation ("PBGC") published a proposed regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal (50 FR 6956). The PBGC received three comments on the proposed regulation and has made some changes in the regulation in response to the comments.

Interest Rate Assumption

Two comments expressed opposition to the prescription of a select and ultimate interest rate assumption on the ground that it woud give rise to a substantial increase in administrative costs. One comment cited, in particular, "substantial professional time to master the new approach, work through the systems modifications needed, understand the special features of the regulations, etc.," as well as programming and computer time. In response to this comment, the PBGC has surveyed eight of the largest pension actuarial consulting firms and learned that they all have already developed valuation systems using select and ultimate interest for purposes unrelated to this regulation. The PBGC is aware that actuaries who do not already have this capability may incur significant costs in developing a new system; however, these are for the most part one-time costs that will be amortized over a number of mass withdrawals. The added cost for any one plan should thus be minimal. Moreover, valuations can be subcontracted at reasonable cost to actuaries who have already developed systems that handle select and ultimate interest.

One comment objected to the use of a select and ultimate interest assumption on the grounds that it is, in effect, simply a more complicated way of reaching the same result that the single-employer interest assumption reaches. The comment argued that the new interest assumption would produce valuations "essentially the same" as those that would be produced by the existing single-employer interest assumption; that it would provide a degree of "sophistication or precision" that would be inconsistent with imprecisions inherent in other assumptions in the regulation, specifically the assumptions regarding the collectability of claims for withdrawal liability.

The PBGC believes this assertion is only partially accurate. As the preamble to the proposed regulation pointed out, the major reason for adopting a select and ultimate interest assumption is that the existing single-employer interest assumption produces biased results when applied to situations where claims for withdrawal liability form a major part of a plan's assets. Although in valuing a typical plan, the use of the new select and ultimate assumption, rather than the existing single-employer assumption, should not result in a significant difference in the value of

benefits, it will generate a significantly different value for assets if a substantial amount of outstanding withdrawal liability is present. This is illustrated by the numerical example at 50 CFR 6959 in the preamble to the proposed regulation. The select and ultimate interest assumption values assets receivable and benefits payable in a consistent manner, thus avoiding bias against either participants or employers. The fact that simplifications in other areas of the prescribed assumptions may result in some imprecision does not make that avoidable bias acceptable.

The same comment asked that the PBGC offer to perform mass withdrawal valuations for a fee or publish tables of values for the most common annuities. There are many private enterprises in the business of performing actuarial valuations, and the PBGC considers it inappropriate to compete with them. The PBGC therefore rejects the suggestion that it engage in the business of performing actuarial valuations. The PBGC is studying the possibility of making available to the public either tables of values or microcomputer programs for valuing benefits using a select and ultimate interest assumption.

One comment questioned the propriety of constructing the select and ultimate rate series in such a way as to produce benefit values approximating those that the single-employer interest assumption would produce, because the single-employer assumption is loaded for administrative expenses, whereas the value of plan assets under § 2676.22(f) of this regulation excludes such expenses. In fact, accrued administrative expenses are deducted from assets for both single-employer and multiemployer plans. The small loading factor built into the single-employer rates, and to be reflected in the multiemployer rates, accommodates costs to be incurred after the valuation date.

Another comment contended that the sample select and ultimate interest rate series in the proposed regulation bore little relationship to the market interest rate environment for the period to which it would have applied, and voiced concern that the PBGC's method for determining and monitoring the corresponding single-employer rates might not be achieving the intended purpose of reflecting prices in the commercial annuity market. The PBGC believes that the select and ultimate interest assumption should produce values that reflect expected future investment yields, and that the existing single-employer assumption provides a reasonable proxy for such expected future yields. The PBGC is therefore designing the select and ultimate rate series to match the results generated by the existing single-employer rates. Simultaneously, however, the PBGC is also reviewing its procedures for determining the single-employer interest rates to determine whether those procedures should be changed.

Retirement Incidence Assumption

Two comments objected to the early retirement assumptions in proposed § 2676.12(b). That paragraph provided two alternative rules regarding the incidence of early retirement. The presumptive rule was that participants would retire at the date that maximized the value of their benefits. The optional rule was that they would retire at the earliest possible date. The presumptive rule was to be used unless it would produce a benefit value not more than ten percent higher than the value produced by the optional rule, in which case either rule could be used.

The comments challenged the PBGC's reasoning, expressed in the preamble to the proposed regulation, that a mass withdrawal would likely lead to a situation in which participants would seek their benefits as soon as possible, unless by waiting they could increase the benefits' value. They also argued that the criterion for using the optional rule would require the performance of two valuations—one under each of the two rules—before a plan would know whether it qualified for the use of the optional rule. One of the two comments questioned the ability of participants to determine the retirement date that would maximize benefits. The other comment noted that subsidized early retirement benefits would typically have their greatest value at the earliest available retirement date, blurring the distinction between the two alternative rules. Both comments urged that the regulation permit more flexibility in the adoption of early retirement incidence assumptions.

The PBGC continues to believe that participants in a plan that has lost all or most of its contribution base are most likely to react in the way described in the preamble to the proposed regulation. However, the PBGC agrees that there may indeed be little distinction in the typical case between the proposed presumptive and optional rules, and that greater flexibility is desirable. Accordingly, § 2676.12(b) has been modified in the final regulation. This paragraph now requires that the earliest retirement date be used, unless the plan sponsor demonstrates to the PBGC's satisfaction that some other assumption is more reasonable given the plan's particular circumstances. This will allow plans to base retirement incidence assumptions on, for example, empirical data regarding retirements since the mass withdrawal.

Asset Valuation Assumptions

One comment objected to the provisions of § 2676.31(b) and (c) prescribing assumptions regarding the probability of collecting withdrawal liability from employers. The comment pointed out that some amount can often be collected from bankrupt employers and that, on the other hand, the full amount may not always be collected from employers that are not bankrupt.

The PBGC agrees with these observations. Nevertheless, the PBGC has been unable to develop, and the comment did not suggest, any other method of assessing the probability of collection that matches the proposed method for simplicity and objectivity. Furthermore, as the preamble to the proposed regulation stated, the PBGC expects the proposed method to produce reasonably good results in the aggregate. In other words, partial collections from bankrupts will tend to be balanced by less than full collections from supposedly healthy employers. For these reasons, the proposed method is retained in the final regulation.

The same comment also asked that the regulation include guidance on the valuation of insurance contracts. On May 8, 1985 (after the comment was submitted), the PBGC published (at 50 FR 19386) a proposed amendment to its regulation on Valuation of Plan Assets (for single-employer plans), 29 CFR Part 2620. That proposed amendment would, among other things, prescribe rules regarding the valuation of insurance contracts. While that regulation deals with single-employer rather than multiemployer plans, the PBGC intends to extend the insurance valuation concepts ultimately adopted under Part 2620 to multiemployer plans through a future amendment to this regulation.

Other Comments

One comment suggested that the regulation expressly state that it does not furnish a standard of reasonableness by which to judge the assumptions and methods used for valuations in ongoing plans, including valuations on which to base initial withdrawal liability calculations in mass withdrawal situations. Sections 2676.1 and 2676.2 state clearly that the regulation applies only to valuations required under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act ("ERISA"). The

PBGC's proposed regulation on Redetermination of Withdrawal Liability Upon Mass Withdrawal (49 FR 45018, November 14, 1984) also makes clear that determinations of initial withdrawal liability in mass withdrawal cases are to be made using the same methods and assumptions that would be used if no mass withdrawal had occurred. The PBGC considers it unnecessary at this time to consider or take a position on the question of whether the assumptions prescribed in this regulation would be reasonable or appropriate for any other purpose under ERISA.

The same comment urged that fully funded plans not be required to use the actuarial assumptions set forth in this regulation. In support of this point the comment observed that withdrawal liability is not an issue for fully funded plans: they have no withdrawal liability to value among their assets and they do not need to assess withdrawal liability upon a mass withdrawal. The comment proposed that such plans be allowed to use the single-employer trusteed plan assumptions so long as they were fully funded—with perhaps some cushion of excess assets—as measured by those assumptions. To adopt this approach, however, would be to abandon the concept of a single standard for valuing plans that have undergone a mass withdrawal. The use of a single standard protects the PBGC against plans' selecting from two valuations the one that produces the lower value of unfunded vested benefits (to the potential detriment of the PBGC), and is none of the central principles underlying the regulation. The fact that the select and ultimate interest assumption produces values close to those produced by the single-employer assumption for a hypothetical typical plan does not mean that it does so for each actual plan. Furthermore, there are several other differences between the two valuation standards. Finally, in the PBGC's experience, the vast majority of fully funded plans that terminate by mass withdrawal choose to close out. The PBGC continues to believe that the special rule for plans closing out provides adequate relief for fully funded terminated plans.

Another comment wanted the regulation to indicate that the age of a spouse may be estimated where necessary. The PBGC believes that it is inherent in the practice of the actuarial profession to make reasonable estimates of various kinds where precise data are not reasonably available, and that this principle need not be stated in the regulation.

This comment also called to the PBGC's attention a typographical error in § 2676.14(c), where the expression "$x<15$" should have read "$x \geqq 15$".

Other Changes From the Proposed Rule

A new paragraph (i) has been added to § 2676.13 to provide valuation formulas for two common forms of variable single-sum death benefits, supplementing the formulas for valuing fixed single-sum death benefits in § 2676.13(h).

The wording in § 2676.13(g)(3) and (g)(4) has been changed to make clear that the benefits described are contingent on the survival of the participant.

E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. ERISA requires the valuation of a multiemployer plan's assets and nonforfeitable benefits when a plan has incurred a mass withdrawal. This regulation merely implements that requirement.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. The regulation affects only multiemployer plans covered by the PBGC. Defining "small plans" as those with under 100 participants, such plans represent less than 14% of all multiemployer plans covered by the PBGC (346 out of 2485). Further, small multiemployer plans represent only 0.4% of all small plans covered by the PBGC (346 out of 84,288). This regulation will affect only those plans that experience a mass withdrawal. Based on the PBGC's experience to date, it is estimated that no more than 10 multiemployer plans will be terminated by mass withdrawal in any given year, and even fewer plans will experience a withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw. Thus, the PBGC expects there to be few plans that will need to value plan assets and nonforfeitable benefits under these rules and very few employers whose liabilities will be affected by the valuations (less than 5 percent of all small employers contributing to multiemployer plans). Therefore, compliance with sections 603 and 604 of the Regulatory Flexibility Act is waived.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended by adding a new Part 2676 as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

Subpart A—General

Sec.
2676.1 Purpose and scope.
2676.2 General rules.

Subpart B—Valuation of Benefits

2676.11 Purpose and scope.
2676.12 Benefits to be valued.
2676.13 Valuation methods.
2676.14 Mortality.
2676.15 Interest.
2676.16 Special valuation rule for plans that are closing out.

Subpart C—Valuation of Assets

2676.21 Purpose and scope.
2676.22 Valuation methods.
2676.23 Certain units of participation in common trust funds and collective investment funds.
2676.24 Treasury bills.
2676.25 Treasury notes, bonds, and Federal agency securities.
2676.26 Shares in open-end mutual funds.
2676.27 Common and preferred stocks, warrants, and shares in closed-end mutual funds principally traded on certain major exchanges.
2676.28 Common and preferred stocks, warrants, and shares in closed-end mutual funds principally traded on other exchanges.
2676.29 Common and preferred stocks, warrants, and shares in closed-end mutual funds principally traded over-the-counter.
2676.30 State and municipal obligations.
2676.31 Outstanding claims for withdrawal liability.

Authority: Secs. 4002(b)(3), 4219(c)(1)(D), and 4281(b), Pub. L. 93–406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96–364, 94 Stat. 1302, 1237–1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

Subpart A—General

§ 267.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to establish rules for determining the value of multiemployer plan benefits and assets, including outstanding claims for withdrawal liability, under sections 4219(c)(1)(D) and 4281(b) of the Act. When a multiemployer plan incurs a mass withdrawal of contributing employers, section 4219(c)(1)(D) requires that the plan's total unfunded vested benefits (as defined in section 4213(c) of the Act) by fully allocated among the withdrawing employers. The plan sponsor must value the plan's benefits and assets to determine the amount of unfunded vested benefits to be allocated. Further, when a multiemployer plan terminates as a result of a mass withdrawal of contributing employers, section 4281(b) requires an annual valuation of the plan's assets and benefits, in order to determine whether plan benefits must be reduced pursuant to section 4281(c).

(b) *Scope.* This part applies to all multiemployer plans covered by section 4021(a) of the Act, and not excluded by section 4021(b), that are required to allocate unfunded vested benefits under section 4219(c)(1)(D) of the Act or to perform annual valuations under section 4281(b) of the Act on or after the effective date of this part.

§ 2676.2 General rules.

(a) *Valuations related to mass withdrawal reallocation liability.* Whenever the value of unfunded vested benefits must be determined (in order to be allocated) under section 4219(c)(1)(D) of the Act, the plan sponsor shall determine that value in accordance with this part. The valuation date that the plan sponsor shall use for this purpose shall be—

(1) In a case in which the plan terminates because of the complete withdrawal of every employer from the plan or the cessation of the obligation of all employers to contribute under the plan, the last day of the plan year in which the plan terminates; or

(2) In a case in which substantially all the employers withdraw from the plan pursuant to an agreement or arrangement to withdraw from the plan, the last day of the plan year as of which substantially all employers have withdrawn from the plan pursuant to the agreement or arrangement.

(b) *Annual valuations of mass-withdrawal-terminated plans.* The plan sponsor shall perform the annual valuation of the plan's nonforfeitable benefits and assets required under section 4281(b) of the Act in accordance with this part. The valuation dates that the plan sponsor shall use for this purpose shall be the last day of the plan year in which the plan terminates and the last day of each plan year thereafter.

Subpart B—Valuation of Benefits

§ 2676.11 Purpose and scope.

This subpart sets forth the rules for calculating the value of a benefit being, or to be, paid to a participant or beneficiary for purposes of sections 4219(c)(1)(D) and 4281(b) of the Act.

§ 2676.12 Benefits to be valued.

(a) *Form of benefit.* The plan sponsor shall determine the form of each benefit to be valued, without regard to the form of benefit valued in any prior year, in accordance with the following rules:

(1) If a benefit is in pay status as of the valuation date, the plan sponsor shall value the form of benefit being paid.

(2) If a benefit is not in pay status as of the valuation date but a valid election with respect to the form of benefit has been made on or before the valuation date, the plan sponsor shall value the form of benefit so elected.

(3) If a benefit is not in pay status as of the valuation date and no valid election with respect to the form of benefit has been made on or before the valuation date, the plan sponsor shall value the form of benefit that, under the terms of the plan or applicable law, is payable in the absence of a valid election.

(b) *Timing of benefit.* The plan sponsor shall value benefits whose starting date is subject to election—

(1) By assuming that the starting date of each benefit is the earliest date, not preceding the valuation date, that could be elected; or

(2) By using any other assumption that the plan sponsor demonstrates to the satisfaction of the PBGC is more reasonable under the particular circumstances of the plan.

§ 2676.13 Valuation methods.

(a) *General rule.* Except as otherwise provided in § 2676.16 (pertaining to plans that are closing out), the plan sponsor shall value benefits as of the valuation date using the mortality and interest assumptions prescribed by §§ 2676.14 and 2676.15 and using interpolation methods, where necessary, at least as accurate as linear interpolation, and—

(1) In the case of any benefit described in paragraphs (b)-(i) of this section, by applying the formula set forth therein for the present value of that benefit; or

(2) In the case of any benefit not described in paragraphs (b)-(i) of this section, by applying formulas derived from generally accepted actuarial principles in a manner consistent with the formulas set forth in paragraph (b)-(i) of this section.

(b) *Single-sum payments (other than death benefits).* The present value of a single-sum payment of *1* to be made *n* years after the valuation date is as follows:

(1) If the payment is not contingent on the survival of any person:

$$v^{0:n} = \left(\frac{1}{1+i_{k+1}}\right)^{j} \cdot \prod_{t=1}^{k} \frac{1}{1+i_t},$$

where $n = k + j$, k is an integer, $0 \leqq j < 1$, $v^{0:0} = 1$, and i_k is the interest rate determined under § 2676.15 applicable to the year ending on the kth anniversary of the valuation date.

(2) If the payment is contingent on the survival of a person aged x on the valuation date:

$$_{n}p_{x} \cdot v^{0:n} = \frac{l_{x+n}}{l_x} \cdot v^{0:n},$$

where l_x and l_{x+n} are the numbers of persons living at ages x and $x+n$ respectively, as determined under § 2676.14.

(3) If the payment is contingent on the survival of two persons aged x and y respectively on the valuation date:

$$_{n}p_{x} \cdot {}_{n}p_{y} \cdot v^{0:n}.$$

(c) *Basic annuities in pay status.* The present value of an annuity due providing payments of *1/m*, *m* times per year, starting on the valuation date, is as follows:

(1) If the annuity is for a term certain of *r* years after the valuation date and is not contingent on the survival of any person:

$$\ddot{a}^{(m)}_{\overline{r}|} = \frac{1}{m}\sum_{t=0}^{r-1}\frac{v^{0:t}(v^{0:t} - v^{0:t+1})}{v^{0:t} - v^{0:t+(1/m)}} .$$

(2) If the annuity is for the life of a person aged x on the valuation date:

$$\ddot{a}^{(m)}_{x} = \sum_{t=0}^{\infty}(v^{0:t} \cdot {}_tp_x) - \frac{m-1}{2m} .$$

(3) If the annuity is for the joint lives of two persons aged x and y on the valuation date:

$$\ddot{a}^{(m)}_{x:y} = \sum_{t=0}^{\infty}(v^{0:t} \cdot {}_tp_x \cdot {}_tp_y) - \frac{m-1}{2m} .$$

(d) *Basic deferred annuities.* The present value of an annuity due providing payments of $1/m$, m times per year, starting n years after the valuation date, is as follows:

(1) If the annuity is for a term certain of r years and is not contingent on the survival of any person:

$$_{n|}\ddot{a}^{(m)}_{\overline{r}|} = \ddot{a}^{(m)}_{\overline{n+r}|} - \ddot{a}^{(m)}_{\overline{n}|} .$$

(2) If the annuity is for a term certain of r years and is contingent on the survival for n years of a person aged x on the valuation date:

$$_np_x \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r}|} .$$

(3) If the annuity is for the life of a person aged x on the valuation date:

$$_{n|}\ddot{a}^{(m)}_{x} = \sum_{t=n}^{\infty}(v^{0:t} \cdot {}_tp_x) - v^{0:n} \cdot {}_np_x \cdot \frac{m-1}{2m} .$$

(4) If the annuity is for the life of a person aged y on the valuation date and is contingent on the survival for n years of a person aged x on the valuation date:

$$_np_x \cdot {}_{n|}\ddot{a}^{(m)}_{y} .$$

(5) If the annuity is for the joint lives of two persons aged x and y on the valuation date:

$$ {}_{n|}\ddot{a}^{(m)}_{x:y} = \sum_{t=n}^{\infty} (v^{0:t} \cdot {}_{t}p_{x} \cdot {}_{t}p_{y}) - v^{0:n} \cdot {}_{n}p_{x} \cdot {}_{n}p_{y} \cdot \frac{m-1}{2m} . $$

(e) *Joint and survivor annuities in pay status.* The present value of an annuity due providing payments m times per year, starting on the valuation date, in an initial amount of $1/m$ per payment, and in an ultimate amount of s/m per payment, is as follows:

(1) If the annuity is payable in the initial amount for the life of a person aged x on the valuation date and, after the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$$ \ddot{a}^{(m)}_{x} + s(\ddot{a}^{(m)}_{y} - \ddot{a}^{(m)}_{x:y}) . $$

(2) If the annuity is payable in the initial amount for the joint lives of two persons aged x and y on the valuation date and, after the death of either of those persons, in the ultimate amount for the life of the survivor:

$$ \ddot{a}^{(m)}_{x:y} + s(\ddot{a}^{(m)}_{x} + \ddot{a}^{(m)}_{y} - 2 \cdot \ddot{a}^{(m)}_{x:y}) . $$

(3) If the annuity is payable in the initial amount for a term certain of r years after the valuation date or for the life of a person aged x on the valuation date (whichever of those two periods is longer) and, after the expiration of the term certain and the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$$ \ddot{a}^{(m)}_{\overline{r}|} + {}_{r|}\ddot{a}^{(m)}_{x} + s({}_{r|}\ddot{a}^{(m)}_{y} - {}_{r|}\ddot{a}^{(m)}_{x:y}) . $$

(4) If the annuity is payable in the initial amount for a term certain of r years after the valuation date or for the joint lives of two persons aged x and y on the valuation date (whichever of those two periods is longer) and, after the expiration of the term certain and the death of either of the persons, in the ultimate amount for the life of the survivor:

$$ \ddot{a}^{(m)}_{\overline{r}|} + {}_{r|}\ddot{a}^{(m)}_{x:y} + s({}_{r|}\ddot{a}^{(m)}_{x} + {}_{r|}\ddot{a}^{(m)}_{y} - 2 \cdot {}_{r|}\ddot{a}^{(m)}_{x:y}) . $$

(f) *Deferred joint and survivor annuities.* The present value of an annuity due providing payments m times per year, starting n years after the valuation date, in an initial amount of $1/m$ per payment, and in an ultimate amount of s/m per payment, contingent on the survival for n years of a person aged x on the valuation date, is as follows:

(1) If the annuity is payable in the initial amount for the life of the person and, after the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$$ {}_{n|}\ddot{a}^{(m)}_{x} + s({}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{y} - {}_{n|}\ddot{a}^{(m)}_{x:y}) . $$

(2) If the annuity is payable in the initial amount for the joint lives of the person and a person aged y on the valuation date and, after the death of either of those persons, in the ultimate amount for the life of the survivor:

$$ {}_{n|}\ddot{a}^{(m)}_{x:y} + s({}_{n|}\ddot{a}^{(m)}_{x} + {}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{y} - 2 \cdot {}_{n|}\ddot{a}^{(m)}_{x:y}) . $$

(3) If the annuity is payable in the initial amount for a term certain of r years of for the life of the person (whichever of those two periods is longer) and, after the expiration of the term certain and the death of that person, in the ultimate amount for the life of a person aged y on the vaulation date:

$$ {}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r|}} + {}_{n+r|}\ddot{a}^{(m)}_{x} + s({}_{n}p_{x} \cdot {}_{n+r|}\ddot{a}^{(m)}_{y} - {}_{n+r|}\ddot{a}^{(m)}_{x:y}). $$

(4) If the annuity is payable in the initial amount for a term certain of r years or for the joint lives of the person and a person aged y on the valuation date (whichever of those two periods is longer) and, after the expiration of the term certain and the death of either of those persons, in the ultimate amount for the life of the survivor:

$$ {}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r|}} + {}_{n+r|}\ddot{a}^{(m)}_{x:y} + s({}_{n+r|}\ddot{a}^{(m)}_{x} + {}_{n}p_{x} \cdot {}_{n+r|}\ddot{a}^{(m)}_{y} - 2 \cdot {}_{n+r|}\ddot{a}^{(m)}_{x:y}). $$

(g) *Single life or certain annuities.* The present value of an annuity due providing payments of $1/m$, m times per year, for the life of a person aged x on the valuation date or a term certain of r years, is as follows:

(1) If the annuity starts on the valuation date and is for the shorter of those two periods:

$$ \ddot{a}^{(m)}_{x} - {}_{r|}\ddot{a}^{(m)}_{x}. $$

(2) If the annuity starts on the valuation date and is for the longer of those two periods:

$$ \ddot{a}^{(m)}_{\overline{r|}} + {}_{r|}\ddot{a}^{(m)}_{x}. $$

(3) If, contingent on the survival of the person for n years, the annuity starts n years after the valuation date and is for the shorter of those two periods:

$$ {}_{n|}\ddot{a}^{(m)}_{x} - {}_{n+r|}\ddot{a}^{(m)}_{x}. $$

(4) If, contingent on the survival of the person for n years, the annuity starts n years after the valuation date and is for the longer of those two periods:

$$ {}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r|}} + {}_{n+r|}\ddot{a}^{(m)}_{x}. $$

(h) *Fixed single-sum death benefits.* The present value of a fixed single-sum payment of 1 to be made upon the death of a person aged x on the valuation date is as follows:

(1) If the payment is to be made whenever death occurs;

$$ \bar{A}_{x} = \sum_{t=0}^{\infty} v^{0:t+\frac{1}{2}} ({}_{t}p_{x} - {}_{t+1}p_{x}). $$

(2) If the payment is to be made only if the person dies within r years after the valuation date:

$$ \bar{A}^{1}_{x:\overline{r|}} = \sum_{t=0}^{r-1} v^{0:t+\frac{1}{2}} ({}_{t}p_{x} - {}_{t+1}p_{x}). $$

(3) If the payment is to be made only if the person dies at least n years after the valuation date:

$$ \bar{A}_{x} - \bar{A}^{1}_{x:\overline{n|}}. $$

(4) If the payment is to be made only if the person dies at least n years, but within $n+r$ years, after the valuation date:

$$ \bar{A}^{1}_{x:\overline{n+r|}} - \bar{A}^{1}_{x:\overline{n|}}. $$

(i) *Variable single-sum death benefits.* The present value of a single-sum payment to be made upon the death of a person aded x on the valuation date, if the person dies within r years after the valuation date, is as follows:

(1) If the amount payable is initially r-$1/m$ and decreases by $1/m$, m times per year:

$$ \sum_{t=0}^{r-1} \left(r - t - \frac{m+1}{2m}\right) \cdot v^{0:t+\frac{1}{2}} \cdot ({}_{t}p_{x} - {}_{t+1}p_{x}). $$

(2) If the amount payable is initially 1 and increases at an effective interest rate of e, compounded annually:

$$ \sum_{t=0}^{r-1} (1+e)^{t+\frac{1}{2}} \cdot v^{0:t+\frac{1}{2}} \cdot ({}_{t}p_{x} - {}_{t+1}p_{x}). $$

§ 2676.14 Mortality.

(a) *General rule.* In determining the value of mortality factors of the form $_{n}p_{x}$ (as defined in § 2676.13(b)(2)) for purposes of applying the formulas set forth in § 2676.13(b)—(i), and in determining the value of any mortality factor used in valuing other benefits under § 2676.13(a)(2), the plan sponsor shall use the values of l_x prescribed in paragraphs (d), (e) and (f) of this section.

(b) *Certain death benefits.* If an annuity for one person is in pay status on the valuation date, and if the payment of a death benefit after the valuation date to another person, who need not be identifiable on the valuation date, depends in whole or in part on the death of the pay status annuitant, then to determine the mortality factors involved in the valuation of the death benefit—

(1) In the case of factors that represent the mortality of the pay status annuitant, the plan sponsor shall apply the mortality rates that are applicable to the annuity in pay status under paragraph (d), (e) or (f) of this section; and

(2) In the case of factors that represent the mortality of the death beneficiary, the plan sponsor shall apply the mortality rates applicable to annuities not in pay status and to deferred benefits other than annuities, under paragraph (d) of this section.

(c) *Description of mortality tables.* The tables in paragraphs (d), (e) and (f) of this section tabulate, for each age (denoted by x, $x \geqq 15$), the number of persons assumed to be living at that age (denoted by l_x) out of a closed group consisting originally of 10,000 persons aged 15 years.

(d) *Healthy lives.* The values of l_x applicable to annuities in pay status on the valuation date that are not being received as disability benefits, to annuities not in pay status on the valuation date, and to deferred benefits other than annuities, are as follows:

MORTALITY TABLE FOR HEALTHY MALE PARTICIPANTS

Age x	l_x
15	10,000.0000
16	9,985.6300
17	9,971.5103
18	9,957.6998
19	9,944.2469
20	9,931.2100
21	9,918.6272

MORTALITY TABLE FOR HEALTHY MALE PARTICIPANTS—Continued

Age x	l_x
22	9,906.5364
23	9,894.9755
24	9,883.6062
25	9,872.4476
26	9,861.5188
27	9,850.8388
28	9,840.4166
29	9,829.7594
30	9,818.8385
31	9,807.6352
32	9,796.1308
33	9,784.2971
34	9,771.6069
35	9,757.9462
36	9,743.1824
37	9,727.1744
38	9,709.7433
39	9,690.8287
40	9,670.2357
41	9,647.7331
42	9,623.0735
43	9,595.9557
44	9,566.2562
45	9,533.6353
46	9,497.7030
47	9,458.0026
48	9,414.1648
49	9,366.1243
50	9,313.5241
51	9,255.8175
52	9,192.3874
53	9,123.0492
54	9,047.5286
55	8,965.8023
56	8,877.2650
57	8,781.2663
58	8,677.0941
59	8,564.7084
60	8,443.4150
61	8,312.4661
62	8,171.0711
63	8,018.3946
64	7,853.8812
65	7,676.6819
66	7,485.9394
67	7,282.0823
68	7,066.2851
69	6,839.6481
70	6,602.0182
71	6,353.3400
72	6,093.6726
73	5,822.4798
74	5,540.0662
75	5,246.9247
76	4,943.7836
77	4,631.6232
78	4,313.7642
79	3,991.7503
80	3,667.3966
81	3,342.7660
82	3,021.1317
83	2,705.9975
84	2,400.7177
85	2,107.6405
86	1,829.0652
87	1,567.1815
88	1,324.0380
89	1,101.3242
90	900.3755
91	722.0741
92	566.8029
93	434.7475
94	324.9542
95	235.9564
96	165.8415
97	112.3488
98	73.0823
99	45.3940
100	26.7427
101	14.8217
102	7.6505
103	3.6393

MORTALITY TABLE FOR HEALTHY MALE PARTICIPANTS—Continued

Age x	l_x
104	1.5708
105	0.6026
106	0.1996
107	0.0547
108	0.0117
109	0.0017
110	0.0001

MORTALITY TABLE FOR HEALTHY FEMALE PARTICIPANTS

Age x	l_x
15	10,000.000
16	10,000.000
17	10,000.000
18	10,000.000
19	10,000.000
20	10,000.000
21	9,985.6300
22	9,971.5103
23	9,957.6998
24	9,944.2469
25	9,931.2100
26	9,918.6272
27	9,906.5364
28	9,894.9755
29	9,883.6062
30	9,872.4476
31	9,861.5188
32	9,850.8388
33	9,840.4166
34	9,829.7594
35	9,818.8385
36	9,807.6352
37	9,796.1308
38	9,784.2971
39	9,771.6069
40	9,757.9462
41	9,743.1824
42	9,727.1744
43	9,709.7433
44	9,690.8287
45	9,670.2357
46	9,647.7331
47	9,623.0735
48	9,595.9557
49	9,566.2562
50	9,533.6353
51	9,497.7030
52	9,458.0026
53	9,414.1648
54	9,366.1243
55	9,313.5241
56	9,255.8175
57	9,192.3874
58	9,123.0492
59	9,047.5286
60	8,965.8023
61	8,877.2650
62	8,781.2663
63	8,677.0941
64	8,564.7084
65	8,443.4150
66	8,312.4661
67	8,171.0711
68	8,018.3946
69	7,853.8812
70	7,676.6819
71	7,485.9394
72	7,282.0823
73	7,066.2851
74	6,839.6481
75	6,602.0182
76	6,353.3400
77	6,093.6726
78	5,822.4798
79	5,540.0662
80	5,246.9247

MORTALITY TABLE FOR HEALTHY FEMALE PARTICIPANTS—Continued

Age x	l_x
81	4,943.7836
82	4,631.6232
83	4,313.7642
84	3,991.7503
85	3,667.3966
86	3,342.7660
87	3,021.1317
88	2,705.9975
89	2,400.7177
90	2,107.6405
91	1,829.0652
92	1,567.1815
93	1,324.0380
94	1,101.3242
95	900.3755
96	722.0741
97	566.8029
98	434.7475
99	324.9542
100	235.9564
101	165.8415
102	112.3488
103	73.0823
104	45.3940
105	26.7427
106	14.8217
107	7.6505
108	3.6393
109	1.5708
110	0.6026

(e) *Disabled lives (other than Social Security disability).* The values of l_x applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which neither eligibility for, nor receipt of, Social Security disability benefits is a prerequisite, are as follows:

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS NOT RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x
15	10,000.0000
16	9,986.4900
17	9,973.3977
18	9,960.7614
19	9,948.6192
20	9,937.0092
21	9,925.5916
22	9,914.3856
23	9,903.4104
24	9,892.6850
25	9,882.2185
26	9,871.5161
27	9,860.5488
28	9,849.2979
29	9,837.7447
30	9,825.8607
31	9,813.1166
32	9,799.3979
33	9,784.5714
34	9,768.4953
35	9,750.9902
36	9,731.9953
37	9,711.3148
38	9,688.7166
39	9,663.9522
40	9,636.7192
41	9,606.8936
42	9,574.1341
43	9,538.0492
44	9,498.1802
45	9,454.1561
46	9,405.9115
47	9,353.0879
48	9,295.1362
49	9,231.4366
50	9,161.8039
51	9,085.9625
52	9,003.8890

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS NOT RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	l_x
53	8,914.9756
54	8,818.5691
55	8,713.9544
56	8,601.0913
57	8,479.2826
58	8,347.7774
59	8,205.7817
60	8,052.4567
61	7,887.2444
62	7,709.2924
63	7,517.7396
64	7,313.0165
65	7,096.3026
66	6,868.7029
67	6,630.0636
68	6,380.3290
69	6,119.5586
70	5,847.2138
71	5,563.6005
72	5,269.2137
73	4,964.7849
74	4,651.2985
75	4,332.0892
76	4,008.7074
77	3,682.9759
78	3,356.9662
79	3,033.9656
80	2,717.4926
81	2,410.9160
82	2,116.5938
83	1,836.8351
84	1,573.8389
85	1,329.6625
86	1,106.0026
87	904.2003
88	725.1415
89	569.2107
90	436.5943
91	326.3346
92	236,9587
93	166.5459
94	112.8260
95	73.3927
96	45.5868
97	26.8563
98	14.8846
99	7.6830
100	3.6548
101	1.5775
102	0.6052
103	0.2005
104	0.0550
105	0.0117
106	0.0017
107	0.0001

MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS NOT RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x
15	10,000.0000
16	10,000.0000
17	10,000.0000
18	10,000.0000
19	10,000.0000
20	10,000.0000
21	9,986.4900
22	9,973.3977
23	9,960.7614
24	9,948.6192
25	9,937.0092
26	9,925.5916
27	9,914.3856
28	9,903.4104
29	9,892.6850
30	9,882.2185
31	9,871.5161
32	9,860.5488
33	9,849.2979
34	9,837.7447
35	9,825.8607
36	9,813.1166
37	9,799.3979
38	9,784.5714

MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS NOT RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	l_x
39	9,768.4953
40	9,750.9902
41	9,731.9953
42	9,711.3148
43	9,688.7166
44	9,663.9522
45	9,636.7192
46	9,606.8936
47	9,574.1341
48	9,538.0492
49	9,498.1802
50	9,454.1561
51	9,405.9115
52	9,353.0879
53	9,295.1362
54	9,231.4366
55	9,161.8039
56	9,085.9625
57	9,003.8890
58	9,914.9756
59	8,818.5691
60	8,713.9544
61	8,601.0913
62	8,479.2826
63	8,347.7774
64	8,205.7817
65	8,052.4567
66	7,887.2444
67	7,709.2924
68	7,517.7396
69	7,313.0165
70	7,096.3026
71	6,868.7029
72	6,630.0636
73	6,380.3290
74	6,119.5586
75	5,847.2138
76	5,563.6005
77	5,269.2137
78	4,964.7849
79	4,651.2985
80	4,332.0892
81	4,008.7074
82	3,682.9759
83	3,356.9662
84	3,033.9656
85	2,717.4926
86	2,410.9160
87	2,116.5938
88	1,836.8351
89	1,573.8389
90	1,329.6625
91	1,106.0026
92	904.2003
93	725.1415
94	569.2107
95	436.5943
96	326.3346
97	236.9587
98	166.5459
99	112.8260
100	73.3927
101	45.5868
102	26.8563
103	14.8846
104	7.6830
105	3.6548
106	1.5775
107	0.6052
108	0.2005
109	0.0550
110	0.0117

(f) *Disabled lives (Social Security disability).* The values of l_x applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which either eligibility for, or receipt of, Social Security disability benefits is a prerequisite, are as follows:

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x
15	10,000.0000
16	10,000.0000
17	10,000.0000
18	10,000.0000
19	10,000.0000
20	10,000.0000
21	9,517.0000
22	9,057.3289
23	8,619.8599
24	8,203.5207
25	7,807.2906
26	7,430.1985
27	7,087.6663
28	6,778.6441
29	6,500.0418
30	6,249.1402
31	6,022.9213
32	5,818.7443
33	5,632.5445
34	5,462.4416
35	5,305.1233
36	5,157.6409
37	5,017.3531
38	4,881.3828
39	4,748.1210
40	4,617.0729
41	4,486.8714
42	4,357.6495
43	4,228.2274
44	4,099.2664
45	3,970.5495
46	3,842.6978
47	3,715.8887
48	3,589.5485
49	3,462.8375
50	3,335.7513
51	3,207.9920
52	3,079.3516
53	2,950.0188
54	2,820.5130
55	2,690.7694
56	2,561.0743
57	2,431.4839
58	2,302.3721
59	2,174.5905
60	2,048.2468
61	1,924.7375
62	1,804.6339
63	1,686.5959
64	1,577.6552
65	1,472.2678
66	1,372.4480
67	1,278.1609
68	1,189.0731
69	1,104.7678
70	1,024.8931
71	949.1535
72	877.3025
73	809.2239
74	744.8096
75	683.8842
76	626.3012
77	571.8756
78	519.9493
79	469.9302
80	420.9165
81	373.4371
82	327.8404
83	284.4999
84	243.7595
85	205.9524
86	171.3112
87	140.0469
88	112.3176
89	88.1693
90	67.6259
91	50.5503
92	36.7046
93	25.7960
94	17.4742
95	11.3670
96	7.0600
97	4.1591
98	2.3050

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	l_x
99	1.1898
100	.5660
101	.2443
102	.0937
103	.0310
104	.0085
105	.0018
106	.0003

MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x
15	10,000.0000
16	10,000.0000
17	10,000.0000
18	10,000.0000
19	10,000.0000
20	10,000.0000
21	9,737.0000
22	9,480.9169
23	9,231.5688
24	8,988.7785
25	8,752.3737
26	8,522.1862
27	8,303.1660
28	8,093.0959
29	7,893.1965
30	7,702.1811
31	7,519.6394
32	7,345.1838
33	7,178.4481
34	7,019.0866
35	6,866.0705
36	6,719.1366
37	6,576.6909
38	6,438.5804
39	6,304.6579
40	6,173.5210
41	6,044.4944
42	5,917.5600
43	5,791.5160
44	5,666.4193
45	5,542.3247
46	5,418.1766
47	5,294.1004
48	5,169.6890
49	5,044.5825
50	4,918.9724
51	4,792.5548
52	4,666.0314
53	4,539.1153
54	4,411.5662
55	4,284.5131
56	4,158.1200
57	4,032.9605
58	3,909.1487
59	3,786.0105
60	3,663.7223
61	3,542.4531
62	3,422.3640
63	3,303.6079
64	3,186.3299
65	3,070.9847
66	2,957.3583
67	2,845.5701
68	2,735.7311
69	2,627.9433
70	2,522.3000
71	2,418.6335
72	2,316.8090
73	2,216.4912
74	2,117.4140
75	2,018.9543
76	1,919.6217
77	1,818.0737
78	1,712.9891
79	1,604.8995
80	1,494.8034

MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	l_x
81	1,383.2910
82	1,270.8295
83	1,158.3611
84	1,046.9267
85	937.7323
86	831.9561
87	730.3742
88	633.8188
89	543.0559
90	458.8279
91	381.6531
92	312.0014
93	250.2251
94	196.4267
95	150.6593
96	112.6178
97	81.7718
98	57.4692
99	38.9297
100	25.3237
101	15.7286
102	9.2657
103	5.1351
104	2.6507
105	1.2609
106	.5442
107	.2088
108	.0692
109	.0190
110	.0041

§ 2676.15 Interest.

(a) *General rule.* In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b)–(i) and in determining the value of any interest factor used in valuing other benefits under § 2676.13(a)(2), the plan sponsor shall use the values of i_k prescribed in paragraph (c) of this section.

(b) *Description of interest table.* The table in paragraph (c) of this section tabulates, for each calendar month ending after the effective date of this part, the interest rates (denoted by i_1, i_2, . . ., i_{15}, i_{16}, and referred to generally as i_k) assumed to be in effect during each one-year period ending on an anniversary (the first, second, . . ., fifteenth, and subsequent anniversaries, respectively, and referred to generally as the kth anniversary) of a valuation date which occurs within that calendar month; the rate i_{16} is assumed to be in effect during the sixteenth and all subsequent years. For example, the interest rate assumed to be in effect during the one-year period ending on the seventh anniversary of the valuation date is tabulated as i_7, and the rate assumed to be in effect during the one-year period ending on the seventeenth anniversary of the valuation date is tabulated as i_{16}.

(c) *Interest rates.*

For valuation dates occurring in the month:	The values of i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
X/85	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII	.IIIII

§ 2676.16 Special valuation rule for plans that are closing out.

(a) *Applicability.* For purposes of the annual valuation required by section 4281(b) of the Act, the plan sponsor shall value the plan's benefits in accordance with paragraph (b) of this section whenever the conditions described in either paragraph (a)(1) or (a)(2) of this section are satisfied.

(1) *Plans closed out before valuation.* Before the time when the valuation is performed, the plan has satisfied in full all liabilities for payment of nonforfeitable benefits, in a manner consistent with the terms of the plan and applicable law, by the purchase of one or more single-premium, nonparticipating, nonsurrenderable annuity contracts from an insurer or insurers described in paragraph (c) of this section, with respect to all benefits payable as annuities, and by the payment of single-sum cash distributions, with respect to benefits not payable as annuities.

(2) *Plans to be closed out after valuation.* As of the time when the valuation is performed, the plan sponsor reasonably expects that the plan will close out prior to the next annual valuation date and the plan sponsor has a currently exercisable bid or bids to provide the annuity contract or contracts described in paragraph (a)(1) of this section and the total cost of the annuity contract or contracts under the bid, plus the total amount of the single-sum cash distributions described in paragraph (a)(1), does not exceed the value of the plan's assets, exclusive of outstanding claims for withdrawal liability, as determined under this part.

(b) *Valuation rule.* The present value of nonforfeitable benefits under this section is the total amount of single-sum cash distributions made or to be made plus the cost of the annuity contract or contracts purchased or to be purchased in order to satisfy in full all liabilities of the plan for nonforfeitable benefits.

(c) *Qualifications of insurer.* This section applies only if the annuity contract or contracts described in paragraphs (a)(1) and (a)(2) of this section are issued by a company authorized to do business as an insurance carrier under the laws of a State or the District of Columbia, or by two or more such companies.

Subpart C—Valuation of Assets

§ 2676.21 Purpose and scope.

This subpart sets forth the rules for calculating the value of plan assets, including outstanding claims for withdrawal liability, for purposes of sections 4219(c)(1)(D) and 4281(b) of the Act.

§ 2676.22 Valuation methods.

(a) *General rule.* The plan sponsor shall value plan assets as of the valuation date, using the valuation methods prescribed by paragraphs (b), (c), (d) and (e) of this section, and deducting administrative liabilities in accordance with paragraph (f) of this section.

(b) *Valuation of units of participation in certain funds.* The plan sponsor shall value any unit of participation in a common trust fund or collective investment fund in accordance with the rule in § 2676.23 if applicable, and otherwise by the method prescribed in paragraph (d) of this section.

(c) *Valuation of certain securities.* The plan sponsor shall value any Treasury bill or note, Federal agency security, state or municipal obligation, stock, bond, warrant, or share in a mutual fund in accordance with the rules in §§ 2676.24–2676.30, unless the value prescribed therein is unavailable or demonstrably erroneous, in which event—

(1) If the value is available for a date within five trading days before and a date within five trading days after the valuation date, then the plan sponsor shall use the average of the last available value before and the first available value after the valuation date as the value on the valuation date; or

(2) In any other case, the plan sponsor shall use the method prescribed in paragraph (d) of this section.

(d) *Valuation of other assets.* The plan sponsor shall value any plan asset (other than an outstanding claim for withdrawal liability) whose value is not determinable in accordance with §§ 2676.23–2676.30 by such method or methods as the plan sponsor reasonably believes most accurately determine the price at which the asset would change hands between a willing seller and a willing buyer, neither being under any compulsion to engage in the transaction and both having reasonable knowledge of relevant facts.

(e) *Valuation of withdrawal liability.* The plan sponsor shall value outstanding claims for withdrawal liability by the method prescribed in § 2676.31.

(f) *Adjustment for administrative liabilities.* In determining the total value of plan assets, the plan sponsor shall subtract all plan liabilities, other than liabilities to pay benefits. For this purpose, any obligation to repay financial assistance received from the PBGC under section 4261 of the Act is a plan liability other than a liability to pay benefits. The obligation to repay financial assistance shall be valued by determining the value of the scheduled payments in the same manner as prescribed in § 2676.31(a) for valuing claims for withdrawal liability.

§ 2676.23 Certain units of participation in common trust funds and collective investment funds.

(a) *Applicability.* This section applies to units of participation in a common trust fund or collective investment fund if all of the following conditions are satisfied:

(1) The fund is valued as of the plan valuation date or a date within 31 days after the plan valuation date.

(2) The date as of which the fund is valued is a customary date for valuing the fund.

(3) There are no distributions from the fund in relation to units of the fund between the plan valuation date and the date as of which the fund is valued.

(4) The value per unit of the fund as determined by the valuation of the fund is reflected in a statement of account prepared by the manager of the fund.

(5) The plan sponsor reasonably believes that the value per unit of the fund as so reflected has been determined in accordance with the procedures normally employed by the manager of the fund pursuant to the terms of the fund, and Federal and state law and regulations, as applicable.

(b) *Value.* The value of a unit of participation to which this section applies is the value per unit of the fund as reflected in the statement of account referred to in paragraph (a)(4) of this section.

§ 2676.24 Treasury bills.

The value of a Treasury bill is the face amount of the bill reduced by the average discount. The average discount is equal to the face amount multiplied by the average of the bid and asked discount percentage (expressed as a decimal fraction) for the bill on the valuation date, as published nationally in a general circulation daily newspaper, prorated for the number of days remaining to maturity.

§ 2676.25 Treasury notes, bonds, and Federal agency securities.

The value of a Treasury note, bond, or Federal agency security is the average of the bid and asked prices for the note, bond, or security on the valuation date, as published nationally in a general circulation daily newspaper.

§ 2676.26 Shares in open-end mutual funds.

The value of a share in an open-end mutual fund is the per-share net asset value (redemption value) of the fund on the valuation date, as published nationally in a general circulation daily newspaper.

§ 2676.27 Common and preferred stocks, warrants, and shares in closed-end mutual funds principally traded on certain major exchanges.

(a) *Applicability.* This section applies to common or preferred stocks, warrants, or shares in a closed-end mutual fund, if the plan sponsor reasonably believes that the greatest volume of trades of the security normally occurs on the New York Stock Exchange or the American Stock Exchange, and also reasonably believes that the closing sale price of the security as published nationally in a general circulation daily newspaper is the closing sale price of the security on the exchange as reported by the consolidated last sale reporting system established pursuant to Rule 11Aa3-1 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934.

(b) *Value.* The value of a security to which this section applies is the closing sale price on the valuation date, as published nationally in a general circulation daily newspaper.

§ 2676.28 Common and preferred stocks, warrants, and shares in closed-end mutual funds principally traded on other exchanges.

(a) *Applicability.* This section applies to common or preferred stocks, warrants, or shares in a closed-end mutual fund, if the plan sponsor reasonably believes that the greatest volume of trades of the security normally occurs on a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934, other than the New York Stock Exchange or the American Stock Exchange.

(b) *Value.* The value of a security to which this section applies is the closing sale price of the security on that exchange of the valuation date, as published nationally in a general circulation daily newspaper.

§ 2676.29 Common and preferred stocks, warrants, and shares in closed-end mutual funds principally traded over-the-counter.

(a) *Applicability.* This section applies to common or preferred stocks, warrants, or shares in a closed-end mutual fund, if the plan sponsor reasonably believes that the greatest volume of trades of the security normally occurs otherwise than on a national securities exchange, and also reasonably believes that the end-of-the-day bid and asked prices of the security as published nationally in a general circulation daily newspaper are those quoted on, and made available for publication by, the automated quotations system sponsored by the National Association of Securities Dealers, Inc. (a national securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934).

(b) *Value.* The value of a security to which this section applies is the average of the end-of-the-day bid and asked prices for the valuation date, as published nationally in a general circulation daily newspaper.

§ 2676.30 State and municipal obligations.

The value of a state or municipal obligation is the average of the bid and asked prices for the obligation for the valuation date, as published nationally in a general circulation daily newspaper.

§ 2676.31 Outstanding claims for withdrawal liability.

(a) *Value of claim.* The plan sponsor shall value an outstanding claim for withdrawal liability owed by an employer described in paragraph (b) of this section in accordance with paragraphs (a)(1) and (a)(2) of this section:

(1) If the schedule of withdrawal liability payments provides for one or more series of equal payments, the plan sponsor shall value each series of payments as an annuity certain under § 2676.13(c)(1) or (d)(1).

(2) If the schedule of withdrawal liability payments provides for one or more payments that are not part of a series of equal payments as described in paragraph (a)(1) of this section, the plan sponsor shall value each such unequal payment as a lump-sum payment under § 2676.13(b)(1).

(b) *Employers neither liquidated nor in insolvency proceedings.* The plan sponsor shall value an outstanding claim for withdrawal liability under paragraph (a) of this section if, as of the valuation date—

(1) The employer has not been completely liquidated or dissolved; and

(2) The employer is not the subject of any case or proceeding under Title 11, United States Code, or any case or proceeding under similar provisions of state insolvency laws; except that the claim for withdrawal liability of an employer that is the subject of a proceeding described in this paragraph (b)(2) shall be valued under paragraph (a) of this section if the plan sponsor determines that the employer is reasonably expected to be able to pay its withdrawal liability in full and on time.

(c) *Claims against other employers.* The plan sponsor shall value at zero any outstanding claim for withdrawal liability owed by an employer that does not meet the conditions set forth in paragraph (b) of this section.

EFFECTIVE DATE: This part is effective April 24, 1986.

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

William E. Brock,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving, and authorizing its chairman to issue, this regulation.

Edward R. Mackiewicz,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 86-6117 Filed 3-24-86; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This is a proposed amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans. If adopted, this amendment would change the interests assumption prescribed by the regulation, and make corresponding changes in the actuarial formulas used under the regulation, to eliminate inaccuracies inherent in the existing assumptionand to achieve uniformity with the interest assumption and formulas proposed for multiemployer plans.

DATES: Comments must be received on or before May 27, 1986.

ADDRESSES: Comments should be addressed to Director, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the PBGC, Suite 7100, at the above address, between 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (611), 2020 K Street, NW., Washington, DC 20006, 202-254-4860 (202-254-8010 for TTY and TDD). These are not toll free numbers.

SUPPLEMENTARY INFORMATION:

Background

The Pension Benefit Guaranty Corporation ("PBGC") published a final regulation on Valuation of Plan Benefits in Non-Multiemployer Plans (the "Single-employer regulation") on January 28, 1981 (46 FR 9497). The regulation was subsequently amended and is now codified as 29 CFR Part 2619. On February 19, 1985 (50 FR 6956), the PBGC published a proposed regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal (The "multiemployer regulation"). As proposed, the multiemployer regulation would be codified as 29 CFR Part 2676. For reasons discussed below, this proposed amendment would change the interest assumption under the existing single-employer regulation to make it the same as that under the multiemployer regulation.

Under the single-employer regulation, benefits in pay status on the valuation date are valued using a flat rate of interest (the immediate annuity rate). Benefits that are to start after the valuation date are valued in two steps. First, the benefit is valued as of its deferred starting date using the immediate annuity rate. Second, an adjustment is made for the period of deferral. The adjustment is represented by a factor that has the effect of reducing the assumed interest rate. The amount of reduction is greater for longer periods of deferral. The particular interest rates that are applicable from time to time, together with the manner of applying them to the valuation of benefits as summarized above, constitute the single-employer regulation's interest assumption.

The preamble to the original proposal version of the single-employer regulation (40 FR 57980, December 12, 1975), in discussing the adjustment factor for deferred benefits, noted that "[i]t is common financial practice to assume that the rate of return on investments made in the future will be lower than that for investments made in the present or near future." (40 FR at 57983.)

When the regulation was published as an interim rule, however (41 FR 48480, November 3, 1976), the preamble warned, in response to comments on the proposed rule, that the deferred benefit adjustment factor should not be "misconstrued as an investment model which actually reflects the investment yields which the PBGC expects to realize during a particular year of deferment. Rather, the current value of annuities obtained by applying the [factor] is in line with price data for such annuities received from the industry." (41 FR at 48485.)

Clearly, an interest assumption that applies the same rate (the immediate annuity rate) to every payment under a pay status annuity, as the single-employer regulation does, is not to be regarded as "an investment model." The design of the deferred benefit adjustment factor used in the regulation merely highlights that fact. As noted in the preamble to the proposed multi-employer regulation, the single-employer interest assumption "represents an appropriate compromise between actuarial theory . . . and administrative convenience." (50 FR at 6957.)

In this context," administrative convenience" means primarily ease of computation. Although many single-employer plans have been valued by computer for years, some (mostly small) plan valuations have not been computerized. The present single-employer interest assumption "facilitates the valuation of benefits 'by hand' (*i.e.*, using nothing more sophisticated than a desk calculator) from tables of relatively small bulk." (50 FR at 6957.)

In introducing the proposed multiemployer regulation, on the other hand, the PBGC indicated that, "[b]ecause of economies of scale, valuations by computer are not merely cost-justified but, in general, a financial, as well as logistical, necessity" for multiemployer plans. (50 FR at 6957.) This was one reason why the PBGC considered it appropriate to propose a select and ultimate interest assumption for multiemployer valuations. The primary motivation for proposing such an assumption, of course, was that the use of select and ultimate interest yields results that exhibit better internal consistency and closer agreement with marketplace values, both in the aggregate and for individual streams of payments. A select and ultimate interest assumption applies to each payment under a benefit an individually determined interest rate that depends on the amount of time between the valuation date and the date of payment. As a practical matter, therefore, the select and ultimate interest assumption makes valuations without the use of a computer impossible. On the other hand, it comes much closer to being an "investment model." Thus, in the PBGC's view, the multiemployer assumption leads to more realistic valuations than the single-employer assumption does.

A further problem with valuations under the existing single-employer regulation is that, as pointed out in the preamble to that regulation (46 FR at 9495), the adjustment factor for deferred benefits ingores the mortality of the beneficiary where joint and survivor benefits are being valued. Leaving the beneficiary's mortality out of the factor simplifies calculations that use the factor, but reduces the accuracy of values generated with the factor. The need for this distorting simplification would disappear if a computerized valuation method were adopted.

Until 1984, the provisions of the single-employer regulation that would be affected by this amendment applied almost exclusively to the PBGC itself, rather than to plan administrators. Thus, any administrative inconvenience arising from the adoption of this amendment would have been confined to a very few plans, primarily those for which the PBGC assumed the burden of paying certain deferred benefits.

Under sections 103 and 203 of the Retirement Equity Act of 1984, the interest rate assumption that the PBGC would use to value benefits on plan termination became the standard for determining the value of a participant's benefit in situations where the benefit is or may be cashed out. The PBGC specifically invites public comment on the administrative difficulty of processing cashouts using the proposed select and ultimate interest assumption as opposed to the existing single-employer interest assumption and on the number of cashouts that are processed by plans each year and that would be affected by the proposed assumption.

It appears that the valuation standards that would be changed by this amendment have been voluntarily adopted in some cases where their use is not legally mandated. The PBGC does not know what effect the proposed amendment might have on such situations, nor how many such situations there are. Comments are invited on the impact of the amendment on such cases and the extent to which any such impact should be considered by the PBGC.

Even for plans affected by this amendment, administrative inconvenience should be minimal. The single-employer regulation has been in effect, in interim and final form, since 1976, before the micocomputer had become the ubiquitous business tool that it is today. Microcomputers capable of handling actuarial computations with select and ultimate interest are as common now as electronic calculators were when the single-employer regulation was first drafted. The PBGC has thus concluded that accuracy need no longer make the concessions to administrative convenience that the existing single-employer interest assumption reflects.

Accordingly, the PBGC proposes to amend the single-employer regulation to substitute for the existing interest assumption the select and ultimate interest assumption used in the recently proposed multiemployer regulation. To reflect this change, the actuarial formulas in the single-employer regulation would be replaced by the corresponding formulas from the proposed multiemployer regulation.

The PBGC recognizes that microcomputer programs to evaluate actuarial formulas with select and ultimate interest may not be widely available, and that some people, including perhaps even some actuaries, may not feel confident about writing such programs for themselves. The PBGC is therefore considering the possibility of developing such programs and making them available to the public at cost. Public comment on this possibility is invited.

The Amendment

The major changes made by the amendment would be in Subpart C of the single-employer regulation (existing §§ 2619.41 through 2619.48). However, §§ 2619.3(a) and 2619.25(b)(2), which refer to certain Subpart C provisions, would be revised, and a new § 2619.25(c) would be added, simply to reflect changes that the amendment would make in Subpart C. Appendices A, B, and C, which contain mortality and interest tables, would be deleted, because mortality and interest tables in the amended regulation would be included in Subpart C.

The amendment would have no effect on the first section (§ 2619.41, *Purpose and scope*) or the last section (existing § 2619.48, *Withdrawal of employee contributions*) of Subpart C, except to renumber the latter as § 2619.46. All of the other sections of Subpart C would be deleted and replaced by slightly reworded versions of §§ 2676.12 through 2676.15 from the multiemployer regulation.

New § 2619.42(a) restates the rule from existing § 2619.43(b) regarding the form of benefit to be valued. New § 2619.42(b) restates the rule regarding the timing of benefits from existing § 2619.46(b). (Note that the latter rule is not the same as the corresponding provision of the proposed multiemployer regulation (§ 2676.12(b)).)

New § 2619.43(a) carries over the substance of existing §§ 2619.43(a) and (c) and 2619.44(a). Like existing § 2619.43(a) (and unlike § 2676.13(a) in the multiemployer regulation), the new section makes clear that the actuarial formulas set forth in the regulation are to be regarded as standards of accuracy, not as absolute requirements.

Paragraphs (b) through (i) of new § 2619.43 contain actuarial formulas that would replace the formulas now set forth in existing §§ 2619.44, 2619.45, and 2619.47. The new formulas in paragraphs (b) through (h) are identical with those in multiemployer § 2676.13(b) through (h). Paragraph (i) supplies new formulas for the death benefits described in existing § 2619.47(d) through (f), which were not included in the proposed multiemployer regulation.

The following table shows the location of the proposed new formula corresponding to each valuation provision in the existing regulation.

Existing provision	Proposed provision
§ 2619.44(c)	§ 2619.43(c)(2)
§ 2619.44(d)	§ 2619.43(c)(1)
§ 2619.44(e)	§ 2619.43(g)(2)
§ 2619.44(f)	§ 2619.43(g)(1)
§ 2619.44(g)	§ 2619.43(c)(3)
§ 2619.44(h)	§ 2619.43(e)(2)
§ 2619.44(i)	§ 2619.43(e)(1)
§ 2619.44(j)	§ 2619.43(e)(4)
§ 2619.44(k)	§ 2619.43(e)(4)
§ 2619.44(l)	§ 2619.43(e)(3)
§ 2619.45	§ 2619.43(b), (d), (f), (g)(3), (g)(4)
§ 2619.47(b)	§ 2619.43(h)(1)
§ 2619.47(c)	§ 2619.43(h)(2)
§ 2619.47(d)	§ 2619.43(i)(1)
§ 2619.47(e)	§ 2619.43(i)(1)
§ 2619.47(f)	§ 2619.43(i)(2)

Paragraphs (m) and (n) of existing § 2619.44 are no longer considered necessary and accordingly have no counterparts in the amended regulation. (Those provisions merely explained that two common forms of benefit—cash refund and installment refund annuities—could be analyzed in terms of other benefits listed elsewhere in the regulations.) The benefits described in existing §§ 2619.44(j) and 2619.47(d) are simply special cases of the benefits described in amended § 2619.43(e)(4) and (i)(1) respectively.

New § 2619.44 contains the prescribed mortality tables currently found in appendix C. (Appendix A, containing data from which the mortality tables in Appendix C can be derived, is no longer considered necessary. Thus both Appendices A and C are replaced by new § 2619.44.) New § 2619.44 also contains provisions derived from existing § 2619.44(b) concerning the circumstances under which each table is to be used.

The select and ultimate rate series that is at the heart of the amendment would be set forth in new § 2619.45. The series used in this regulation would be identical with the series used in the multiemployer regulation. A new series would be promulgated each month as necessary to respond to changes in current rates of investment return and expectations regarding future rates. The rate series would be constructed so as to produce values, for a typical plan, within a few percent of the cost of commercial annuities covering the plan's benefits—the same criterion used in setting rates under the existing single-employer regulation. Existing Appendix B, which contains interest rates applicable under the current regulation, would be superseded by new § 2619.45.

E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this proposed regulation is not a "major rule" for the purposes of Executive Order 12291, because it will not have an

annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this rule will not have a significant economic impact on a substantial number of small entities. Pension plans with fewer than 100 participants have traditionally been treated as small plans. Such plans typically contract with actuarial firms, insurance companies, and other service providers for actuarial services. The larger providers of actuarial services perform valuations by computer, and such providers serve the great majority of small plans. For such service providers, the proposed amendment would necessitate a one-tme programming expense that would be amortized over a period of time and spread among not ony small plan clients but larger plan clients as well. The economic impact of the amendment on each such small plan would thus be insignificant. While the amendment might have a significant economic impact on small plans that are not currently valued by computer, the number of such plans is considered to be insignificant. Therefore, compliance with sections 603 and 604 of the Regulatory Flexibity Act is waived.

Public Comments

Interested parties are invited to submit comments on this proposed regulation. Comments should be addressed to: Director, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Comments should include the commenter's name and address, identify this proposed regulation, and give reasons for any recommendation. This proposal may be changed in light of the comments received.

List of Subjects in 29 CFR Part 2619

Employee benefits plans, Pension insurance, Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, it is proposed that 29 CFR Part 2619 be amended as follows:

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

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

2. In § 2619.3, paragraph (a) is revised to read as follows:

§ 2619.3 General valuation rules.

(a) *Non-trusteed plans.* Plan administrators of non-trusteed plans shall value plan benefits in accordance with Subpart B of this part, except for any early retirement benefits to be provided by PBGC, which shall be valued in accordance with Subpart C. If a plan with respect to which PBGC has issued a Notice of Sufficiency is unable to satisfy all benefits assigned to priority categories 1 through 4 on the date of distribution, the PBGC will place it into trusteeship and the plan administrator shall re-value the benefits in accordance with Subpart C of this part.

* * * * *

3. In § 2619.25, paragraph (b)(2) is revised, and a new paragraph (c) is added, to read as follows:

§ 2619.25 Early retirement benefits.

* * * * *

(b) * * *

(2) If the plan administrator is unable to obtain a qualifying bid described in paragraph (b)(1), then the plan administrator may arrange for the PBGC to become responsible for the payment of such benefits in accordance with Subpart D of Part 2617 of this chapter. If such an arrangment is made, the plan administrator shall calculate the value of all such early retirement benefits in accordance with paragraph (c) of this section, and the PBGC will provide these benefits as set forth in Part 2617 of this chapter. If the PBGC does not provide these benefits, the value of each early retirement benefit is its cost under the qualifying bid.

(c) *Valuation of early retirement benefits.* An early retirement benefit that is to be provided by an insurer pursuant to a qualifying bid is valued in accordance with paragraph (a) of this section. An early retirement benefit that is to be provided by PBGC in accordance with Part 2617 is valued as an annuity in accordance with Subpart C of this part.

4. Sections 2619.42 through 2619.45 are revised to read as follows:

§ 2619.42 Benefits to be valued.

(a) *Form of benefit.* The plan administrator shall determine the form of each benefit to be valued, without regard to the form of benefit valued in any prior year, in accordance with the following rules:

(1) If a benefit is in pay status as of the valuation date, the plan administrator shall value the form of benefit being paid.

(2) If a benefit is not in pay status as of the valuation date but a valid election with respect to the form of benefit has been made on or before the valuation date, the plan administrator shall value the form of benefit so elected.

(3) If a benefit is not in pay status as of the valuation date and no valid election with respect to the form of benefit has been made on or before the valuation date, the plan administrator shall value the form of benefit that is payable under the terms of the plan in the absence of a valid election.

(b) *Timing of benefit.* The plan administrator shall value benefits whose starting date is subject to election using the assumption specified in paragraph (b)(1) or (b)(2) of this section.

(1) *Where election made.* If a valid election of the starting date of a benefit has been made on or before the valuation date, the plan administrator shall assume that the starting date of the benefit is the starting date so elected.

(2) *Where no election made.* If no valid election of the starting date of a benefit has been made on or before the valuation date, the plan administrator shall assume that the starting date of the benefit is the later of—

(i) The expected retirement age, as determined under Subpart D of this part, of the participant with respect to whom the benefit is payable, or

(ii) The valuation date.

§ 2619.43 Valuation methods.

(a) *General rule.* The plan administrator shall value benefits as of the valuation date using—

(1) The mortality and interest assumptions prescribed by §§ 2619.44 and 2619.45,

(2) Interpolation methods, where necessary, at least as accurate as linear interpolation, and

(3) Formulas that are at least as accurate as the formulas set forth in paragraphs (b)–(i) of this section.

(b) *Single-sum payments (other than death benefits).* The present value of a single-sum payment of ^{I} to be made ^{n}

years after the valuation date may be found as follows:

(1) If the payment is not contingent on the survival of any person:

$$v^{0:n} = \left(\frac{1}{1+i_{k+1}}\right)^{j} \cdot \prod_{t=1}^{k}\left(\frac{1}{1+i_t}\right),$$

where $n=k+j$, k is an integer, $o \leqq j < 1$, $v^{0:0}=1$, and i_k is the interest rate determined under § 2619.45 applicable to the year ending on the $_k$th anniversary of the valuation date.

(2) If the payment is contingent on the survival of a person aged $_x$ on the valuation date:

$$_{n}p_x \cdot v^{0:n} = \frac{l_{x+n}}{l_x} \cdot v^{0:n},$$

where l_x and l_{x+n} are the numbers of persons living at ages ^{x} and $^{x+n}$ respectively, as determined under § 2619.44.

(3) If the payment is contingent on the survival of two persons aged ^{x} and ^{y} respectively on the valuation date:

$$_{n}p_x \cdot {}_{n}p_y \cdot v^{0:n}.$$

(c) *Basic annuities in pay status.* The present value of an annuity due providing payments of $^{1/m}$, ^{m} times per year, starting on the valuation date, may be found as follows:

(1) If the annuity is for a term certain of ^{r} years after the valuation date and is not contingent on the survival of any person:

$$\ddot{a}^{(m)}_{\overline{r}|} = \frac{1}{m}\sum_{t=0}^{r-1} \frac{v^{0:t}(v^{0:t} - v^{0:t+1})}{v^{0:t} - v^{0:t+(1/m)}}.$$

(2) If the annuity is for the life of a person aged ^{x} on the valuation date:

$$a^{(m)}_{x} = \sum_{t=0}^{\infty} v^{0:t} \cdot {}_{t}p_x \cdot \frac{m-1}{2m}.$$

(3) If the annuity is for the joint lives of two persons aged ^{x} and ^{y} on the valuation date:

$$a^{(m)}_{x:y} = \sum_{t=0}^{\infty} v^{0:t} \cdot {}_{t}p_x \cdot {}_{t}p_y \cdot \frac{m-1}{2m}.$$

(d) *Basic deferred annuities.* The present value of an annuity due providing payments of $^{1/m}$, ^{m} times per year, starting ^{n} years after the valuation date, may be found as follows:

(1) If the annuity is for a term certain of r years and is not contingent on the survival of any person:

$$_{n|}\ddot{a}^{(m)}_{\overline{r}|} = \ddot{a}^{(m)}_{\overline{n+r}|} - \ddot{a}^{(m)}_{\overline{n}|}.$$

(2) If the annuity is for a term certain of r years and is contingent on the survival for n years of a person aged x on the valuation date:

$$_{n}p_x \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r}|}.$$

(3) If the annuity is for the life of a person aged x on the valuation date:

$$_{n|}\ddot{a}^{(m)}_{x} = \sum_{t=n}^{\infty} v^{0:t} \cdot {}_{t}p_x - v^{0:n} \cdot {}_{n}p_x \cdot \frac{m-1}{2m}.$$

(4) If the annuity is for the life of a person aged y on the valuation date and is contingent on the survival for n years of a person aged x on the valuation date:

$$_{n}p_x \cdot {}_{n|}\ddot{a}^{(m)}_{y}.$$

(5) If the annuity is for the joint lives of two persons aged x and y on the valuation date:

$$_{n|}\ddot{a}^{(m)}_{x:y} = \sum_{t=n}^{\infty} v^{0:t} \cdot {}_{t}p_x \cdot {}_{t}p_y - v^{0:n} \cdot {}_{n}p_x \cdot {}_{n}p_y \cdot \frac{m-1}{2m}.$$

(e) *Joint and survivor annuities in pay status.* The present value of an annuity due providing payments m times per year, starting on the valuation date, in an initial amount of $1/m$ per payment, and in an ultimate amount of s/m per payment, may be found as follows:

(1) If the annuity is payable in the initial amount for the life of a person aged x on the valuation date and, after the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$$\ddot{a}^{(m)}_{x} + s(\ddot{a}^{(m)}_{y} - \ddot{a}^{(m)}_{x:y}).$$

(2) If the annuity is payable in the initial amount for the joint lives of two persons aged x and y on the valuation date and, after the death of either of those persons, in the ultimate amount for the life of the survivor:

$$\ddot{a}^{(m)}_{x:y} + s(\ddot{a}^{(m)}_{x} + \ddot{a}^{(m)}_{y} - 2\cdot\ddot{a}^{(m)}_{x:y}).$$

(3) If the annuity is payable in the initial amount for a term certain of r years after the valuation date or for the life of a person aged x on the valuation date (whichever of those two periods is longer) and, after the expiration of the term certain and the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$$\ddot{a}^{(m)}_{\overline{r}|} + {}_{r|}\ddot{a}^{(m)}_{x} + s({}_{r|}\ddot{a}^{(m)}_{y} - {}_{r|}\ddot{a}^{(m)}_{x:y}).$$

(4) If the annuity is payable in the initial amount for a term certain of r years after the valuation date or for the joint lives of two persons aged x and y on the valuation date (whichever of those two periods is longer) and, after the expiration of the term certain and the death of either of the persons, in the ultimate amount for the life of the survivor:

$$\ddot{a}^{(m)}_{\overline{r}|} + {}_{r|}\ddot{a}^{(m)}_{x:y} + s({}_{r|}\ddot{a}^{(m)}_{x} + {}_{r|}\ddot{a}^{(m)}_{y} - 2\cdot{}_{r|}\ddot{a}^{(m)}_{x:y}).$$

(f) *Deferred joint and survivor annuities.* The present value of an annuity due providing payments m times per year, starting n years after the valuation date, in an initial amount of $1/m$ per payment, and in an ultimate amount of s/m per payment, contingent on the survival for n years of a person aged x on the valuation date, may be found as follows:

(1) If the annuity is payable in the initial amount for the life of the person and, after the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$${}_{n|}\ddot{a}^{(m)}_{x} + s({}_{n}p_{x}\cdot{}_{n|}\ddot{a}^{(m)}_{y} - {}_{n|}\ddot{a}^{(m)}_{x:y}).$$

(2) If the annuity is payable in the initial amount for the joint lives of the person and a person aged y on the valuation date and, after the death of either of those persons, in the ultimate amount for the life of the survivor:

$${}_{n|}\ddot{a}^{(m)}_{x:y} + s({}_{n|}\ddot{a}^{(m)}_{x} + {}_{n}p_{x}\cdot{}_{n|}\ddot{a}^{(m)}_{y} - 2\cdot{}_{n|}\ddot{a}^{(m)}_{x:y}).$$

(3) If the annuity is payable in the initial amount for a term certain of r years or for the life of the person (whichever of those two periods is longer) and, after the expiration of the term certain and the death of that person, in the ultimate amount for the life of a person aged y on the valuation date:

$${}_{n}p_{x}\cdot{}_{n|}\ddot{a}^{(m)}_{\overline{r}|} + {}_{n+r|}\ddot{a}^{(m)}_{x} + s({}_{n}p_{x}\cdot{}_{n+r|}\ddot{a}^{(m)}_{y} - {}_{n+r|}\ddot{a}^{(m)}_{x:y}).$$

(4) If the annuity is payable in the initial amount for a term certain of r years or for the joint lives of the person and a person aged y on the valuation date (whichever of those two periods is longer) and, after the expiration of the term certain and the death of either of those persons, in the ultimate amount for the life of the survivor:

$$ {}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r}|} + {}_{n+r|}\ddot{a}^{(m)}_{x:y} + s\left({}_{n+r|}\ddot{a}^{(m)}_{x} + {}_{n}p_{x} \cdot {}_{n+r|}\ddot{a}^{(m)}_{y} - 2 \cdot {}_{n+r|}\ddot{a}^{(m)}_{x:y}\right). $$

(g) *Single life or certain annuities.* The present value of an annuity due providing payment of $1/m$, m times per year, for the life of a person aged x on the valuation date or a term certain of r years, may be found as follows:

(1) If the annuity starts on the valuation date and is for the shorter of those two periods:

$$ \ddot{a}^{(m)}_{x} - {}_{r|}\ddot{a}^{(m)}_{x}. $$

(2) If the annuity starts on the valuation date and is for the longer of those two periods:

$$ \ddot{a}^{(m)}_{\overline{r}|} + {}_{r|}\ddot{a}^{(m)}_{x}. $$

(3) If, contingent on the survival of the person for n years, the annuity starts n years after the valuation date and is for the shorter of those two periods:

$$ {}_{n|}\ddot{a}^{(m)}_{x} - {}_{n+r|}\ddot{a}^{(m)}_{x}. $$

(4) If, contingent on the survival of the person for n years, the annuity starts n years after the valuation date and is for the longer of those two periods:

$$ {}_{n}p_{x} \cdot {}_{n|}\ddot{a}^{(m)}_{\overline{r}|} + {}_{n+r|}\ddot{a}^{(m)}_{x}. $$

(h) *Fixed single-sum death benefits.* The present value of a fixed single-sum payment of 1 to be made upon the death of a person aged x on the valuation date may be found as follows:

(1) If the payment is to be made whenever death occurs:

$$ \bar{A}_{x} = \sum_{t=0}^{\infty} v^{0:t+\frac{1}{2}} \left({}_{t}p_{x} - {}_{t+1}p_{x}\right). $$

(2) If the payment is to be made only if the person dies within r years after the valuation date:

$$ \bar{A}^{1}_{x:\overline{r}|} = \sum_{t=0}^{r-1} v^{0:t+\frac{1}{2}} \left({}_{t}p_{x} - {}_{t+1}p_{x}\right). $$

(3) If the payment is to be made only if the person dies at least n years after the valuation date:

$$ \bar{A}_{x} - \bar{A}^{1}_{x:\overline{n}|}. $$

(4) If the payment is to be made only if the person dies at least n years, but within $n+r$ years, after the valuation date:

$$ \bar{A}^{1}_{x:\overline{n+r}|} - \bar{A}^{1}_{x:\overline{n}|}. $$

(i) *Variable single-sum death benefits.* The present value of a single-sum payment to be made upon the death of a person aged x on the valuation date, if the person dies within r years after the valuation date, may be found as follows:

(1) If the amount payable is initially $r-1/m$ and decreases by $1/m$, m times per year:

$$\sum_{t=0}^{r-1} \left(r - t - \frac{m+1}{2m}\right) \cdot v^{0:t+\frac{1}{2}} \cdot \left({}_{t}p_{x} - {}_{t+1}p_{x}\right).$$

(2) If the amount payable is intially and increases at an effective interest rate of *j*, compounded annually:

$$\sum_{t=0}^{r-1} (1 + j)^{t+\frac{1}{2}} \cdot v^{0:t+\frac{1}{2}} \cdot \left({}_{t}p_{x} - {}_{t+1}p_{x}\right).$$

§ 2619.44 Mortality.

(a) *General rule.* In determining the value of mortality factors of the form ${}_{n}p_{x}$ (as defined in § 2619.43(b)(2)) for purposes of applying the formulas set forth in § 2619.43 (b)–(i), and in determining the value of any mortality factor used in valuing benefits under this subpart, the plan administrator shall use the values of l_x prescribed in paragraphs (d), (e) and (f) of this section.

(b) *Certain death benefits.* If an annuity for one person is in pay status on the valuation date, and if the payment of a death benefit after the valuation date to another person, who need not be identifiable on the valuation date, depends in whole or in part on the death of the pay status annuitant, then to determine the mortality factors involved in the valuation of the death benefit—

(1) In the case of factors that represent the mortality of the pay status annuitant, the plan administrator shall apply the mortality rates that are applicable to the annuity in pay status under paragraph (d), (e) or (f) of this section; and

(2) In the case of factors that represent the mortality of the death beneficiary, the plan administrator shall apply the mortality rates applicable to annuities not in pay status and to deferred benefits other than annuities, under paragraph (d) of this section.

(c) *Description of mortality tables.* The tables in paragraphs (d), (e) and (f) of this section tabulate, for each age (denoted by *x*, $x \geqq 15$), the number of persons assumed to be living at that age (denoted by l_x) out of a closed group consisting originally of 10,000 persons aged 15 years.

(d) *Healthy lives.* The values of l_x applicable to annuities in pay status on the valuation date that are not being received as disability benefits, to annuities not in pay status on the valuation date, and to deferred benefits other than annuities, are as follows:

MORTALITY TABLE FOR HEALTHY MALE PARTICIPANTS

Age *x*	l_x	Age *x*	l_x
15	10,000.0000		
16	9,985.6300		
17	9,971.5103		
18	9,957.6998		
19	9,944.2469		
20	9,931.2100		
21	9,918.6272		
22	9,906.5364		
23	9,894.9755		
24	9,883.6062		
25	9,872.4476		
26	9,861.5188		
27	9,850.8388		
28	9,840.4166		
29	9,829.7594		
30	9,818.8385		
31	9,807.6352		
32	9,796.1308		
33	9,784.2971		
34	9,771.6069		
35	9,757.9462		
36	9,743.1824		
37	9,727.1744		
38	9,709.7433		
39	9,690.8287		
40	9,670.2357		
41	9,674.7331		
42	9,623.0735		
43	9,595.9557		
44	9,566.2562		
45	9,533.6353		
46	9,497.7030		
47	9,458.0026		
48	9,414.1648		
49	9,366.1243		
50	9,313.5241		
51	9,255.8175		
52	9,192.3874		
53	9,123.0492		
54	9,047.5286		
55	8,965.8023		
56	8,877.2650		
57	8,781.2663		
58	8,677.0941		
59	8,564.7084		
60	8,443.4150		
61	8,312.4661		

MORTALITY TABLE FOR HEALTHY MALE PARTICIPANTS—Continued

Age *x*	l_x	Age *x*	l_x
62	8,171.0711		
63	8,018.3946		
64	7,853.8812		
65	7,676.6819		
66	7,485.9394		
67	7,282.0823		
68	7,066.2851		
69	6,839.6481		
70	6,602.0182		
71	6,353.3400		
72	6,093.6726		
73	5,822.4798		
74	5,540.0662		
75	5,246.9247		
76	4,943.7836		
77	4,631.6232		
78	4,313.7642		
79	3,991.7503		
80	3,667.3966		
81	3,342.7660		
82	3,021.1317		
83	2,705.9975		
84	2,400.7177		
85	2,107.6405		
86	1,829.0652		
87	1,567.1815		
88	1,324.0380		
89	1,101.3242		
90	900.3755		
91	722.0741		
92	566.8029		
93	434.7475		
94	324.9542		
95	235.9564		
96	165.8415		
97	112.3488		
98	73.0823		
99	45.3940		
100	26.7427		
101	14.8217		
102	7.6505		
103	3.6393		
104	1.5708		
105	0.6026		
106	0.1996		
107	0.0547		
108	0.0117		
109	0.0017		
110	0.0001		

MORTALITY TABLE FOR HEALTHY FEMALE PARTICIPANTS

Age *x*	l_x	Age *x*	l_x
15	10,000.0000	63	8,677.0941
16	10,000.0000	64	8,564.7084
17	10,000.0000	65	8,443.4150
18	10,000.0000	66	8,312.4661
19	10,000.0000	67	8,171.0711
20	10,000.0000	68	8,018.3946
21	9,985.6300	69	7,853.8812
22	9,971.5103	70	7,676.6819
23	9,957.6998	71	7,485.9394
24	9,944.2469	72	7,282.0823
25	9,931.2100	73	7,066.2851
26	9,918.6272	74	6,839.6481
27	9,906.5364	75	6,602.0182
28	9,894.9755	76	6,353.3400
29	9,883.6062	77	6,093.6726
30	9,872.4476	78	5,822.4798
31	9,861.5188	79	5,540.0662
32	9,850.8388	80	5,246.9247
33	9,840.4166	81	4,943.7836
34	9,829.7594	82	4,631.6232
35	9,818.8385	83	4,313.7642
36	9,807.6352	84	3,991.7503
37	9,796.1308	85	3,667.3966
38	9,784.2971	86	3,342.7660
39	9,771.6069	87	3,021.1317
40	9,757.9462	88	2,705.9975
41	9,743.1824	89	2,400.7177
42	9,727.1744	90	2,107.6405
43	9,709.7433	91	1,829.0652
44	9,690.8287	92	1,567.1815
45	9,670.2357	93	1,324.0380
46	9,647.7331	94	1,101.3242
47	9,623.0735	95	900.3755

MORTALITY TABLE FOR HEALTHY FEMALE PARTICIPANTS—Continued

Age x	l_x	Age x	l_x
48	9,595.9557	96	722.0741
49	9,566.2562	97	566.8029
50	9,533.6353	98	434.7475
51	9,497.7030	99	324.9542
52	9,458.0026	100	235.9564
53	9,414.1648	101	165.8415
54	9,366.1243	102	112.3488
55	9,313.5241	103	73.0823
56	9,255.8175	104	45.3940
57	9,192.3874	105	26.7427
58	9,123.0492	106	14.8217
59	9,047.5286	107	7.6505
60	8,965.8023	108	3.6393
61	8,877.2650	109	1.5708
62	8,781.2663	110	0.6026

(e) *Disabled lives (other than Social Security disability).* The values of l_x applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which neither eligibility for, nor receipt of, Social Security disability benefits is a prerequisite, are as follows:

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS NOT RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x	Age x	l_x
15	10,000.0000	63	7,517.7396
16	9,986.4900	64	7,313.0165
17	9,973.3977	65	7,096.3026
18	9,960.7614	66	6,868.7029
19	9,948.6192	67	6,630.0636
20	9,937.0092	68	6,380.3290
21	9,925.5916	69	6,119.5586
22	9,914.3856	70	5,847.2138
23	9,903.4104	71	5,563.6005
24	9,892.6850	72	5,269.2137
25	9,882.2185	73	4,964.7849
26	9,871.5161	74	4,651.2985
27	9,860.5488	75	4,332.0892
28	9,849.2979	76	4,008.7074
29	9,837.7447	77	3,682.9759
30	9,825.8607	78	3,356.9662
31	9,813.1166	79	3,033.9656
32	9,799.3979	80	2,717.4926
33	9,784.5714	81	2,410.9160
34	9,768.4953	82	2,116.5938
35	9,750.9902	83	1,836.8351
36	9,731.9953	84	1,573.8389
37	9,711.3148	85	1,329.6625
38	9,688.7166	86	1,106.0026
39	9,663.9522	87	904.2003
40	9,636.7192	88	725,1415
41	9,606.8936	89	569.2107
42	9,574.1341	90	436.5943
43	9,538.0492	91	326.3346
44	9,498.1802	92	236.9587
45	9,454.1561	93	166.5459
46	9,405.9115	94	112.8260
47	9,353.0879	95	73.3927
48	9,295.1362	96	45.5868
49	9,231.4366	97	26.8563
50	9,161.8039	98	14.8846
51	9,085.9625	99	7,6830
52	9,003.8890	100	3.6548
53	8,914.9756	101	1,5775
54	8,818.5691	102	0.6052
55	8,713.9544	103	0.2005
56	8,601.0913	104	0.0550
57	8,479.2826	105	0.0117
58	8,347.7774	106	0.0017
59	8,205.7817	107	0.0001
60	8,052.4567		
61	7,887.2444		
62	7,709.2924		

MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS NOT RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x	Age x	l_x
15	10,000.0000	63	8,347.7774
16	10,000.0000	64	8,205.7817
17	10,000.0000	65	8,052.4567
18	10,000.0000	66	7,887.2444
19	10,000.0000	67	7,709.2924
20	10,000.0000	68	7,517.7396
21	9,986.4900	69	7,313.0165
22	9,973.3977	70	7,096.3026
23	9,960.7614	71	6,868.7029
24	9,948.6192	72	6,630.0636
25	9,937.0092	73	6,380.3290
26	9,925.5916	74	6,119.5586
27	9,914.3856	75	5,847.2138
28	9,903.4104	76	5,563.6005
29	9,892.6850	77	5,269.2137
30	9,882.2185	78	4,964.7849
31	9,871.5161	79	4,651.2985
32	9,860.5488	80	4,332.0892
33	9,849.2979	81	4,008.7074
34	9,837.7447	82	3,682.9759
35	9,825.8607	83	3,356.9662
36	9,813.1166	84	3,033.9656
37	9,799.3979	85	2,717.4926
38	9,784.5714	86	2,410.9160
39	9,768.4953	87	2,116.5938
40	9,750.9902	88	1,836.8351
41	9,731.9953	89	1,573.8389
42	9,711.3148	90	1,329.6625
43	9,688.7166	91	1,106.0026
44	9,663.9522	92	904.2003
45	9,636.7192	93	725.1415
46	9,606.8936	94	569.2107
47	9,574.1341	95	436.5943
48	9,538.0492	96	326.3346
49	9,498.1802	97	236.9587
50	9,454.1561	98	166.5459
51	9,405.9115	99	112.8260
52	9,353.0879	100	73.3927
53	9,295.1362	101	45.5868
54	9,231.4366	102	26.8563
55	9,161.8039	103	14.8846
56	9,085.9625	104	7.6830
57	9,003.8890	105	3.6548
58	8,914.9756	106	1.5775
59	8,818.5691	107	0.6052
60	8,713.9544	108	0.2005
61	8,601.0913	109	0.0550
62	8,479.2826	110	0.0117

(f) *Disabled lives (Social Security disability).* The values of l_x applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which either eligibility for, or receipt of, Social Security disability benefits is a prerequisite, are as follows:

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x	Age x	l_x
15	10,000.0000	34	5,462.4416
16	10,000.0000	35	5,305.1233
17	10,000.0000	36	5,157.6409
18	10,000.0000	37	5,017.3531
19	10,000.0000	38	4,881.3228
20	10,000.0000	39	4,748.1210
21	9,517.0000	40	4,617.0729
22	9,057.3289	41	4,486.8714
23	8,619.6599	42	4,357.6495
24	8,203.5207	43	4,228.2274
25	7,807.2906	44	4,099.2664
26	7,430.1985	45	3,970.5495
27	7,087.6663	46	3,842.6978
28	6,778.6441	47	3,715.8887
29	6,500.0418	48	3,589.5485
30	6,249.1402	49	3,462.8375
31	6,022.9213	50	3,335.7513
32	5,818.7443	51	3,207.9920
33	5,632.5445		

MORTALITY TABLE FOR DISABLED MALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS—Continued

Age x	l_x	Age x	l_x
52	3,079.3516	81	373.4371
53	2,950.0188	82	327.8404
54	2,820.5130	83	284.4999
55	2,690.7694	84	243.7595
56	2,561.0743	85	205.9524
57	2,431.4839	86	171.3112
58	2,302.3721	87	140.0469
59	2,174.5905	88	112.3176
60	2,048.2468	89	88.1693
61	1,924.7375	90	67.6259
62	1,804.6339	91	50.5503
63	1,688.5959	92	36.7046
64	1,577.6552	93	25.7960
65	1,472.2678	94	17.4742
66	1,372.4480	95	11.3670
67	1,278.1609	96	7.0600
68	1,189.0731	97	4.1591
69	1,104.7678	98	2.3050
70	1,024.8931	99	1.1896
71	949.1535	100	.5660
72	877.3025	101	.2443
73	809.2239	102	.0937
74	744.8096	103	.0310
75	683.8842	104	.0085
76	626.3012	105	.0018
77	571.8756	106	.0003
78	519.9493		
79	469.9302		
80	420.9165		

MORTALITY TABLE FOR DISABLED FEMALE PARTICIPANTS RECEIVING SOCIAL SECURITY DISABILITY BENEFIT PAYMENTS

Age x	l_x	Age x	l_x
15	10,000.0000	63	3,303.6079
16	10,000.0000	64	3,186.3299
17	10,000.0000	65	3,070.9847
18	10,000.0000	66	2,957.3583
19	10,000.0000	67	2,845.5701
20	10,000.0000	68	2,735.7311
21	9,737.0000	69	2,627.9433
22	9,480.9169	70	2,522.3000
23	9,231.5688	71	2,418.6335
24	8,988.7785	72	2,316.8090
25	8,752.3737	73	2,216.4912
26	8,522.1862	74	2,117.4140
27	8,303.1660	75	2,018.9543
28	8,098.0959	76	1,919.6217
29	7,893.1965	77	1,818.0737
30	7,702.1811	78	1,712.9691
31	7,519.6394	79	1,604.8995
32	7,345.1838	80	1,494.8034
33	7,178.4481	81	1,383.2910
34	7,019.0866	82	1,270.8295
35	6,866.0705	83	1,158.3611
36	6,719.1366	84	1,046.9267
37	6,576.6909	85	937.7323
38	6,438.5804	86	831.9561
39	6,304.6579	87	730.3742
40	6,173.5210	88	633.8188
41	6,044.4944	89	543.0559
42	5,917.5600	90	458.8279
43	5,791.5160	91	381.6531
44	5,666.4193	92	312.0014
45	5,542.3247	93	250.2251
46	5,418.1766	94	196.4267
47	5,294.1004	95	150.6593
48	5,169.6890	96	112.6178
49	5,044.5825	97	81.7718
50	4,918.9724	89	57.4692
51	4,792.5548	99	38.9297
52	4,666.0314	100	25.3237
53	4,539.1153	101	15.7286
54	4,411.5662	102	9.2657
55	4,284.5131	103	5.1351
56	4,158.1200	104	2.6507
57	4,032.9605	105	1.2609
58	3,909.1487	106	.5542
59	3,786.0105	107	.2088
60	3,663.7223	108	.0692
61	3,542.4531	109	.0190
62	3,422.3640	110	.0041

§ 2619.45 Interest.

(a) *General rule.* In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.43(b)(1)) for purposes of applying the formulas set forth in § 2619.43(b)–(i) and in determining the value of any interest factor used in valuing benefits under this subpart, the plan administrator shall use the values of i_k prescribed in paragraph (c) of this section.

(b) *Description of interest table.* The table in paragraph (c) of this section tabulates, for each calendar month ending after the effective date of this part, the interest rates (denoted by i_1, i_2, . . ., i_{15}, i_u, and referred to generally as i_k) assumed to be in effect during each one-year period ending on an anniversary (the first, second, . . ., fifteenth, and subsequent aniversaries, respectively, and referred to generally as the k_{th} anniversary) of a valuation date that occurs within that calendar month; the rate i_u is assumed to be in effect during the sixteenth and all subsequent years. For example, the interest rate assumed to be in effect during the one-year period ending on the seventh anniversary of the valuation date is tabulated as i_7, and the rate assumed to be in effect during the one-year period ending on the seventeenth anniversary of the valuation date is tabulated as i_u.

(c) *Interest rates.*

For valuation dates occurring in the month:	The values of i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
X/85	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII	.IIII

§ § 2619.46 and 2619.47 [Removed]

§2619.48 [Redesignated as § 2619.46]

5. Sections 2619.46 and 2619.47 are removed, and § 2619.48 is redesignated as § 2619.46.

Appendices A, B, and C [Removed]

6. Appendices A, B and C are removed.

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

William E. Brock,

Chairman of the Board of Directors, Pension Benefit Guaranty Corporation.

Issued pursuant to a resolution of the Board of Directors approving, and authorizing its chairman to issue, this notice of proposed rulemaking.

Edward R. Mackiewicz,

Secretary to the Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 86–6118 Filed 3–24–86; 8:45 am]

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Tuesday
March 25, 1986

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 33

Airworthiness Standards; Aircraft Engines; Turboprop Engine Propeller Brake; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. 23737; Amdt No. 33-11]

Airworthiness Standards; Aircraft Engines; Turboprop Engine Propeller Brake

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes new airworthiness standards applicable to turbopropeller engines equipped with a propeller brake. The brake allows the propeller to be brought to a stop while the gas generator portion of the engine remains in operation as an auxiliary power unit (APU). The amendment is needed to establish an appropriate level of safety for the certification of aircraft engines with this new feature.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7081.

SUPPLEMENTARY INFORMATION

Background

A Notice of Proposed Rulemaking (NPRM), No. 84-23, was published in the **Federal Register** (49 FR 48760) on December 14, 1984. The NPRM proposed to establish new airworthiness standards applicable to the type certification of turbopropeller engines equipped with a propeller brake. Such engines feature a brake which allows the propeller to be brought to a stop while the gas generator portion of the engine remains in operation as an APU. Certification standards for such engines are not presently included in the Federal Aviation Regulations (FARs), and engine designs with this feature have, to date, been certificated through special conditions. As it is anticipated that such engine designs will continue to be submitted for airworthiness certification in the future, the FAA has determined that appropriate airworthiness standards should be established in the FARs. This amendment establishes type certification test requirements for turbopropeller engines also used as an APU. The tests are intended to provide for assessment of:

(a) Hot section tolerance for locked rotor operations effects on combustor stability/coking, turbine nozzle integrity, turbine blade integrity, vibration, etc.

(b) Engine drive system stability/response, including the power turbine rotors, shafting, bearings and supports, reduction and accessory gear trains and rotor brake components.

Interested persons were given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. Comments were received and are responded to herein.

Discussion of Comments

Two commenters suggested that the proposed title for the new § 33.96 be changed to read "Engine tests in APU mode" to emphasize that the requirement is to test the complete engine (including the propeller brake), and to emphasize that the tests are not related to propeller parking brakes to prevent windmilling. FAA agrees, and the title is changed accordingly.

Two commenters recommended that the first sentence of proposed § 33.96 be revised to have the rule also apply to engine designs with "provisions" for a propeller brake. Both commenters also recommended insertion of the words "is intended to" before "remain stopped. . . ." One of the two commenters further suggested the last portion of the introductory sentence be changed to allow the propeller brake tests to be performed in conjunction with the applicable endurance test schedule of § 33.87, if system test parameters permit and if found appropriate by the Administrator. FAA does not agree that the rule should address provisional engine designs. The type design of the engine to be certificated must define the configuration to be presented for inspections and tests as expressed in FAR 21, § 21.31 and § 21.33. In this context, there can be no "provisional" engine designs. FAA also does not agree with the suggestion concerning intent of design since the proposed rule expressly speaks to the actual type design submitted for certification. FAA agrees with the suggestion that propeller brake tests may be conducted in conjunction with required tests of § 33.87. Note that this has been typical practice with FAR 33 type certification testing in the past and, where conditions permit, is expected to continue in the future. Accordingly, FAA finds it unnecessary to incorporate this by rulemaking.

One commenter suggested that the first sentence of proposed § 33.96 be revised to refer to § 25.1309 in addition to § 33.87 to assure that the risk of inadvertent propeller brake operation, and the need for fail-safe provisions, are addressed at the aircraft level, as well as at the engine level. FAA agrees with the commenter's objectives. However, the existing airworthiness standards concerning engine installations in FAR Parts 23 and 25, are considered adequate to assure a minimum level of airworthiness for certification of installations of engines designed with propeller brakes for APU mode operations. In this case the engine manufacturer will be required to perform a safety analysis, in accordance with the existing requirements of § 33.75, which addresses APU mode operations. The FAA intends that the results of this analysis will be applied as necessary to the installed engine safety analysis, at the airframe level by the airframe manufacturer, to demonstrate compliance with § 25.1309 or § 23.1309, as appropriate.

A commenter stated that proposed § 33.96(a) is ambiguous in that the objective of the ground locking test can be met by a system which locks the propeller shaft but has no braking function; yet the requirement can be read as applying only to the brake (*i.e.*, it must function without adverse effect on itself during this test). The same commenter stated that proposed § 33.96(b) is also ambiguous, in that it is unclear whether the brake must function without adverse effects while mounted on the engine, or that the engine must suffer no adverse effects when the brake is used. FAA does not agree that the proposed rule is ambiguous. The proposed rule requires that the engine propeller brake must be demonstrated to be satisfactory, and it must not adversely effect the rest of the engine while operating in the APU mode.

Two commenters suggested that the engine operating conditions which apply in § 33.96(b) be revised to read ". . ., as specified by the applicant." FAA agrees with the commenters and the proposed rule is changed accordingly.

A commenter suggested that the proposal for § 33.96(c) is too restrictive in that the actual brake to be used may not be available at the time of the test for designs where provision is made for an optional propeller brake. As discussed earlier, the type design of the engine to be certificated must define the configuration to be presented for inspections and tests. In this context, there can be no provisional engine designs.

A commenter proposed to add a new § 33.96(d) to clearly identify the need to conduct all propeller brake testing on the same engine, but not necessarily the

engine used for the endurance testing. FAA concurs with the commenter and the proposed rule is changed accordingly.

A commenter suggested that propeller brake equipped engines will require additional evaluation to the following sections of FAR 33: §§ 33.14, 33.19, 33.21, 33.63, 33.75 and 33.90. FAA agrees with the concerns expressed by the commenter. However, further rule change is not necessary since the existing rules are sufficiently comprehensive to include engine APU mode design and test operations. The commenter also suggested that design and construction paragraphs 6.13, 6.14, 6.15 and 6.16 of FAA Technical Standard Order (TSO) –C77a (gas turbine auxiliary power units) should be reviewed for applicability to a propulsion engine used as an APU. These paragraphs concern automatic features for temperature control, speed and acceleration control, safety devices, and automatic shutdown features, respectively. The commenter's concern was that if engine operation without a qualified pilot monitoring engine performance is expected, the automatic monitoring devices and shutdown features required for APU's should be incorporated. FAA considers the existing airworthiness rules of FAR 33 to be adequate with regard to basic operations and control of the engine as an APU. If a manufacturer elects to incorporate such features in the engine design, then that configuration will be evaluated against each of the FAR requirements. In any case, appropriate operating limitations, including minimum crew requirements for APU mode operations, will have been established as part of the type certification of the engine and/or the aircraft. The commenter further stated that while disassembly inspection is required for the § 33.96(c) test, it is not clear that such an inspection would be required for the tests listed in §§ 33.96 (a) and (b). FAA agrees with the commenter. To preclude any misunderstanding, that sentence of the proposed rule is restructured as a separate section and the tests required by subsections (a), (b) and (c) are specifically identified therein.

A commenter proposed that the rule define the engine configuration to be used for testing. FAA agrees with the substance of the comment; however, further rule change is unnecessary since § 21.33 and § 21.53 adequately address this concern. The commenter further proposed to require design substantiation submittals in accordance with existing §§ 33.15 through 33.27, 33.62, 33.63, and 33.75. FAA agrees but, as discussed in the previous comments, further rule change is considered unnecessary. The commenter also suggested that FARs 23, 25, 27, and 29 may need review to ensure that adequate indication is provided and that controls are located and configured so as to make inadvertent operation unlikely. FAA agrees with the commenter's objectives, but further rule change is considered unnecessary since the existing certification rules covering turboprop engine installations are considered adequate in this regard.

Regulatory Evaluation

The FAA has determined that the benefits of this rule, while difficult to quantify, outweigh the minimal costs incurred in the certification of a propeller brake. The FAA realizes that the risk of inadvertent operation of the propeller brake or other related malfunction could have catastrophic consequences and, therefore, testing is required to make certain that the propeller brake is safe. Because manufacturers would test the propeller brake even if there were no federal regulation mandating such testing, the cost impact of the regulation will be minimal. The only additional costs would be those attendant to the certification process. Even though manufacturers are likely to test the brake on their own initiative, the regulation is required to ensure that the testing to established minimum standards has, in fact, been uniformly and satisfactorily completed.

The benefits of the regulation are difficult to quantify because industry would likely test the propeller brake even without the regulation. However, the regulation is required to ensure that the propeller brake is safe. Without this assurance the propeller brake's safety is open to question. Safety benefits are derived from the prevention of any possible catastrophic failures.

Other benefits which are difficult to quantify occur because the propeller brake allows the engine to remain on while the propeller is stopped. This will enable the engine to provide auxiliary power to the aircraft without the necessity of a ground power unit, thus allowing more flexibility in operations. It will also save time in turning around an aircraft because a ground auxiliary power unit will not be needed. The overall benefits outweigh the overall costs because the costs are minimal and there are benefits, although unquantifiable, in the prevention of a catastrophe, along with other operational minimal benefits. There were no comments relating to the economic aspects of this rule.

The Regulatory Evaluation which has been placed in the docket contains additional detail relating to costs and benefits, the Trade Impact Assessment and the Final Regulatory Flexibility Determination.

Trade Impact

The FAA has determined that there will be no impact on international trade as a result of the rule. Since certification rules are applicable to both U.S. and foreign manufacturers that sell in the U.S., there will be no competitive advantage to either. Because the test requirements are good commercial practice, foreign manufacturers are expected to certificate to similar standards as exist in the U.S. Therefore, U.S. manufacturers will not be at a disadvantage in foreign markets. There were no comments relating to Trade Impact.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that agencies shall endeavor to fit regulatory requirements to the scale of the entities subject to regulation. The RFA requires agencies to review proposed rules which may have "a significant economic impact on a substantial number of small entities." In the case of aircraft engine manufacturers a small entity is one with 375 or fewer employees. Eight firms in the U.S. manufacture turbine aircraft engines, none of which have fewer than 375 employees. Therefore, the FAA certifies that this rule does not impact a substantial number of small entities. There were no comments relating to the Initial Regulatory Determination.

Conclusion

The FAA has determined that this document involves a regulation which is considered to be not major under Executive Order 12291, or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and certifies that if promulgated, it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 33

Aircraft engines, Aircraft, Aviation safety.

Adoption of Amendment

Accordingly, the Federal Aviation Administration amends Part 33 of the FAR as follows:

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

1. The authority citation for Part 33 continues to read as follows:

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

2. By adding new § 33.7(c)(1)(vii) to read as follows:

§ 33.7 Engine ratings and operating limitations.

* * * * *

(c) * * *

(1) * * *

(vii) Auxiliary power unit (APU) mode of operation.

3. By adding new § 33.96 to read as follows:

§ 33.96 Engine tests in auxiliary power unit (APU) mode.

If the engine is designed with a propeller brake which will allow the propeller to be brought to a stop while the gas generator portion of the engine remains in operation, and remain stopped during operation of the engine as an auxiliary power unit ("APU mode"), in addition to the requirements of § 33.87, the applicant must conduct the following tests:

(a) Ground locking: A total of 45 hours with the propeller brake engaged in a manner which clearly demonstrates its ability to function without adverse effects on the complete engine while the engine is operating in the APU mode under the maximum conditions of engine speed, torque, temperature, air bleed, and power extraction as specified by the applicant.

(b) Dynamic braking: A total of 400 application-release cycles of brake engagements must be made in a manner which clearly demonstrates its ability to function without adverse effects on the complete engine under the maximum conditions of engine acceleration/deceleration rate, speed, torque, and temperature as specified by the applicant. The propeller must be stopped prior to brake release.

(c) One hundred engine starts and stops with the propeller brake engaged.

(d) The tests required by paragraphs (a), (b), and (c) of this section must be performed on the same engine, but this engine need not be the same engine used for the tests required by § 33.87.

(e) The tests required by paragraphs (a), (b), and (c) of this section must be followed by engine disassembly to the extent necessary to show compliance with the requirements of § 33.93(a) and § 33.93(b).

Issued in Washington, DC, on March 18, 1986.

Donald D. Engen,

Administrator.

[FR Doc. 86–6409 Filed 3–24–86; 8:45 am]

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federal register

Tuesday
March 25, 1986

Part IV

Department of the Treasury

Internal Revenue Service

26 CFR Parts 301 and 602

Procedure and Administration; Returns Required on Magnetic Media; Final Rule

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 301 and 602

[T.D. 8081]

Procedure and Administration; Returns Required on Magnetic Media

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to returns required to be filed on magnetic media. Changes to the applicable law were made by the Tax Equity and Fiscal Responsibility Act of 1982 and the Interest and Dividend Tax Compliance Act of 1983. The regulations apply to persons required to file certain returns (other than individual, estate, and trust income tax returns) and provide guidance with respect to the magnetic media filing requirement.

DATES: The regulations are effective as of March 25, 1986 and generally apply to returns filed after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: C. Scott McLeod of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T, 202-566-3288 (not a toll-free call), if the inquiry relates to other provisions of the regulations.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 1985 (50 FR 37871, Sept. 18, 1985) the **Federal Register** published proposed amendments to the Procedure and Administration Regulations (26 CFR Part 301) and to the Table of OMB Control Numbers under the Paperwork Reduction Act (26 CFR Part 602) relating to section 6011(e) of the Internal Revenue Code of 1954 (50 FR 37871). The amendments were proposed to reflect the addition to the Code of section 6011(e) by section 319 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 610) and its amendment by section 109 of the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 383). Twenty-two written comments responding to the notice of proposed rulemaking were received. On December 18, 1985, the Internal Revenue Service held a public hearing on the proposed amendments. Two individuals provided oral comments at the public hearing. After consideration of all comments received, the proposed amendments are adopted as revised by this Treasury decision.

Summary of Proposed Amendments

Under the proposed amendments, any person that is required to use Form 1042S (Income Subject to Withholding under Chapter 3 of the Internal Revenue Code), 1098 (Mortgage Interest Statement), 5498 (Individual Retirement Arrangement Information), 6248 (Annual Information Return of Windfall Profit Tax), 8027 (Employer's Annual Information Return of Tip Income and Allocated Tips), W-2 (Wage and Tax Statement), W-2G (Statement for Recipients of Certain Gambling Winnings), W-2P (Statement for Recipients of Annuities, Pensions, Retired Pay, or IRA Payments), W-4 (Employee's Withholding Allowance Certificate) or any form in the 1099 series (Information Returns) for the purpose of making a return must provide the information required by such form on magnetic media, unless (1) the person is a low-volume filer with respect to the return or (2) the person is granted a waiver with respect to the return by the Internal Revenue Service. Failure to file a return on magnetic media when required to do so by the regulations would be treated as a failure to file the return and would subject the person to the corresponding penalty.

For calendar years (or annual filing periods) beginning before January 1, 1987, the proposed amendments generally permit the filing of returns on the prescribed paper form for all returns other than those required on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID if fewer than 500 returns were required to be filed on that form for the preceding year (or annual period). For calendar years (or annual filing periods) beginning on or after January 1, 1987, the proposed amendments generally permit the filing of returns on the prescribed paper form for all returns other than those required on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID if fewer than 250 returns were required to be filed on that form for the preceding year (or annual period). The proposed amendments also provide that a person required to file a return on magnetic media may receive a waiver from such requirement in appropriate circumstances upon a showing of hardship.

In addition, under the proposed amendments, persons subject to the magnetic media requirement are required to obtain prior consent to the use of the magnetic medium on which the information is to be submitted. The proposed amendments provide that applications for consent to the use of a magnetic medium and requests for waiver generally must be filed at least 90 days before the filing of the first return for which the consent or waiver is requested. In the case of certain returns (Forms W-2 and W-2P) filed in 1987 and 1988, however, the application for consent or request for waiver is due no later than June 30 of the preceding year.

Public Comments

I. Low-Volume Thresholds.

Several commentators objected to the low-volume thresholds contained in the proposed amendments (500 returns for calendar years (or annual filing periods) beginning before January 1, 1987; 250 returns for calendar years (or annual filing periods) beginning on or after January 1, 1987). Some of these commentators believe that the low-volume thresholds should be increased, while others believe that the implementation of the 250-return threshold should be postponed until a later year. A few commentators believe that the regulations should establish a different threshold for each type of return based on the degree of difficulty in filing on magnetic media for the type of return. In addition, one commentator believes that the low-volume thresholds should apply on an establishment or location basis rather than on a taxpayer basis. Finally, a few commentators believe that the low-volume thresholds should be revised to take into account part-time workers and employee turnover.

The final regulations do not change the low-volume thresholds that were contained in the proposed amendments (except to clarify that a separate threshold applies to each member of an affiliated group of corporations filing a consolidated return) for a number of reasons. First, the purpose of the low-volume thresholds is to exclude from the magnetic media filing requirement those taxpayers that the Internal Revenue Service believes should be excluded because the volume of returns filed does not justify the incremental cost of filing on magnetic media. Taxpayers filing more than 250 returns during any calendar year (or annual filing period) should be able to comply with the magnetic media requirement without incurring unreasonable costs. Many taxpayers filing over 250 returns use computers in other facets of their business. Other taxpayers that do not utilize computers in their business should be able to contract with a computer service bureau to convert the information to magnetic media at a reasonable cost.

Furthermore, taxpayers that are required to file returns in excess of the low-volume thresholds can request a waiver from the magnetic media requirement. As was stated in the preamble to the proposed regulations, it is anticipated that the waiver authority will be exercised so as not to unduly burden taxpayers lacking the necessary data processing facilities and access at a reasonable cost to computer service bureaus.

The final regulations do not adopt a different low-volume threshold for each type of return because the cost of filing on magnetic media should not vary significantly based on the type of return being filed. In addition, the low-volume threshold is not determined on an establishment or location basis because in many cases an exemption would be inappropriate and hardship cases can be dealt with through the waiver process. Finally, the final regulations do not modify the low-volume threshold to take into account part-time employees and employee turnover because the Internal Revenue Service believes that the volume of returns, and not the number of employees, is the best indicator of the incremental cost of filing on magnetic media.

II. Types of Returns Required on Magnetic Media

Several commentators indicated that it is inappropriate and confusing to require magnetic media reporting for information contained on Form W-4 because Form W-4 is not a return (as required by section 6011(e)(1)), but rather is a form that is completed by an employee to enable the employer to withhold an appropriate amount of Federal income tax from the employee's wages. Other commentators argued that magnetic media reporting is inappropriate for information contained on Form 1099-A or Form 1099-R because the transactions that give rise to a return on such forms occur at irregular intervals throughout the year.

The Internal Revenue Service has determined that magnetic media reporting is unnecessary for returns filed on Form W-4, and, thus, the final regulations exclude returns filed on Form W-4 from the list of returns required on magnetic media. The Internal Revenue Service does not believe that the irregularity of a transaction that gives rise to a return will affect a taxpayer's ability to comply with the magnetic media requirement. Taxpayers filing Form 1099-A or Form 1099-R can compile the information required by such forms at the time of the underlying transaction and periodically transcribe the information on magnetic media without a substantial economic burden. For this reason, the final regulations require magnetic media reporting for information contained on Form 1099-A or Form 1099-R.

III. Permissible Media for Filing Returns

Commentators also suggested that the regulations permit magnetic media filing on 5¼ inch personal computer floppy disks. Although the Social Security Administration and the Internal Revenue Service are currently unable to process information submitted on 5¼ inch floppy disks, the Social Security Administration has announced that it will have the capability to process such information for returns filed after December 31, 1986, and the Internal Revenue Service anticipates that it will also have the capability to process such information for certain returns filed after December 31, 1986. Persons that plan to file on 5¼ inch floppy disks should submit a timely consent application that indicates this choice. If the Internal Revenue Service is unable to process such information for returns required to be filed in 1987, a hardship waiver will ordinarily be granted for such year.

IV. Returns of Brokers and Barter Exchanges

One commentator requested clarification with respect to the application of the low-volume thresholds to returns required on Form 1099-B (Proceeds from Broker and Barter Exchange Transactions). The proposed and final regulations do not apply to returns required on Form 1099-B. Consequently, under § 1.6045-1(*l*) of the Income Tax Regulations, all returns required on Form 1099-B must be filed on magnetic media unless a hardship waiver is granted with respect to such return.

V. Coordination of Rules Applicable to Returns Required on Forms W-2 and W-2P With Rules Applicable to Returns Required on Other Forms

One commentator suggested that the approval of magnetic media be performed by a single government agency and that the deadlines for the submission of consent and waiver applications for returns required on Form W-2 and W-2P be the same as the deadlines for other returns (at least 90 days before the filing of the first return for which consent or a waiver is requested). The regulations contain different rules for returns required on Form W-2 and W-2P because these returns are submitted to the Social Security Administration where the information on the returns is processed for use by the Social Security Administration and the Internal Revenue Service. The regulations do not permit approval of a magnetic medium by a single agency because the computer capabilities of the Social Security Administration and the Internal Revenue Service currently differ and are likely to differ in the future. The deadlines for the submission of consent and waiver applications are not uniform for the same reason.

VI. Imposition of Failure To File Penalty for Failure To File on Magnetic Media

The proposed regulations provide that if a person fails to file on magnetic media when required to do so by section 6011(e) and the regulations, such person is deemed to have failed to file the return and is subject to the corresponding penalties for failure to file such return. One commentator requested a transition period before the imposition of penalties for the failure to file on magnetic media. In addition, the commentator suggested that the regulations provide that any reasonable cause or due diligence exception to the penalty for failure to file apply in the case of a failure to file on magnetic media. The Internal Revenue Service believes that it is inappropriate to provide a blanket waiver of the penalty for the failure to file on magnetic media for a transition period. The regulations have been clarified, however, to permit the assertion of a reasonable cause or due diligence exception to the imposition of the penalty if the underlying failure to file penalty permits such as exception.

VII. Effective Date

One commentator requested clarification of the effective date of the regulations. Section 110 of the Interest and Dividend Tax Compliance Act of 1983 provides that in the case of returns required on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID, the magnetic media requirement applies to payments made after December 31, 1983. The final regulations, which follow the proposed regulations, apply to returns filed after December 31, 1986. The final regulations have been clarified, however, to provide that returns required on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID for payments made after December 31, 1983, are subject to the magnetic media requirement even if such returns are filed before January 1, 1987.

VIII. Regulatory Flexibility Analysis

Two commentators believe that the Internal Revenue Service should have undertaken a regulatory flexibility analysis to assess the impact of the

regulation on small businesses and other small entities. Under section 605(b) of title 5 of the United States Code, an initial or final regulatory flexibility analysis is not required if the head of the agency that is proposing a rule certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. In the notice of proposed rulemaking that was published on September 18, 1985 (50 FR 37871), it was certified that the proposed regulations will not have a signficant impact on a substantial number of small entities. This certification was based on a determination that the economic impact of the proposed reporting requirements will be minimal in most cases and, in any event, for returns required on Form 1099–DIV, 1099–PATR, 1099–INT, or 1099–OID, is attributable to requirements directly imposed by the statute. The Internal Revenue Service believes that the certification was proper, and thus, a regulatory flexibility analysis is not required.

IX. Miscellaneous Comments

Finally, a few commentators claimed that the magnetic media requirement was overly burdensome but did not suggest any specific modifications to the proposed amendments, and other commentators suggested changes that are outside the scope of this regulation project.

Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required. It is hereby certified that the regulations adopted in this document will not have a significant impact on a substantial number of small entities (see discussion under the Special Analyses heading in the notice of proposed rulemaking; 50 FR 37872). Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act.

Drafting Information

The principal author of these regulations is C. Scott McLeod of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

FOR ADDITIONAL INFORMATION CONTACT:

1. Magnetic Media Reporting, Internal Revenue Service, National Computer Center, P.O. Box 1359, Martinsburg, West Virginia 25401–1359, 304–263–8700 (not a toll-free call), if the inquiry relates to the waiver procedure or to magnetic media filing for returns required on Form 1098, 1099 series, 5498, 6248, 8027 or W–2G.
2. Magnetic Media Coordinator, Internal Revenue Service, Philadelphia Service Center, P.O. Box 245, Bensalem, Pennsylvania 19020, 215–969–2237 (not a toll-free call), if the inquiry relates to magnetic media filing for returns required on Form 1042S.
3. The following regional magnetic media coordinators of the Social Security Administration, if the inquiry relates to magnetic media filing for returns required on Form W–2 or W–2P:

SSA regional office and for persons residing in

Social Security Administration, J.F. Kennedy Building, Boston, Mass. 02203. Attn: Joanne Shulman, Rm. 1109, 617–223–4375 (not a toll-free call); Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Social Security Administration, 26 Federal Plaza, New York, New York 10007, Attn: Anne Coe, Rm. 4012, 212–264–0253 (not a toll-free call); New Jersey, New York, Puerto Rico, Virgin Islands

Social Security Administration, P.O. Box 8788, 3535 Market Street, Philadelphia, Penn. 19101, Attn: Frank O'Brien, Rm. 8490, 215–596–0474 (not a toll-free call); Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Social Security Administration, P.O. Box 1684, 101 Marietta Tower, Atlanta, Ga. 30301, Attn: Pat McCarron, Suite 1804, 404–221–2587 (not a toll-free call); Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Social Security Administration, 300 South Wacker Drive, Chicago, Illinois 60606, Attn: Jim Juntunen, 32nd Floor, 312–353–6717 (not a toll-free call); Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Social Security Administration, 1200 Main Tower, Room 1535, Dallas, Texas 75202, Attn: Pat Insko, 214–767–4311 (not a toll-free call); Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Social Security Administration, 601 East 12th Street, Kansas City, Mo. 64106, Attn: Dale Fick, 4th Floor East, 816–374–2095 (not a toll-free call); Iowa, Kansas, Missouri, Nebraska

Social Security Administration, Federal Office Building, 1961 Stout Street, Denver, Col. 80294, Attn: Rick Schremp, Rm. 1194, 303–837–2364 (not a toll-free call); Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Social Security Administration, 100 Van Ness Avenue, San Francisco, Cal. 94102, Attn: Bill Brees, Systems Branch, 415–556–4788 (not a toll-free call); American Samoa, Arizona, California, Guam, Hawaii, Nevada

Social Security Administration, 2901 Third Avenue, Seattle, Wash. 98121, Attn: Jan Hotson, M/S 302–206–442–0468 (not a toll-free call); Alaska, Idaho, Oregon, Washington.

List of Subjects

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 301 and 602 are amended as follows:

PART 301—[AMENDED]

Paragraph 1. The authority for Part 301 is amended by adding the following authority citation:

Authority: 26 U.S.C. 7805. * * * Section 301.6011–2 also issued under 26 U.S.C. 6011(e).

Par. 2. New § 301.6011–2 is added immediately after § 301.6011–1 to read as follows:

§ 301.6011–2 Required use of magnetic media.

(a) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term "magnetic media" means any magnetic media permitted under applicable regulations, revenue procedures, or, in the case of returns filed with the Social Security Administration, Social Security Administration publications. These generally include magnetic tape, diskette, cassette, and mini-disk, as well as other media specifically permitted under the applicable regulations or procedures. Use of diskette and cassette may be subject to certain limitations or special rules in the case of returns required on Form W–2 or W–2P.

(2) *Machine-readable paper form.* The term "machine-readable paper form" means—

(i) Optical-scan paper form; or

(ii) Any other machine-readable paper form permitted under applicable regulations, revenue procedures, or Social Security Administration publications.

(3) *Person.* The term "person" includes any person that is required to file a return that is described in paragraph (b) of this section. Thus, the term "person" includes the United States, a State, the District of Columbia, a foreign government, a political subdivision of a State or of a foreign government, or an international organization. In addition, in the case of an affiliated group of corporations filing a consolidated return, each member of the affiliated group is a separate person.

(b) *Returns required on magnetic media.* (1) If the use of Form 1042S, 1098, 1099 series, 5498, 6248, 8027, W-2G, or other form treated as a form specified in this paragraph (b)(1) is required by the applicable regulations or revenue procedures for the purpose of making a return, the information required by such form shall, except as otherwise provided in paragraph (c) of this section, be submitted on magnetic media. Returns on magnetic media shall be made in accordance with applicable revenue procedures. Pursuant to these procedures, the consent of the Commissioner of Internal Revenue (or other authorized officer or employee of the Internal Revenue Service) to a magnetic medium shall be obtained prior to submitting a return on such magnetic medium. An application for such consent shall be in writing and must be filed at least 90 days before the filing of the first return for which consent is requested.

(2) If the use of Form W-2, W-2P, or other form treated as a form specified in this paragraph (b)(2) is required by the regulations or revenue procedures for the purpose of making a return (not including the copy of Form W-2 or W-2P that is required to be attached to an Individual Income Tax Return), the information required by such form shall, except as otherwise provided in paragraph (c) of this section, be submitted on magnetic media. Returns on magnetic media shall be made in accordance with applicable Social Security Administration procedures. Thus, the consent of the Secretary of Health and Human Services (or other authorized officer or employee of the Department of Health and Human Services) to a magnetic medium shall be obtained prior to submitting a return on such magnetic medium. An application for such consent shall be in writing and must be filed—

(i) On or before June 30, 1986, in the case of returns filed in 1987;

(ii) On or before June 30, 1987, in the case of returns filed in 1988; and

(iii) At least 90 days before the filing of the first return for which consent is requested in all other cases.

(3) The Commissioner may prescribe by revenue procedure that additional forms are treated, for purposes of this section, as forms specified in paragraph (b)(1) or (b)(2) of this section.

(c) *Exceptions*—(1) *Low-volume filers*—(i) *In general.* A person required to make returns on a particular type of form specified in paragraph (b) of this section (other than Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID) may make such returns on the prescribed paper form for a calendar year or other applicable annual period (whether such returns are filed during the calendar year or annual period or during the subsequent calendar year or annual period) if—

(A) In the case of a calendar year or annual period beginning before January 1, 1987—

(*1*) On the first day of such calendar year or annual period the person reasonably expects to file fewer than 500 returns on such form for the calendar year or annual period; and

(*2*) The person was not required to file 500 or more returns on such form for the preceding calendar year or annual period; or

(B) In the case of a calendar year or annual period beginning on or after January 1, 1987—

(*1*) On the first day of such calendar year or annual period the person reasonably expects to file fewer than 250 returns on such form for the calendar year or annual period; and

(*2*) The person was not required to file 250 or more returns on such form for the preceding calendar year or annual period.

Alternatively, such persons may make returns on magnetic media in accordance with paragraph (b) of this section.

(ii) *Machine-readable forms.* Returns made on a paper form under this paragraph (c)(1) shall be machine-readable if applicable revenue procedures provide for a machine-readable paper form.

(iii) *Form 1099 series.* Each form within the Form 1099 series is considered a separate type of form for purposes of this paragraph (c)(1). Thus, for example, in the case of a calendar year beginning on or after January 1, 1987, if on the first day of such calendar year a person reasonably expects to file 200 returns on Form 1099-A and 150 returns on Form 1099-MISC and for the preceding calendar year the person was required to file 200 returns on Form 1099-A and 150 returns on Form 1099-MISC, the person may make such returns on the prescribed paper form for such calendar year.

(2) *Special rule for Form 1099-DIV, 1099-PATR, 1099-INT, 1099-OID*—(i) *50 or fewer returns.* A person required to make returns on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID may make such returns on a machine-readable paper form for a calendar year if—

(A) On the first day of such calendar year the person reasonably expects to file 50 or fewer returns on such forms for the calendar year; and

(B) The person was not required to file more than 50 returns on such forms for the preceding calendar year.

Alternatively, such persons may make returns on magnetic media in accordance with paragraph (b) of this section

(ii) *Aggregation of returns.* For purposes of determining the number of returns that a person was required to file or reasonably expects to file on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID, all such returns shall be aggregated. Thus, for example, if a person filed 30 returns on Form 1099-INT and 30 returns on Form 1099-DIV for a calendar year, or reasonably expects to do so for the succeeding calendar year, all returns made by such person on Form 1099-DIV, 1099-PATR, 1099-INT and 1099-OID for the succeeding calendar year must be on magnetic media.

(3) *Provided by regulations*—(i) *In general.* This section does not apply to a return if the regulations relating to such return require reporting on magnetic media.

(ii) *Example.* The following example illustrates the application of the rule in paragraph (c)(3)(i) of this section:

Example. Section 1.6045-1(*l*), relating to returns of information of brokers and barter exchanges, requires the use of magnetic media as the method of reporting. Thus, this section does not apply to returns required to be filed under section 6045.

(4) *Waiver.* (i) The Commissioner may waive the requirements of this section if hardship is shown in an application filed in accordance with this paragraph (c)(4)(i). Such waiver shall specify the type of form and period to which it applies and shall be subject to such terms and conditions regarding the method of reporting as may be prescribed by the Commissioner. In determining whether hardship has been shown, the principal factor to be taken into account will be the amount, if any,

by which the cost of filing returns in accordance with this section exceeds the cost of filing the returns on other media. A request for waiver shall be in writing and must be filed—

(A) On or before June 30, 1986, in the case of returns on Form W-2 or W-2P filed in 1987;

(B) On or before June 30, 1987, in the case of returns on Form W-2 or W-2P filed in 1988; and

(C) At least 90 days before the filing of the first return for which a waiver is requested in all other cases.

(ii) The Commissioner may by revenue procedure prescribe rules that supplement the provisions of paragraph (c)(4)(i) of this section.

(d) *Paper form returns.* Returns submitted on paper forms (whether or not machine-readable) permitted under paragraph (c) of this section shall be made in accordance with applicable revenue or Social Security Administration procedures.

(e) *Applicability of current procedures.* Until procedures are prescribed which further implement the mandatory filing on magnetic media provided by this section, a return to which this section applies shall be made in the manner and shall be subject to the requirements and conditions (including the requirement of applying for consent to the magnetic medium) prescribed in the regulations, revenue procedures and Social Security Administration publications relating to the filing of such return on magnetic media. In addition, consent to the use of a magnetic medium obtained in accordance with such regulations, revenue procedures and Social Security Administration publications (regardless of when obtained) will be considered consent to the use of such medium for purposes of paragraph (b) of this section.

(f) *Failure to file.* If a person fails to file a return on magnetic media when required to do so by section 6011(e) and this section, such person is deemed to have failed to file the return. See sections 6652 and 6693 for penalties for failure to file certain returns.

(g) *Effective date.* (1) Except as otherwise provided in paragraph (g)(2) of this section, this section applies to returns filed after December 31, 1986.

(2) Returns required on Form 1099-DIV, 1099-PATR, 1099-INT, or 1099-OID for payments made after December 31, 1983, must be filed on magnetic media except as otherwise provided in paragraph (c) of this section.

PART 602—[AMENDED]

Par. 3. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 301.6011-2 . . . [1545-0387]".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 5, 1986.

J. Roger Mentz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 86-6519 Filed 3-20-86; 4:25 pm]

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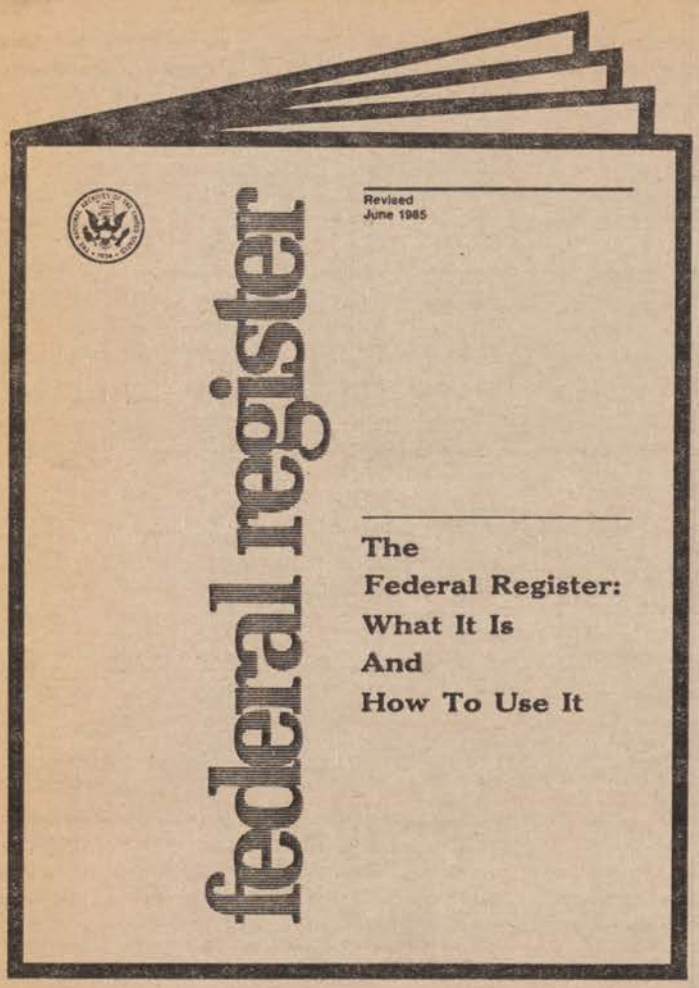

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