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Briefings on How to Use the Federal Register—
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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.

WASHINGTON, DC

WHEN: September 25; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Doris Tucker 202-523-3419

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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

Federal Grain Inspection Service

7 CFR Part 810

Standards for Wheat

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: Federal Grain Inspection Service (FGIS) is revising the U.S. Standards for Wheat to certificate dockage to the nearest 0.1 percent. The current method of dockage certification rounds the actual dockage percentage down to the nearest half or whole percent. This method may result in understating the level of dockage up to 0.49 percent on the certificate. Certification of dockage to the nearest 0.1 percent is more precise than the current method and should enhance the marketability of U.S. wheat traded in domestic and export markets. In addition, FGIS is changing certification procedures stated in the Grain Inspection Handbook to certificate the protein content of wheat on a constant 12.0 percent moisture basis. Certification on the basis of a constant 12.0 percent moisture instead of the current "as is" moisture will add uniformity to the protein reporting procedure.

EFFECTIVE DATE: May 1, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, RM, USDA, FGIS, Room 1661, South Building, 1400 Independence Ave., SW., Washington, DC 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1521–1. The action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the order.

Regulatory Flexibility Act Certification

David R. Galliart, Acting Administrator, FGIS has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of wheat inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Effective Date

Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) (the Act), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to that section of the Act, it has been determined that in the public interest the revision becomes effective May 1, 1987. This effective date will coincide with the beginning of the 1987 crop year and facilitate domestic and export marketing of wheat. This effective date will provide adequate time to implement the revised standards and procedures and allow the industry to make any necessary marketing changes.

Final Action

A proposed rule to revise the U.S. Standards for Wheat to certificate dockage to the nearest one-tenth percent was published in the May 30, 1986 **Federal Register** (51 FR 19556), and comments were solicited during a 45-day period. In the proposed rule, FGIS also solicited views and comments on the use of a constant moisture basis of 12.0 percent to certificate wheat protein content. A total of 114 comments was received. Fifty-one comments were from wheat producers. Thirty-eight comments were from individuals representing producer and trade associations and commissions. Twelve comments were from foreign buyers of U.S. wheat. Four comments were from individuals associated with State Departments of Agriculture. Three comments were received from individuals associated with grain marketing firms. One comment each was received from a congressional representative, a country elevator operator, and a university professor. Three comments were received which did not address the proposed dockage and protein changes. The large majority of commenters addressed both dockage and protein certification. On the basis of these comments and other available information, FGIS is revising the wheat standards to certificate dockage to the nearest one-tenth percent. In addition, FGIS will certify wheat protein content on a constant moisture basis of 12.0 percent.

Certification of Dockage in Wheat

Dockage consists primarily of dust, chaff, small weed seeds, very small pieces of broken wheat, and coarse grains larger than wheat. Domestic millers usually remove dockage during grain cleaning and may use it as animal feed. Foreign buyers use dockage in a variety of ways. Some use the dockage in animal feeds, others mill the dockage with the wheat, and some remove and discard the dockage.

In the current U.S. Standards for Wheat (7 CFR 810.301–810.309), dockage is certificated by rounding down to the nearest half or whole percent (7 CFR 810.305). For example, for 0.0 to 0.49 percent no dockage is shown, 0.5 to 0.99 is shown as 0.5 percent dockage, 1.0 to 1.49 percent is shown as 1.0 percent dockage and so forth. Many foreign buyers question the adequacy of the current dockage certification method asserting that the actual dockage is almost always understated. In current practice a wheat shipment may contain up to 0.49 percent more dockage than the percentage shown on the official inspection certificate. Export shipments certificated with no dockage generally contain 0.3 to 0.4 percent dockage. Export shipments certificated at 0.5 percent dockage generally contain 0.8 to 0.9 percent dockage. An understated amount of dockage may impact on foreign buyers due to wheat prices being paid for understated dockage, freight, and, when applicable, levy charges paid on each ton of imported wheat.

FGIS held a Wheat Dockage Meeting in Denver, Colorado, on January 7, 1986.

Although a number of options were discussed, a large majority of industry personnel who spoke at the meeting favored certification of dockage to the nearest 0.1 percent. They stated this method of certification would more accurately indicate dockage content and would enhance the quality of U.S. wheat.

In addition to the Wheat Dockage Meeting, Grain Quality Workshops were initiated by the trade. The objective of the workshops was to study problems related to the quality of grain exported from the United States. Workshop members included representatives from different segments of the grain industry, academia, and government personnel. After discussing the current dockage certification procedure and potential alternatives, the majority of the Grain Quality Workshop members recommended that dockage be certificated to the nearest 0.1 percent.

The large majority of comments received on the proposed rule published in the **Federal Register** supported certification of dockage in wheat to the nearest 0.1 percent. Only two commenters opposed the proposal. One commenter stated that the change would provide no assurance of increased sales of wheat and might penalize producers since elevators would use stricter dockage testing procedures. The other commenter stated that certification to the nearest 0.1 percent leaves little margin for error. Testing may be unattainable if equipment is not accurate, and this could result in foreign buyer complaints. While any change to the wheat standards does not assume increased sales, FGIS believes that the dockage and protein changes will be beneficial for the reasons discussed below.

Prior to publication of the proposed rule, FGIS gathered information and data on the levels of wheat dockage in the domestic and export markets. This was used to compile a USDA, Economic Research Service (ERS) report entitled: "Economic Implications of Alternate Methods of Certificating Dockage in U.S. Wheat." The report outlined potential benefits of revising the dockage certification procedure and concluded that elimination of the problem of understated dockage will strengthen the credibility of the official inspection certificate, enhance buyer confidence in the U.S. Standards for Wheat, and strengthen the competitive position of U.S. wheat in the world market.

The ERS report also concluded that dockage certificated to the nearest 0.1 percent could affect price per bushel depending on how market participants view the price quotations for wheat in relation to the certified dockage content. The report stated that the price effect on all classes of wheat in the interior market could vary from a decrease of 0.971 cents per bushel to an increase of 0.674 cents per bushel and in the export market, from a decrease of 0.981 cents per bushel to an increase of 0.789 cents per bushel.

Studies conducted by FGIS indicated that dockage results to the nearest 0.1 percent are reproducible. FGIS concurs that dockage testing equipment must be well maintained and periodically checktested for accuracy to maintain this reproducibility.

One commenter opposed to the proposed change to dockage certification indicated a preference for certification to the nearest half or whole percent. Three other commenters who did not oppose the proposal also indicated the same preference. The certification procedure suggested by these commenters would, however, allow up to 0.25 percent of understated dockage, and foreign buyer complaints about excess dockage would, FGIS believes, be likely to continue.

Five commenters supporting the proposal stated that the factor for dockage and foreign material should be combined. However, these two factors can be easily calculated since both will be certificated to the nearest 0.1 percent. In addition, this reporting method could allow extra dockage to be introduced up to the maximum amount for each grade.

Two commenters, while expressing overall support for the proposal raised concern regarding the impact of the dockage and/or protein changes on existing wheat inventories graded prior to the effective date of this action and shipped after that date. As with other changes to the grain standards, the marketplace, whether through discounts, premiums or otherwise, should adjust to these changes. These same commenters inquired about changes to dockage certification as related to the Uniform Shiplot and Combined Lot Inspection Plan (CuSum). Necessary changes in the CuSum loading plan related to dockage certification to the nearest 0.1 percent are currently being reviewed by FGIS. Prior to implementation, information related to the development of these changes will be shared with the wheat industry to gather input on the subject.

Based on all information available including the ERS study on the economics of alternative dockage methods, FGIS studies, comments submitted at the public meeting, recommendations received from the Grain Quality Workshops, and comments received on the proposed rule, FGIS is revising § 810.305(b) in the U.S. Standards for Wheat to state the percentage of dockage to the nearest 0.1 percent. Accordingly, pursuant to the provisions of § 810.305, the percentage of dockage would be stated, as certain other factors presently are, in whole and tenth percents to the nearest 0.1 percent.

Protein Moisture Basis

In addition to the proposed rule on wheat dockage certification, the May 30, 1986, **Federal Register** (51 FR 19556) also proposed that wheat protein be certified on a constant 12.0 percent moisture basis to provide uniformity to the certification procedure. Changing to a constant 12.0 percent moisture basis was unanimously recommended by the Grain Quality Workshop members following discussion of this topic. A 12.0 percent basis was recommended because based upon information available to FGIS this percentage is representative of the approximate average moisture content of wheat exported from the United States.

Protein is an official criteria under the U.S. Grain Standards Act. The procedure for reporting protein content appears in Aux. 21 of the Grain Inspection Handbook. Unless otherwise requested, protein content is currently reported on "as is" moisture basis; that is, the percentage of protein is calculated on the actual moisture content of the wheat. Current procedures also allow protein content to be recorded on a specified moisture basis if requested by the applicant for inspection. This practice will be discontinued. When reported on an "as is" moisture basis, the protein quantity of wheat which has different moisture levels cannot be easily compared. Protein content is inversely related to moisture content. Protein quantity certificated on a constant moisture basis of 12.0 percent will provide buyers, sellers, and users of U.S. wheat with results which could be easily evaluated and compared. Also, use of a constant moisture basis will conform with protein reporting procedures used by other major wheat exporting countries.

Only one commenter opposed the proposal to certificate protein on a constant 12.0 percent moisture basis. This commenter stated that producers who deliver low-moisture, high protein wheat will assume a disproportionate decrease in price due to loss of protein for the 12.0 percent adjustment and will receive no premium for low moisture. In addition, this same opinion was expressed by two commenters who indicated a preference for use of the "as is" moisture basis. The commenter opposed to the proposal also stated that

the protein content of export sales could be understated or overstated in comparison to contract specifications if such contracts are not in compliance with the 12.0 percent basis.

Premiums and discounts are set by the trade pursuant to contract specifications. Consequently, initiating new or changing current premiums and discounts should be set according to the demand of the market and trade practices.

FGIS does not believe that changing to a constant moisture basis for protein certification will disrupt the export market or confuse foreign buyers. Reporting protein quantity on a constant moisture basis will provide results which may be easily evaluated and compared. Other major wheat exporting countries certify protein content on a constant moisture basis. Foreign buyers will be notified of the change in advance of the effective date, so contracts can be adjusted accordingly.

Five commenters did not oppose the proposal to certificate protein on a constant 12.0 percent moisture basis but indicated a preference for a 0.0 percent or 14.0 percent basis. The 0.0 percent and 14.0 percent basis are frequently used in European and American flour mill specifications, respectively. However, the majority of commenters, including foreign buyers, supported the proposal to certificate protein on a 12.0 percent basis. This percentage is the approximate average moisture content of wheat exported from the U.S., and the protein content on any other moisture basis can be easily calculated.

Based on all information available including the recommendation of the Grain Quality Workshops and the comments received on the proposed rule, FGIS is changing its Grain Inspection handbook to provide that the protein content of wheat be certified on a constant 12.0 percent moisture basis.

Other Comments

Some of the commenters on wheat dockage and protein certification also included information and opinions on the following quality related topics:

—use of the falling numbers test in the inspection process,

—the need for better cleaning practices,

—revision of the CuSum and Protein Uniform Inspection Plans,

—limits for heat-damaged and heavy heat-damaged kernels,

—addition of foreign material, other grains, screenings, and wheat of other classes to export shipments,

—revising the classification of red wheats, and

—reducing tolerances for wheat of other classes and considering hard red and soft red wheats as contrasting classes

These and other topics related to the wheat standards and/or inspection procedures will be reviewed by FGIS and may be addressed during the next regulatory review of the standards or otherwise, as deemed appropriate. This review is tentatively scheduled to begin in late-1986 or early-1987.

List of Subjects in 7 CFR Part 810

Export, Grain.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

1. The authority citation for Part 810 continues to read as follows:

Authority: Sections 3A and 4, United States Grain Standards Act (7 U.S.C. 75a, 76).

Accordingly, the U.S. Standards for Wheat § 810.305 *Percentages* is amended by revision § 810.305(b) to read as follows:

§ 810.305 Percentages.

* * * * *

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining the identity of wheat, the class, the subclass, and the percentage of ergot. The percentage when determining the identity of wheat, the class, and the subclass shall be stated to the nearest whole percent. The percentage of ergot shall be stated to the nearest hundredth percent.

Dated: August 13, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86-19284 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1036

[Docket No. AO-179-A49]

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends several provisions of the Eastern Ohio-Western Pennsylvania milk order. As amended, the pooling requirements for a cooperative operated balancing plant are reduced, the Director of the Dairy Division is permitted to adjust pooling standards for pool supply plants and cooperative balancing plants on a temporary basis when aberrations occur in the market's supply-demand conditions, and handlers are provided more flexibility in moving milk directly from producer farms to nonpool manufacturing plants. This action is based on industry proposals considered at a public hearing held in Strongsville, Ohio on August 7–8, 1985. The order changes are needed to reflect current marketing conditions and to promote marketing efficiencies. The amended order was approved by the market's dairy farmers who voted in a referendum.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250 (202) 447-7311.

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

Prior documents in this proceeding:

Notice of Hearing: Issued July 19, 1985; published July 24, 1985 (50 FR 30204).

Suspension Order: Issued September 4, 1985; published September 10, 1985 (50 FR 36865).

Partial Recommended Decision: Issued February 14, 1986; published February 21, 1986 (51 FR 6245).

Partial Decision: Issued July 24, 1986; published July 30, 1986 (51 FR 27178).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Eastern Ohio-Western Pennsylvania order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings upon the basis of the hearing record

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order is hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) Additional findings

It is necessary in the public interest to make this order amending the order effective September 1, 1986. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The partial decision of the Deputy Assistant Secretary containing all amendment provisions of this order was issued July 24, 1986 (51 FR 27178). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1986, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the **Federal Register**. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551–559).

(c) Determinations

It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved by more than the necessary two-thirds of the producers who voted in the referendum.

List of Subjects in 7 CFR Part 1036

Milk marketing order, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. The authority citation for 7 CFR Part 1036 continues to read as follows:

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

2. The suspension order issued September 4, 1985, and published September 10, 1985 (50 FR 36865), to be effective pending the completion of this proceeding, is hereby terminated.

3. Section 1036.7 is amended by revising paragraph (d) and adding a new paragraph (f) to read as follows:

§ 1036.7 Pool plant.

* * * * *

(d) A plant operated by a cooperative association if, during the month, 35 percent or more of the producer milk of members of the association is delivered to a distributing pool plant(s) or to a nonpool plant(s) when a Class II or Class III classification is not requested. Deliveries for qualification purposes may be made directly from the farm or by transfer from such association's plant, subject to the following conditions:

(1) The cooperative requests pool status for such plant;

(2) The 35-percent delivery requirement may be met for the current month or it may be met on the basis of deliveries during the preceding 12-month period ending with the current month;

(3) The plant is approved by a duly constituted health authority to handle milk for fluid consumption; and

(4) The plant does not qualify as a pool plant under paragraph (a), (b), or (c) of this section or under the similar provisions of another Federal order applicable to a distributing plant or supply plant.

* * * * *

(f) The percentage delivery requirement in paragraphs (b) and (d) of this section may be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if the Director finds that such revision is necessary to obtain needed shipments or to prevent uneconomic shipments. Before making such a finding, the Director shall investigate the need for revision on either the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that revision is being considered and invite data, views, or arguments in favor of or in opposition to the proposed revision.

4. Section 1036.13 is amended by revising paragraph (e), the introductory text of paragraph (f), and paragraphs (f)(1)(ii) and (f)(2)(ii) to read as follows:

§ 1036.13 Producer milk.

* * * * *

(e) During March through August and December, subject to the conditions of paragraph (g) of this section, the operator of a pool plant or a cooperative association may divert the milk of a producer without limit.

(f) During September through February excluding December and subject to the conditions of paragraph (g) of this section:

(1) * * *

(ii) The plant operator may divert an aggregate quantity of milk of producers not exceeding 40 percent of the producer milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator.

(2) * * *

(ii) The cooperative association may divert an aggregate quantity of milk not exceeding 40 percent of the producer milk that the cooperative association causes to be delivered to pool plants or diverted therefrom.

* * * * *

Effective date: September 1, 1986.

Signed at Washington, DC on: August 19, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 86–19283 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 75

[Docket No. 86-074]

Official Tests for Equine Infectious Anemia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the equine infectious anemia (EIA) regulations by including the Competitive Enzyme-Linked Immunosorbent Assay (CELISA) test as an official test for EIA, if conducted in a laboratory approved by the Deputy Administrator, Veterinary Services. This action is warranted to provide an additional official test for EIA which has been determined to be adequate for its intended purpose.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. C.A. Gipson, Program Planning Staff, VS, APHIS, USDA, Room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 75 (referred to below as the regulations) include provisions concerning the interstate movement of horses, asses, mules, ponies, and zebras found to be affected with equine infectious anemia (referred to below as EIA), also known as swamp fever. Prior to the effective date of this amendment, the regulations provided that the Agar gel immunodiffusion test, conducted in a laboratory approved by the Deputy Administrator, Veterinary Services, was the official EIA test for determining whether horses, asses, mules, ponies, and zebras are affected with EIA.

A document published in the **Federal Register** on May 20, 1986 (51 FR 18455-18456), proposed to amend the regulations by including the Competitive Enzyme-Linked Immunosorbent Assay (CELISA) test as an official EIA test, if conducted in a laboratory approved by the Deputy Administrator, Veterinary Services. The document of May 20, 1986, invited the submission of written comments on or before June 19, 1986. The two comments received supported the proposed rule. Based on the rationale set forth in the proposal, the regulations are amended as proposed.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no 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 its review process required by Executive Order 12291.

This amendment to the regulations provides for the use of an additional official EIA test as an option for use in determining whether an animal is infected with the disease. Therefore, 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 9 CFR Part 75

Animal diseases, Contagious equine metritis, Dourine, Equine, Equine infectious anemia, Horses, Quarantine, Transportation.

PART 75—COMMUNICABLE DISEASES IN HORSES, ASSES, PONIES, MULES, AND ZEBRAS

Accordingly, Part 75, Title 9, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 75 continues to read as set forth below:

Authority: 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134-134h; 7 CFR 2.17, 2.51, and 371.2(d).

2. In paragraph (a) of § 75.4, the definition of "Official test" is revised to read:

§ 75.4 Interstate movement of equine infectious anemia reactors and approval of laboratories, diagnostic facilities and research facilities.

(a) * * *

Official test. The Agar gel immunodiffusion test or the Competitive Enzyme-Linked Immunosorbent Assay (CELISA) Test, conducted in a laboratory approved by the Deputy Administrator.

* * * * *

Done at Washington, DC, this 15th day of August 1986.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-19216 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-105-AD; Amdt. 39-5404]

Airworthiness Directives; Boeing Model 737-300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires replacement of air conditioning ducts installed in certain Model 737-300 airplanes. This action is necessary because it has been discovered that the ducts have unsatisfactory flammability characteristics and do not comply with the flammability requirements of Federal Aviation Regulations (FAR) 25.853. The ducts presently installed could contribute to the propagation of a fire occurring on the airplane.

EFFECTIVE DATE: October 2, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of certain air conditioning ducts on Boeing Model 737-300 airplanes, was published in the **Federal**

Register on May 29, 1986 (51 FR 19357). This modification will provide for fire safety on the affected aircraft by replacing air conditioning ducts which have inadequate flammability characteristics.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to the comments received.

Two comments were received in response to the Notice of Proposed Rulemaking. The first commenter had not objection to the proposal.

The second commenter agreed with the intent of the AD, but offered additional comments on details of the proposal. The commenter pointed out that it is the insulation material bonded to the duct and forming its exposed surface which actually requires replacement. From a practical standpoint, since the insulation is bonded to the duct, the FAA has determined that it is more efficient to replace the entire duct. The commenter also questioned the hazard posed by the duct, because of its size and location. The FAA agrees that the duct is not located in a location near what are typically considered ignition sources. However, the FAA has determined that there is a sufficient likelihood that this area could become involved in a fire to warrant replacement of the duct. Finally, the commenter proposed changing the compliance time from 180 days, to require accomplishment at the next scheduled "C" check. "C" check intervals for the Model 737 vary considerably in length and are sometimes accomplished in stages which may take more than a year to complete. The FAA has determined that a 180-day compliance time is appropriate, in light of the nature of the hazard and the apparent ability of all affected operators to comply within that time.

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

Approximately 120 airplanes of U.S. registry will be affected by this AD. It is estimated that 4 manhours will be required to modify each airplane at a cost of $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $19,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737–300 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737–300 airplanes listed in Boeing Service Bulletin 737–21–1085, dated February 14, 1986, certificated in any category. Compliance required within 180 days after the effective date of this amendment, unless already accomplished.

To ensure air ducts have adequate flammability characteristics accomplish the following:

A. Replace air ducts in accordance with Boeing Service Bulletin 737–21–1085, dated February 14, 1986, or later FAA-approved revisions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the applicable service bulletin from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington, 98124–2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19166 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–25–AD; Amdt. 39–5402]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Boeing Model 767 series airplanes, which requires the incorporation of a stronger access door for the opening within the empennage that provides access to the vertical fin. This action is needed because the vertical fin could be overpressurized to the point of structural failure in the event of an aft pressure bulkhead rupture.

EFFECTIVE DATE: October 2, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Yarges, Aerospace Engineer, Airframe Branch, ANM–120S; telephone (206) 431–2925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive which requires replacement or modification of the Boeing Model 767 fin access door, was published in the **Federal Register** on May 14, 1986 (51 FR 17647). This action was considered necessary to preclude a structural failure in the vertical fin in the event of a rupture of the aft pressure bulkhead.

Interested parties have been afforded an opportunity to participate in the making of the amendment. Due consideration has been given to the two comments received.

The first commenter supported the proposal.

The second commenter, the Air Transport Association (ATA) of America, objected to the proposed six-month compliance period, which they argued could cause disruption in their member operators' scheduled service. The ATA stated that ruptures of the aft pressure bulkhead would most likely be the result of an inadequate structural repair and, because of the new condition of the B–767 fleet, which is only 4 years old, such failures are not likely. Therefore, the ATA requested a two-year compliance period for the requirements of the proposed AD.

The FAA concurs that some allowance can be made because the B–767 fleet is young and has no history of bulkhead failures or major bulkhead structural repairs. However, the modification should be accomplished in the shortest, nondisruptive time period. The FAA had determined that the fleet can be modified within one year without any disruption of an operator's scheduled service. Therefore, the final rule has been revised to reflect a one-year compliance period.

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

It is estimated that 60 airplanes of U.S. Registry will be affected by the requirements of this AD. Modification will require approximately 8 manhours to accomplish, at an average labor charge of $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators will be $19,200.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 767 airplanes, certificated in any category, listed in Boeing Service Bulletin 767–52–0042, Revision A, dated January 15, 1986. To prevent structural failure of the vertical fin in the event of a rupture of the aft pressure bulkhead, accomplish the following within 12 months after the effective date of this amendment, unless already accomplished:

A. Install a stronger replacement fin access door or reinforce the existing fin access door in accordance with Boeing Service Bulletin 767–52–0042, Revision A, dated January 15, 1986, or later FAA-approved revisions.

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer, may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19165 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–146–AD; Amdt. 39–5406]

Airworthiness Directives; CASA Model C–212 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires the installation of split bus bars in the overhead electrical panel and a new transformer on certain CASA Model C–212 airplanes. These actions are necessary to provide two independent power sources for navigation and communications systems. A single failure could cause the loss of all navigation and communications systems.

EFFECTIVE DATE: October 2, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires installation of split bus bars and a new transformer on certain CASA Model C–212 airplanes, was published in the **Federal Register** on January 23, 1986 (51 FR 3073).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

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

It is estimated that 8 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are estimated at $500 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $14,240.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($1,780). A final evaluation has been prepared for

this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

CASA: Applies to CASA Model C-212 series airplanes as listed in CASA Service Bulletin 212-24-33, Revision 2, dated October 23, 1985, certificated in any category. Compliance is required within 90 days after the effective date of this AD. To preclude the loss of navigation and communications capability due to a single electrical system failure, accomplish the following, unless previously accomplished:

A. Modify the electrical system in accordance with CASA Service Bulletin 212-24-33, Revision 2, dated October 23, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19169 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-158-AD; Amdt. 39-5403]

Airworthiness Directives; McDonnell Douglas Corporation Model DC-10-10, -15, -30, -40, and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement or modification of tanks 1, 2, and 3 transfer pump check valves and associated pressure switches, and installation of additional surge relief valves on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes. This AD is prompted by numerous incidents in which failures occurred in fuel transfer lines. This action is necessary to minimize the potential of unusable fuel being trapped in any of the wing tanks and possible fuel imbalance, resulting in a reduction of airplane control or loss of range, or both.

EFFECTIVE DATE: October 2, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) to require replacement or modification of tanks 1, 2, and 3 transfer pump check valves and associated pressure switches and modification of existing valves, and the installation of additional surge relief valves on McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the Federal Register on February 28, 1986 (51 FR 7079). The comment period for the proposal closed on April 22, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Comments were received from eight organizations, four domestic airlines, one foreign operator, the airplane manufacturer, and two associations.

All operators stated that they felt the compliance time of 12 months after the effective date of the AD was too short. They suggested compliance times varying from 18 months to 22 months; one commenter suggested 15 months after receipt of parts. The airplane manufacturer noted that approximately 1,000 pressure switches are required in order to comply with McDonnell Douglas Service Bulletin (S/B) 28-140, and estimated the supplier will require 17 months for production of the switches, which would be September 1987. The airplane manufacturer suggested a compliance time of 24 months after the effective date of this AD. One association, which represented several domestic airlines, also suggested a 24-month compliance time. Two operators suggested increasing the compliance time, and stating it in flight hours as well. The FAA has considered these comments and has determined that the compliance time can be extended to 18 months or 4,500 flight hours after the effective date of the AD, whichever occurs first, without compromising safety. The FAA has determined that any further extension is unnecessary and compliance can be accomplished in the allotted time period.

One of the domestic airline operators and the airplane manufacturer noted that the estimate of 21 manhours for the accomplishment of the required procedures, which was stated in the economic impact paragraph in the Preamble to the NPRM, does not account for draining, opening, purging, and venting the fuel tanks to accomplish the rework. The operator estimates the total out-of-service time as 2 days. The manufacturer assumes that an operator would normally accomplish the requirements of the AD at a time when the airplane is out of service for a major maintenance check; if the airplane is not out of service, the manufacturer estimates that 4 manhours per airplane would be required. The FAA concurs, and has added this information in the economic impact paragraph in the Preamble.

The foreign operator noted that as of the date of the communication, it was unable to obtain a copy of the valve

supplier's service bulletin and the supplier's lead time was 6 months. The supplier states that the service bulletin, which is dated September 1985, should be available to the operator. The foreign operator also noted that McDonnell Douglas DC–10 Service Bulletin 28–163 requires a proof test at 330 psi, but does not specify any method, equipment, or tools for the test. The FAA agrees that the original issue did not include a testing procedure, but Revision 1, dated July 18, 1986, does include it; the reference in the AD has been revised accordingly.

The final comment, from another association, strongly endorsed the adoption of the proposed AD.

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

It is estimated that 189 airplanes of U.S. registry will be affected by this AD. It will require approximately 21 manhours per airplane to accomplish the required repair, and the average labor cost will be $40 per manhour. The cost of parts exclusive of surge relief valves is estimated at $5,284 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators would be $1,157,436. For those operators required to drain, open, purge, and vent the fuel tanks, approximately 4 additional manhours will be necessary to accomplish the requirements of the AD; at an average labor charge of $40 per manhour, this will entail an additional $160 per airplane. The FAA has no method of estimating how many airplanes would fall under this category.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, Model DC–10 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pusuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10, –15, –30, and –40, and KC–10A (Military) series airplanes, cetificated in any category.

Compliance is required as indicated, unless previously accomplished.

To preclude potential fuel feed line failures and resulting unusable fuel or fuel imbalance, complete the following:

A. Within the next eighteen (18) months, or 4500 flight hours, whichever occurs first, after the effective date of this AD, complete the modifications and installations in accordance with the accomplishment instructions of McDonnell Douglas DC–10 Service Bulletin 28–140, Revised 1, dated October 16, 1985, and Service Bulletin 28–163, Revision 1, dated July 18, 1986, or lated revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewook Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19164 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86–NM–16–AD; Amdt. 39–5405]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –15, –30, –40, and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the right-hand forward passenger door partition shroud panel assemblies on McDonnell Douglas Model DC–10 and KC–10A (Military) series airplanes. This action is prompted by reports in production that an interference condition could occur when moving the forward door handle to the emergency position. This AD is necessary to minimize the potential for interference between the right-hand forward door handle and the shroud, which could result in the loss of one use of emergency door exit.

EFFECTIVE DATE: October 2, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Edward S. Chalpin, Aerospace Engineer, Systems & Equipment Branch, ANM–131L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6323.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) requiring the modification of the right-hand forward passenger door partition shroud panel assemblies on McDonnell Douglas Model DC–10 and KC–10A (Military) series airplanes, was published as a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on April 2, 1986 (51 FR 11322). The comment period for the proposal closed May 25, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

consideration has been given to all comments received. Three comments were received.

The first commenter disagreed with the statement in the NPRM that a slight flexing of the shroud can result in "jamming of the door." The commenter's reasoning was based upon the contention that only if the shroud were damaged could any significant interference with the handle occur. Furthermore, the commenter indicated that if interference did occur, the flexibility of the shroud would allow it to be easily positioned to eliminate the interference. The FAA disagrees. As designed, the shroud floats in place around the handle. The shape and rigidity of the shroud is such that if it moves within the path of the handle's swing it can impede the handle's movement and cause it to stop. The object of the AD is to modify the shroud and prevent the possibility of obstructing the handle.

The second commenter suggested that, in view of the close proximity of operating mechanisms of both the right and left hand doors, the modification should affect the manual emergency mode as well as the normal mode in which the doors are operated pneumatically. The FAA offers a clarification on the intent of the modification. The modification involves the door shroud and its impingement on the operation of the handle. It only involves the manual system. Since the pneumatic system is internal and has no bearing on the shroud or external handle, the modification does not affect the operation of that system.

The third commenter observed that model DC-10F aircraft noted in the NPRM do not have the panel assemblies on the right-hand forward door partitions as described in the NPRM. The FAA has changed the applicability of the AD to reflect only those aircraft with the deficient shroud. This is also reflected in the economic impact statement.

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

It is estimated that 93 U.S. registered airplanes will be affected by this AD, that it will take a total of 2 manhours per airplane to accomplish the required action, and that the average labor cost will be $40 per manhour. The cost of the modification parts is estimated to be $371 per aircraft. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $41,943.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because few, if any, model DC-10 series airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, -15, -30, -40, and KC-10A (Military) series airplanes, certificated in any category. Compliance required as indicated unless previously accomplished.

To assure proper operation of the right-hand forward passenger emergency exit operating handle, accomplish the following:

A. Within the next 12 months after the effective date of this AD, modify, reidentify, and reinstall the right-hand forward door assembly and escutcheon assembly in accordance with the Accomplishment Instructions of McDonnell Douglas DC-10 Service Bulletin 25-339, dated December 4, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective October 2, 1986.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19163 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-14]

Alteration of VOR Federal Airways—CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Federal Airways V-283 and V-372 which are located in the vicinity of Box Springs, CA. In order to eliminate the confusion of similar sounding names of navigational aids (NAVAID), the FAA has decided to change the name of the Box Springs, CA, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) to Homeland, CA. Currently, pilots confuse the name of Box Springs, CA, VORTAC with Palm Springs, CA, VORTAC and have proceeded to the wrong NAVAID. This action will eliminate that confusion, thereby increasing safety.

EFFECTIVE DATE: 0901 UTC. October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

The Rule

The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to change the name of the Box Springs, CA, VORTAC. The Box Springs VORTAC is only 38 miles from the Palm Springs VORTAC. Due to the proximity of these NAVAID's and their similar sounding names they are creating problems for

the air traffic control system causing aircraft to proceed to the wrong NAVAID. This action will eliminate that problem, thereby increasing flight safety. This action does not affect any airspace or route designations. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

Under the circumstances presented, the FAA concludes that there is a need for a regulation to change the name of the Box Springs VORTAC to the Homeland VORTAC. Because this is a minor technical amendment in which the public would not be particularly interested, I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as amended (50 FR 47044, 51 FR 7, 2352 and 6102), is further amended, as follows:

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-283 [Amended]

Wherever "Box Springs" appears substitute "Homeland".

V-372 [Amended]

Wherever "Box Springs" appears substitute "Homeland".

Issued in Washington, DC, on August 20, 1986.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86-19174 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWA-31]

Alteration of VOR Federal Airways—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airway V-308 located between Nottingham, MD, and Hedge Intersection, NJ. This action is part of the Expanded East Coast Plan (EECP). The EECP's objective is to establish an improved air traffic system that is designed to reduce delays for aircraft en route to or departing from terminals in the eastern United States. The EECP is being implemented in several segments until completed.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

History

On June 11, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-308 in the vicinity of Nottingham, MD, and Hedge Intersection, NJ, [51 FR 21178). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters VOR Federal Airway V-308 located between Nottingham, MD, and Hedge Intersection, NJ. Currently, east coast traffic flows are so saturated and compressed in the New York metropolitan area that substantial delays are experienced daily. The EECP would alleviate this congestion and would reduce delays to and from terminals in the eastern United States.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-308 [Amended]

By removing the words "From INT Kenton, DE, 217° and Sea Isle, NJ, 256° radials, via Sea Isle;" and substituting the words "From INT Patuxent, MD, 002° and Nottingham, MD, 075° radials; Sea Isle, NJ;"

Issued in Washington, DC, on August 20, 1986.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86-19172 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 86-AWA-9]

Alteration of VOR Federal Airway V-77 and Jet Route J-21—OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign a segment of Jet Route J-21 between Will Rogers, OK, and Wichita, KS, and a segment of Federal Airway V-77 between Will Rogers and Pioneer, OK. The Will Rogers very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) has been relocated. These changes will enhance flight planning and provide additional flexibility for maneuvering traffic and permit more expeditious handling of aircraft in the Oklahoma City terminal area.

EFFECTIVE DATE: 0901 UTC, October 23, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Services, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9254.

SUPPLEMENTARY INFORMATION:

History

On March 31, 1986, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to amend the descriptions of VOR Federal Airway V-77 and Jet Route J-21 located in the vicinity of Oklahoma City, OK (51 FR 10882). The Will Rogers VORTAC has been relocated and this action realigns V-77 and J-21 which will facilitate procedural requirements for flights proceeding through the airspace assigned to the Oklahoma City Airport air traffic control tower's airspace and permit additional flexibility for maneuvering departure and arrival traffic. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal on the FAA. The only objection to the proposal was submitted by the U.S. Air Force from the 71st Flying Training Wing (FTW), Vance AFB, OK. The Air Force comments are as follows:

1. "The proposed relocation of V-77 creates safety considerations for the undergraduate pilot training (UPT) operations in the Vance MOA. The proposed adjacent alignment of V-77 and the MOA does eliminate a previous buffer zone protection for this extremely busy airspace. The 71 FTW submits the following recommendation for your consideration: That portion of V-77 just north of IRW be moved and aligned with the IRW 355° radial north to 29 DME, then direct to ALTOR intersection and rejoin V-77 as currently published. This alignment would provide increase safety for the military and civil aviators."

The FAA has determined that the proposed relocation of V-77 places the airway in approximately the same location as it was prior to the relocation of the Will Rogers, OK, VORTAC, therefore, we conclude there are no safety problems due to the realignment of V-77.

2. "The proposed relocation of J-21 to pass through the Vance MOA will directly impact the UPT mission for Vance AFB. Without the use of ATC assigned airspace between FL 180 to FL 240 the loss of training requirements would be unacceptable. If the relocation of J-21 is necessary, the Air Force formally objects due to the impact on UPT operations, the loss of air traffic control assigned airspace (ATCAA) overhead the MOA airspace. This airspace is critical to T-37 spin training requirements and is mandatory for pilot qualification."

The FAA has determined that the proposed realignment of J-21 places the route in approximately the same location as it was prior to the relocation of the Will Rodgers VORTAC. Also, the realignment of J-21 does not pose a safety problem because the Vance MOAs' approval altitudes are up to but nor including FL 180. However, as in the past, the Kansas City Air Route Traffic Control Center will continue it's cooperation with the Air Force by allowing operations above the MOSs' altitudes in the ATCAA up to FL 240 whenever traffic conditions permit. FAA does not anticipate undue delays to military aircraft as a result of the realignment. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations realign a segment of Jet Route J-21 between Will Rogers, OK, and Wichita, KS, and a segment of Federal Airway V-77 between Will Rogers and Pioneer, OK. The Wichita VORTAC has been relocated. These actions enhance flight planning and provide additional flexibility for maneuvering traffic and permit expeditious flow of traffic in the Oklahoma City terminal area.

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

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, VOR Federal airways and jet routes.

Adoption of the Amendments

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-77 [Amended]

By removing the words "Will Rogers; Pioneer, OK;" and substituting the words "Will Rogers; INT Will Rogers 002° and Pioneer, OK, 201° radials; Pioneer;"

PART 75—[AMENDED]

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

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

§ 75.100 [Amended]

4. Section 75.100 is amended as follows:

[-21 [Amended]

By removing the words "Pioneer, OK:"

Issued in Washington, DC, on August 19, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-19173 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 86-162]

Customs Regulations Amendment Relating to a Change in the Customs Service Field Organization; Brunswick, GA

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to change the Customs field organization by extending the geographical limits of the port of entry at Brunswick, Georgia. Currently, Customs officers at the port service many locations which are outside the Brunswick city limits, those limits having been the unofficial port limits. This expansion will better serve the public by including several locations routinely requiring Customs service within the official port limits.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Coleman, Office of Inspection and Control, (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, by notice published in the Federal Register on February 3, 1986 (51 FR 4172), Customs proposed to amend § 101.3, Customs Regulations (19 CFR 101.3), by extending and officially defining the geographical limits of the port of entry of Brunswick, Georgia, located in the Savannah, Georgia, Customs District in the Southeast Region.

Currently, there is no official definition of the Brunswick port limits. The Brunswick city limits have been serving as the port limits. However, Customs officers at the port routinely service many locations which are outside the city limits, and an additional out-of-port terminal facility recently began operation. Therefore, it was proposed to expand the Brunswick port limits to include those several locations now receiving service.

Discussion of Comments

In response to the notice, only one comment was received. No specific opposition was raised in regards to the expansion and redefinition of the port limits. The commenter was against increasing ports of entry. This change does not increase the number of ports of entry. Therefore, after further review of the matter, Customs has determined that it is in the public interest to extend and redefine the geographical limits of the port of entry of Brunswick.

The expanded port limits are as follows: Beginning from the intersection of the boundary between the counties of Camden and Glynn and the Atlantic Ocean, and proceeding in a northwesterly direction along the Little Satilla River to U.S. Highway Interstate 95; then in a northeasterly direction along U.S. Highway Interstate 95 to the boundary between McIntosh and Glynn Counties; then in an easterly direction along the Altahama River to the Atlantic Ocean; then in a southerly direction along the Atlantic coastline to the place of beginning.

Changes in the Customs Field Organization

The Secretary of the Treasury is advised by the Commissioner of Customs in matters affecting the establishment, abolishment, or other change in ports of entry. Customs ports of entry are established under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp., Ch. II), and pursuant to authority provided by Treasury Department Order No. 101-5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

Amendments to the Regulations

PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

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

§ 101.3 [Amended]

2. To reflect this change, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations (19 CFR 101.3(b)), is amended by removing the period after "Brunswick" in the column headed "Ports of entry" in the Savannah, Georgia, Customs District of the Southeast Region and inserting, in its place, the phrase, "including the territory described in T.D. 86-162.".

Regulatory Flexibility Act

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

Executive Order 12291

Because the amendment relates to the Customs field organization, and will not result in a "major rule" as defined in section 1(b) of E.O. 12291, the regulatory impact analysis and review prescribed by the E.O. are 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 offices participated in its development.

Approved: August 5, 1986.
Alfred R. De Angelus,
Acting Commissioner of Customs.
Francis A. Keating, II,
Assistant Secretary of the Treasury.
[FR Doc. 86-19261 Filed 8-25-86; 8:45 am]
BILLING CODE 4820-02-M

19 CFR Parts 111, 171, and 178

[T.D. 86-161]

Customs Regulations Amendments Relating to Customs Brokers

AGENCY: Customs Service, Treasury.
ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement the statutory changes made by the Trade and Tariff Act of 1984 relating to the regulation of customs brokers. Among these changes were the creation of a single license for each broker and separate permits to operate in each Customs district, a listing of specific grounds for suspension or revocation of a license or permit, creation of a monetary penalty and specific procedures to be followed when an action is initiated to suspend or revoke a license or assess a monetary penalty. In addition, the regulations are being amended to incorporate recommendations of a Customs Headquarters Task Force on broker licensing and regulation.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter or Fred Burns O'Brien, Entry, Licensing and Restricted Merchandise Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

A customs broker ("broker") is a person who is licensed by the Customs Service ("Customs") to transact customs business on behalf of importers and other persons. Under section 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), the Secretary of the Treasury may prescribe rules and regulations governing the licensing as brokers of citizens of the U.S. of good moral character, and of corporations, associations, and partnerships. Rules and regulations also may be prescribed as necessary to protect importers and the revenue of the U.S., to include requiring the keeping of books, accounts, and records by brokers, and the inspection of these and related papers, documents, and correspondence by any duly accredited agent of the U.S. Part 111, Customs Regulations (19 CFR Part 111), contains the regulations prescribed by the Secretary relating to the licensing of brokers and their duties and responsibilities.

A Customs Headquarters Task Force on broker licensing and regulations (Task Force) was established to make a comprehensive study of the laws and regulations administered by Customs which relate to brokers and to make recommendations for regulatory amendments.

Based upon the recommendations of the Task Force for regulations changes, on April 7, 1983, Customs published a notice in the **Federal Register** (48 FR 15154), proposing amendments to 19 CFR Part 111.

Subsequently, by section 212 of Pub. L. 98-573, the Trade and Tariff Act of 1984 (the Act), substantial revisions were made to 19 U.S.C. 1641, relating to brokers. Among the changes were the creation of a single license for each broker and separate permits to operate in each Customs district, a listing of specific grounds for suspension or revocation of a license or permit, creation of a monetary penalty, and specific procedures to be followed when an action is initiated to suspend or revoke a license or assess a monetary penalty.

Because of these legislative changes, the earlier proposal was redrafted and published in a **Federal Register** notice on August 7, 1985 (50 FR 31871).

Discussion of Comments

Fourteen comments were received in response to the notice, some quite detailed, touching on many aspects of the proposal. Many commenters offered suggestions of an editorial nature to clarify the existing and the proposed regulations. Some suggestions were adopted and others were found to be unnecessary.

Editorial Comments

The following editorial comments were not adopted.

(1) A suggestion that § 111.16(b)(4) be eliminated because it duplicates § 111.53.

We believe it is useful to spell out clearly that a willful misstatement of pertinent facts in the application for a broker's license is sufficient cause to justify the denial of a license. Section 111.53 concerns grounds for suspension or revocation of a license, not grounds for refusal to issue one.

(2) A suggestion that § 111.5(a) not be amended because a strict reading would preclude a broker with a West Coast permit from representing his importer before a National Import Specialist in New York or at Headquarters because he does not transact customs business in those districts.

The commenter is incorrectly interpreting § 111.5(a). A broker is not permitted to represent a client at a local level in a district where a permit has not been granted. However, a broker may represent a client at a national level at either Headquarters or with a National Import Specialist.

(3) A suggestion that the title of § 111.19(d) be changed to "Requirement for Permit" and that a subheading "Waiver of District Responsible Supervision" be inserted. No specific reasons were given for this suggestion.

We believe that no changes in the headings are necessary.

(4) A suggestion that the words "(including several related corporations)" be inserted in § 111.23(e)(1) before the words "in more than one region" because corporate brokers may choose to transact business in different districts under different names or may operate other offices in subsidiary or affiliate relationships.

We believe that the section is clear without the addition of the parenthetical explanation. Brokers who have been granted permits to do business in more than one region will personally have the permits. It is clear from the language that it makes no difference whether the broker with the permit to do business transacts the business under different names, as long as he has a permit.

The following editorial comments were adopted.

(1) In § 111.11(b)(2), the words "been granted" was changed to "applied for" to more clearly reflect the correct sequence of events.

(2) In § 111.11(c)(3), the words "where it has been granted" was changed to "where it has applied for" to more clearly reflect the correct sequence of events.

(3) In § 111.19(d), in the second sentence, the words "on or after" was changed to "on and after" to clarify that starting October 31, 1987, an applicant for a broker's permit must employ, in each district for which a permit is granted at least one licensed individual to exercise responsible supervision and control.

(4) In § 111.19(d), the word "matter" in the second to last sentence was changed to "request for waiver".

(5) In § 111.23(b), the words "may record on microfilm any records other than powers of attorney" was changed to "may maintain on microfilm or similar medium, in lieu of an original,

any records other than powers of attorney", to clarify that original powers of attorney must be maintained, but there is no restriction against also putting copies of powers of attorney on microfilm or similar medium.

(6) Section 111.23(d), was revised to clarify that any document may be records relating to their adherence to the laws and regulations administered documents.

Other minor, non-substantive editorial changes have also been made to these regulations.

General Concerns

One of the major areas of concern indicated in the comments relate to the term "customs business". Some commenters were concerned that brokers be regulated by Customs only regarding their "customs business".

Customs traditional mission is to assess and collect duties on imported merchandise; to prevent fraud and smuggling; and to control carriers, persons, and articles entering and departing the U.S. In carrying out its mission, Customs must, to a certain extent, regulate the business of brokers. This includes requiring the retention of records relating to their adherance to the laws and regulations administrated and enforced by Customs. Customs will not go beyond the scope of its mission.

One commenter stated that special permits should be issued to individuals who prove themselves capable of transacting customs business related to drawback. Customs cannot adopt this suggestion. As defined in 19 U.S.C. 1641(a)(2), "customs business" includes drawback transactions and, according to 19 U.S.C. 1641(b), no person may conduct customs business unless that person holds a broker's license.

Another requested clarification that 19 U.S.C. 1641, as amended by the Act, does not require an attorney to obtain a broker's license to represent a client in an administrative proceeding before Customs.

Customs assures the commenter that it would not consider it a violation of the Act if an attorney represents a client before Customs without possessing a broker's license.

Two commenters stated that existing § 111.44, dealing with limits of liability for brokers' business activities, should be deleted as the broker-client relationship is not within Customs regulatory objective. As no change was proposed in this section, the comment is beyond the scope of this rulemaking and is not being adopted.

Another general concern was that brokers be protected from any arbitrary and/or capricious actions taken by Customs officials. This concern was indicated in suggested changes in various provisions concerning giving brokers reasonable notice in writing regarding Customs actions.

We are also concerned that adequate notice be given to all parties in their Customs dealings. Accordingly, specific language regarding notice has been included in §§ 111.23(e)(2)(v), 111.23(e)(3), and 111.45.

Requirements for Obtaining License or Permit

It was suggested by one commenter that a basic requirement for an individual obtaining a broker's license be that the applicant demonstrate a minimum of 2 years experience with Customs procedures in the U.S. Customs rejects this suggestion as an unnecessary restraint. Knowledge of Customs procedures is demonstrated by the applicant obtaining a passing grade on the broker examination.

A commenter stated that § 111.19 should not require, as a condition for the granting of a permit, that the district director be satisfied that the person intends to transact business within the district.

Customs disagrees. As amended by section 212 of the Act, 19 U.S.C. 1641(c) clearly provides that permits will be granted only in districts in which the broker conducts customs business.

Another stated that the issuance of permits should be pro forma and that the primary permit to accompany the license was automatically to be included with the license.

A permit is required in the district in which a license is issued. However, Customs agrees that issuance of a permit will be pro forma (1) if the applicant has a valid license which is not subject to an on-going revocation or suspension action, (2) the applicant has a place of business in the district for which the permit is sought, and (3) if a licensed broker is employed as a permanent employee in that district subject to the conditions in § 111.28 relating to responsible supervision and control. A permit for the district through which the license application was submitted will be issued concurrently with the license if these conditions are met.

It was also suggested that when a broker applies for a permit in an additional district, unnecessary delay could be eliminated if Headquarters would contract other district directors where brokers have permits to conduct business, rather than having the district directors contact each other.

Customs disagrees. Direct communication between district directors will facilitate and expedite the approval process, whereas centralized processing would create a bottleneck. Moreover, the issuance of a permit depends upon the applicant's holding a valid license, having a place of business within the district, and having made satisfactory arrangements to have responsible supervision of the work performed by his employees in the district. Inasmuch as the district director is in a better position to verify that these conditions exist than Headquarters, the suggested change is not adopted.

Another suggestion concerning § 111.19 was that when a corporation goes into another district located in another state and applies for a permit to do business in that district, it should be required to first apply to the state or local government for the right to use the business name in that state. This would prevent the possibility of more than one broker using the same business name, thus confusing the public.

Customs agrees. A sentence is added to the end of § 111.19(b) stating, "When a broker applies for a permit in an additional district, he must provide the district director with a document which reserves the business name with the state or local government, in order to avoid the use of the same or a confusingly similar name by two brokers".

Duties and Responsibilities of Brokers Responsible Supervision and Control

Some concern was indicated regarding the term "responsible supervision and control" as explained in § 111.11(d). One commenter stated that the level of supervision and control that Customs is requiring—that of "substantially the same quality of service in handling customs transactions that the licensed broker is required to provide"—is unreasonable. If Congress had expected such a level of performance, it would have required all employees to be licensed brokers. This commenter also stated that the regulations should provide that an employee who is competent and experienced in the transaction of customs business shall be deemed to not require the same degree of supervision and control as an inexperienced employee.

It is Customs view that a broker must ensure the competence of services provided by his employees. The broker must supervise the work of his employees to the extent necessary to ensure that the service provided by those employees in particular aspects of customs business, if not exactly the same quality that is required of a broker,

is "substantially" the same. We believe that this is necessary to ensure that competent service is provided to the public in transactions with Customs. Determinations of whether employees are adequately supervised will vary depending upon the particular circumstances in each instance. Accordingly, it would be impracticable to list all possible circumstances in the regulations.

Another commenter requested clarification as to whether the responsibility of supervision and control lies solely with the licensed broker who is an officer of a corporation.

Customs believes the regulations are clear that while customs transactions may be performed by a qualified employee of an association or corporation who need not be a licensed individual, that employee must be under the responsible supervision and control of a licensed individual, who may or may not be an officer of the corporation.

Employee Reports

Many comments concerned § 111.28(b), which requires that a broker submit, in writing to each district director, a list of the names of persons currently employed in the district and other pertinent information concerning the employees.

Information on a broker's employees is used by Customs for law enforcement purposes. With this information, Customs is able to ascertain if any employees have criminal records which may affect their suitability for employment in the brokerage business. Customs believes that demanding this information from brokers is reasonable because the employing broker is in the best position to know when employees are hired or terminated. Demanding the information from the employees would not be feasible as Customs regulates the brokers, not the employees.

One commenter stated that it is not fair for Customs to require immediate notification in the event of the death or substantial disability of an individual broker.

Customs believes that in the event of the death or substanial disability of a broker, a member of the brokerage firm must notify Customs immediately in order to enable Customs to verify compliance with the requirement of replacing the deceased or disabled licensee within the requisite period of time. For this reason, notification must be provided immediately or as soon as practicable after the death or disability of the broker.

In a related matter, § 111.28(b)(3) has been changed to increase the time a broker is allowed to submit the name of a terminated employee from 10 to 30 days.

Recordkeeping

The duties and responsibilities of brokers regarding maintenance of records of transactions was another area that generated comments. It was suggested that some of the items on the form provided for in § 111.22(d) do not fall within the definition of "customs business" and that the vast majority of brokers are exempted from maintaining the form anyway.

While the normal regulatory audits performed by Customs are limited in scope, Customs can, when a complaint against a broker is received, expand the scope of the audit to all charges relating to customs business. The suggestion to eliminate this section of the regulations is rejected. Customs ability to respond to complaints would be impaired if records were not maintained in the prescribed manner or some other manner approved by Customs.

While Customs is aware that many brokers are currently exempt from maintaining the prescribed form because of the adequacy of their recordkeeping systems, § 111.22 must be retained for those brokers who do not have an adequate system. Customs agrees with the comments that some of the item numbers on the form do not fall within the definition of "customs business". Accordingly, when the form is used, columns 7–15 may be left blank.

It was suggested by a few commenters that centralized storage be provided for other than accounting records. One commenter specifically would like centralized storage of microfilmed entry records.

Customs agrees that this suggestion has merit. We are looking into the possibility of allowing centralized storage for all broker's records. However, certain administrative and enforcement concerns must be resolved before such an option can be approved. Guidelines, which would ensure that Customs could examine records as necessary to carry out its enforcement and revenue-collection responsibilities, would have to be developed before the option could be offered. If, after consulting with affected parties, acceptable guidelines are developed, a notice will be published in the **Federal Register** proposing the option.

Two commenters stated that proposed § 111.23(a) would require brokers to retain powers of attorney for 5 years after the date of revocation. Yet some powers of attorney are never revoked. Accordingly, it was recommended that the wording be changed to indicate that powers of attorney and letters of revocation should be retained for 5 years after either the date of revocation or the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii). Customs has adopted language to this effect.

One commenter took issue with the requirement in § 111.23(e)(2)(i) that in the written request for authorization to maintain centralized financial records of customs business, the address indicated at which the broker desires to maintain the records must be within a district where the broker has been granted a permit.

Customs believes that this requirement is reasonable. By requiring brokers to maintain records within a district where a broker has a permit, Customs will have better control over entries in that district.

According to proposed § 111.23(f), when an audit indicates that a broker to whom an exemption has been granted is not keeping records as required, the regional commissioner who has granted the exemption shall notify the broker. The broker has 30 days to respond and if a satisfactory response is not given, the regional commissioner can withdraw the exemption. Two commenters suggested that in such a situation a broker should be able to appeal to the Commissioner and the exemption should remain in effect pending the Commissioner's decision.

Customs does not agree. The regional commissioner has the authority in these matters and there is no reason to have an appeal to the Commissioner. If an exemption is withdrawn, the broker can still operate; he simply must maintain records in the prescribed format. The loss of an exemption is not the loss of a right, but the loss of a privilege.

A few commenters stated that existing §§ 111.25 and 111.27 should be amended to state that records maintained by brokers should be made available to Customs regulatory auditors or special agents "upon reasonable notice."

Customs sees no reason to include that language because Part 162, Customs Regulations (19 CFR Part 162), which concerns recordkeeping, inspection, search, and seizure, states that reasonable notice will be given by Customs officers when they are conducting an examination. Sections 162.1a through 162.1i are specifically cited in § 111.25.

Accounting for Funds From Client

One commenter stated that Customs should more specifically state in proposed § 111.29 the kind of document a broker is required to give a client to account for funds received from the

client. The commenter is concerned that Customs may require more than the normal accounting documents such as invoices or credit memos and that the requirement of a written statement other than an accepted accounting document should be extremely onerous.

Customs agrees that normal accounting documents are sufficient. However, we believe the section, as written, encompasses these documents, and need not be changed.

Notification of Changes in Brokerage Firm

One commenter stated that in proposed § 111.30(b), only the district directors of the districts to which the changes relate should have to be notified when there is a change in the broker's organization. We agree and wording to that effect has been added. The same commenter believes that it is onerous to require notification of the changes to be made immediately. We disagree. Immediate notification is now required and Customs has found this to be workable.

Cancellation, Suspension or Revocation of License

It was suggested by one commenter that when a broker receives a statement of charges against him as provided for in proposed § 111.58, a maximum time period of suspension should be specified. Customs disagrees. As charges are merely being stated and the broker has the right to respond to them, it would be premature to decide on the length of a suspension until all the facts are submitted and evaluated, and a determination made.

One commenter suggested that the word "defense" be changed to "response" in the first and last sentences of existing § 111.60 to be consistent with the statutory language. We agree. As well as making that change, the word "defense" is changed to "response" in the second sentence of existing § 111.58.

Proposed § 111.74, concerning the notification to a broker of suspension or revocation or monetary penalty, generated several comments. A few commenters stated that the Secretary of the Treasury's determination should be based solely on the record and that a notice of suspension, revocation, or monetary penalty should not be published in the **Federal Register** and Customs Bulletin if an appeal is filed and the action is not final yet.

Customs agrees and § 111.74 has been amended to reflect these changes.

One commenter asked that standards be set forth for determining the maximum penalties for certain types of violations by brokers based upon degree of culpability and seriousness of the violation.

Customs has drafted such guidelines. They are attached to this document and will be incorporated as Appendix C of Part 171, Customs Regulations.

Customs disagrees with the commenter who believes an administrative review should be provided for a determination that a monetary penalty of $1,000 or less should be assessed. Owing to the cost of such a review to both parties, it has been concluded that penalties of $1,000 or less should not be subject to a supplemental petition for relief.

Regarding the suggestions by commenters to increase from 30 to 60 days the time within which a broker must respond to a notice of possible disciplinary proceedings or penalties in §§ 111.59, 111.92, and 171.12, Customs believes that 30 days is generally adequate. However, district directors will be given explicit authority to grant extentions for good cause.

A suggestion to delete the parenthetical expression concerning infractions that will form the basis for an action to suspend or revoke a broker's license or permit, in proposed § 111.53(b)(3), is rejected because 19 U.S.C. 1641(d)(1) states that these infractions are not subject to a monetary penalty.

Fees

After publication of the proposal, Part 3 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272, passed on April 7, 1986), established that an annual user fee of $125 is to be assessed for each broker's permit held by an individual, partnership, association or corporate broker. The legislative history of this law provides that this fee will help to defray the costs of regulating the brokerage industry. Accordingly, by T.D. 86–109, published in the **Federal Register** on June 11, 1986 (51 FR 21152), a new § 111.96, Customs Regulations, was provided to set forth the fee.

In this document we are setting forth the fees for the issuance of licenses and accompanying permits and the fee for filing a status report. The purpose of these fees is to defray the costs of issuing licenses and permits and of processing the receipt and storage of the triennial reports. Pursuant to 19 U.S.C. 1641(h), the Secretary of Treasury may prescribe reasonable fees and charges for these functions. While originally Customs planned to review these fees annually and revise them as necessary, it has been decided to charge a one-time fee of $300 for licenses, a $100 fee for the issuance of each permit, and a fee of $100 for filing the triennial reports. Customs will assess no further fees at this time. Of course, if current costs escalate, Customs will increase the fee and public notice of the increase will be published in the **Federal Register** and Customs Bulletin. However, it is not anticipated that these fees will be revised annually. These fees are set forth in § 111.96.

Executive Order 12291

These amendments do not constitute a "major rule" as defined by section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), are not applicable to these amendments because the rule will not have a significant economic impact on a substantial number of small entities. As most of the changes reflect section 212 of the Trade and Tariff Act of 1984 (Pub. L. 98–573), and Part 3 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272), any economic impact would be attributable to the actions of Congress and not Customs.

Paperwork Reduction Act

The regulation is subject to the Paperwork Reduction Act of 1980, Pub. L. 96–511. Several commenters claimed that the collection of information requirements were too broad to be within the scope of this Act. Most of these comments are responded to in the discussion of comments in this document. Regarding the 5-year record retention period, pursuant to section 508, Tariff Act of 1930, as amended (19 U.S.C. 1508), Customs has authority to require maintenance of records of any owner, importer, consignee or agent thereof who imports any merchandise for up to 5 years from the date of entry of the merchandise. Due to their complexity, many cases extend to that length of time. Therefore, Customs believes it is in the best interest of the Government and the importing public to require maintenance of records for that time span.

As a result of our analysis of the issues and the changes made in this document, the regulation meets the requirements of this Act. Accordingly, applicable sections of the regulation have been cleared by the Office of Management and Budget and assigned Control Number 1515–0100.

Drafting Information

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

List of Subjects

19 CFR Part 111

Administrative practice and procedure, Brokers, Customs duties and inspection, Imports.

19 CFR Part 171

Administrative practice and procedure, Law enforcement, Penalties, Seizures and forfeitures.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

Parts 111, 171, and 178, Customs Regulations (19 CFR Parts 111, 171, 178), are amended as set forth below.

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111, Customs Regulations (19 CFR Part 111), continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1624, 1641.

§ 111.3 also issued under 19 U.S.C. 1484.

§ 111.96 also issued under 31 U.S.C. 9701.

2. The heading for Part 111 and §111.0 are revised to read as follows:

PART 111—CUSTOMS BROKERS

§ 111.0 Scope.

This part sets forth regulations providing for the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, the qualifications required of applicants, and the procedures for applying for licenses and permits. This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalities, and the revocation or suspension of licenses.

3. Section 111.1 is amended by redesignating paragraphs (c), (d), (e), (f), and (g) as paragraphs (d), (e), (f), (g) and (h), respectively, revising the heading and text of paragraph (b) and redesignated paragraphs (d), (f), and adding a new paragraph (c), to read as follows:

§ 111.1 Definitions.

* * * * *

(b) *Customs Broker.* "Customs broker" means a person who is licensed under this part to transact customs business on behalf of others.

(c) *Customs business.* "Customs business" means those activities involving transactions with Customs concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by Customs upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof.

(d) *Broker.* "Broker" means "customs broker".

* * * * *

(f) *Records.* "Records" means those documents identified in § 162.1a of this chapter and kept as provided in § 162.1b of this chapter.

* * * * *

4. The heading and text of § 111.2 are revised to read as follows:

§ 111.2 License and district permit required.

A person shall obtain the license provided for in this part in order to transact the business of a broker. A separate permit is required for each Customs district in which a licensee conducts customs business.

§ 111.5 [Removed]

§ 111.4 [Redesignated as § 111.5]

5. Part 111 is amended by removing § 111.5, redesignating existing § 111.4 as § 111.5 and adding a new § 111.4 to read as follows:

§ 111.4 Transacting customs business without a license.

Any person who intentionally transacts customs business, other than as provided in § 111.3, without holding a valid broker's license, shall be liable for a monetary penalty for each such transaction as well as for each violation of the requirements of 19 U.S.C. 1641. The penalty shall be assessed in accordance with Subpart E of this chapter.

§ 111.5 [Amended]

6. Paragraph (a) of redesignated § 111.5 is amended by removing the words "is not licensed" and inserting, in their place, "has not been granted a permit".

Subpart B—[Amended]

7. The heading to Subpart B is amended by adding the words "Or Permit" after the word "License".

8. Section 111.11(a)(4) is amended by removing the words "regulations, and procedures" and inserting, in their place, "regulations and procedures, bookkeeping, accounting, and all other appropriate matters".

9. Section 111.11 (b) and (c) is revised and a new paragraph (d) is added, to read as follows:

§ 111.11 Basic requirements.

* * * * *

(b) *Partnership.* A partnership must:

(1) Have at least one member of the partnership who is a licensed broker, and

(2) Establish that it will have an office in the customs district where it has applied for a permit in which its customs transactions will be performed by the licensed member of the partnership, or an employee under the responsible supervision and control of the licensed member.

(c) *Association or corporation.* An association or corporation must:

(1) Be empowered under its articles of association or articles of incorporation to transact customs brokerage business;

(2) Have at least one officer who is a licensed broker; and

(3) Establish that it will maintain an office in the Customs district in which it has applied for a permit. Further, customs transactions in that office must be performed by a licensed officer or an employee under the responsible supervision and control of the licensed officer..

(d) *Responsible supervision and control.* The term "responsible supervision and control" means that degree of supervision and control necessary to ensure that the employee provides substantially the same quality of service in handling customs transactions that the licensed broker is required to provide. While the determination of what is necessary to maintain responsible supervision and control will vary depending upon the circumstances in each instance, factors which Customs will consider include, but are not limited to: The frequency of visits to offices of the licensee by the licensed broker(s); the training required of employees; the issuance of written instructions and guidelines to the employees; the volume and type of business of the licensee; the reject rate for the various customs transactions; the maintenance of current editions of the Customs Regulations, Tariff Schedules of the United States, and Customs issuances; the availability of the licensed broker(s) for consultation with the employee(s), when necessary; the frequency of audits and reviews by the

licensed broker(s) of the customs transactions handled by the employee(s); and any circumstance which indicates whether a licensed broker of the firm has a real interest in the firm's operations.

§ 111.12 [Amended]

10. Section 111.12(a) is amended by removing the heading *"(1) Application"* and the entire paragraph *"(2) Fee"*. The section is also amended by removing the words "paragraph (a)(2) of this section" in the third sentence and inserting, in their place, "§ 111.96 of this part". Also, § 111.12(a) is amended by adding at the end of the section the following:

"Applications may be accepted within 30 days before the scheduled examination in the district director's discretion".

§ 111.13 [Amended]

11. Section 111.13(a) is amended by removing the words "regulations, and procedures" and inserting, in their place, "regulations and procedures, bookkeeping, accounting, and all other appropriate matters".

12. Section 111.13(c) is revised to read as follows:

§ 111.13 Examination of applicant for individual license.

* * * * *

(c) *Special examination.* When a partnership, association, or corporation loses the licensed member or officer and its license will lapse under the provisions of 19 U.S.C. 1641(b)(5) before the next scheduled examination, the Commissioner may authorize a special examination for an applicant who will serve as the licensed member or officer. He may also authorize a special examination for one who will be authorized to continue the business of an individual broker. A special examination may also be authorized when a licensed brokerage firm loses its qualifying individual exercising responsible supervision and control over a district office and that office's permit will lapse before the next scheduled examination. Application and a statement of the reasons for the necessity of a special examination shall be filed with the district director in accordance with § 111.12.

§ 111.13 [Amended]

13. Sections 111.13 (d) and (e) are amended by removing the last sentence of each paragraph.

14. The heading and text of § 111.19 is revised to read as follows:

§ 111.19 Permits

(a) *General.* Each person granted a broker's license under this part shall be concurrently issued a permit for the district through which the application was submitted, without the payment of the fee required by § 111.96 if it is shown to the satisfaction of the district director that the person intends to transact customs business within the district through which the broker's license application is submitted and the person otherwise complies with the requirements of this part.

(b) *Submission of application for permits for additional districts.* A licensed person who intends to conduct customs business in an additional Customs district, or a licensed person who was not concurrently granted a permit with the broker's license under paragraph (a) of this section, shall submit an application for each additional Customs district to the district director of that district on Customs Form 3124. If the information set forth by the applicant on the Customs Form 3124 submitted pursuant to § 111.12 is current, a copy of that application may be submitted in place of a new Customs Form 3124. The Customs Form 3124 shall be modified to indicate that it is an application for a permit. The applicant shall comply with the requirements set forth in § 111.12(a). Each application for a permit shall identify the broker's license number and date of issuance. The broker shall list in its application all districts for which a permit has been granted. When a broker applies for a permit in an additional district, he must provide the district director with a document which reserves the business name with the state or local government, in order to avoid the use of the same or a confusingly similar name by two brokers.

(c) *Fee.* Each application for a permit shall be accompanied by the fees set forth in § 111.96.

(d) *Responsible supervision and control.* The applicant shall have a place of business within the district for which the application is filed, or shall have made firm arrangements satisfactory to the district director to establish such a place of business. The applicant shall exercise responsible supervision and control over the office as defined by § 111.11(d). On and after October 31, 1987, other than as provided below, the applicant shall employ in each district for which a permit is granted at least one individual licensed under this subpart to exercise responsible supervision and control over the customs business conducted in the district. If the applicant can demonstrate to the satisfaction of the Commissioner that he regularly employs, in the region in which the district is located, at least one individual who is licensed, and that adequate procedures exist for the person employed in that region to exercise responsible supervision and control, as defined by § 111.11(d), over the customs business conducted in the district, the Commissioner may waive the requirement for a licensed broker in that district. A request for a waiver, supported by information on the volume and type of customs business conducted, or planned to be conducted, and evidence demonstrating that the applicant is able to exercise responsible supervision and control, shall be sent to the district director of the district in which the waiver is sought. The district director shall review the request for a waiver and make recommendations which will be sent to the Director, Entry Procedures and Penalties Division, Customs Headquarters, through the appropriate regional commissioner. The regional commissioner will review the district's recommendations and make appropriate recommendations before referring the matter to Customs Headquarters for a decision.

(e) *Action on application.* Upon receipt of the application for a permit, the district director shall immediately notify the district director in each other district in which the applicant has a permit and request comments as to the applicant's compliance with the duties and responsibilities of a broker in the other district. The district director in the other district shall timely submit his comments and recommendation to the district director making the request. The district director who received the application shall make a decision on it after considering all of the facts and circumstances. An application shall be approved unless action is pending in another district to suspend or revoke the applicant's license.

(f) *Investigation.* The district director may require an investigation to be conducted if additional facts are deemed necessary before making a decision upon the application.

§ 111.21 Amended

15. The second sentence of § 111.21 is amended by removing the word "papers" both times it appears and inserting, in its place, "records".

16. The introductory text of § 111.22(b) and § 111.22(b)(2) are amended by removing the words "books and" each time they are used.

17. Further, § 111.22 is amended by adding a new paragraph (e) to read as follows:

§ 111.22 Additional record of transactions.

* * * * *

(e) *Authorization.* The regional commissioner for the region in which a broker has been granted an exemption to maintain records of financial transactions on a centralized system basis, as set forth in § 111.23(e), is responsible for providing an exemption or withdrawal of exemption under paragraphs (b) and (c) of this section.

18. The heading to § 111.23, paragraph (a), and the introductory text to paragraph (b) are revised to read as follows:

§ 111.23 Retention of records.

(a) *Place and period of retention.* (1) *Place.* The records, as defined in § 111.1(f), and required by §§ 111.21 and 111.22 to be kept by a broker, shall be retained within the Customs district to which they relate, unless an exemption has been granted for centralized accounting records under paragraph (e) of this section.

(2) *Period.* The records described in paragraph (a)(1) of this section, other than powers of attorney, shall be retained for at least 5 years after the date of entry. Powers of attorney shall be retained until revoked, and revoked powers of attorney and letters of revocation shall be retained for 5 years after either the date of revocation or the date the client ceases to be an "active client" as defined in § 111.29(b)(2)(ii). When merchandise is withdrawn from a bonded warehouse, copies of papers relating to the withdrawal shall be retained for 5 years from the date of withdrawal of the last merchandise withdrawn under the entry.

(b) *Microfilming of records.* A broker, with the approval of the district director for the district in which he has been granted a permit and the records are located, may maintain on microfilm or similar medium, in lieu of an original, any records other than powers of attorney required to be retained under the provisions of paragraph (a) of this section, at any time after the entry to which these records pertain has been liquidated, upon the following conditions:

* * * * *

19. Section 111.23(d) is revised to read as follows:

* * * * *

(d) *Other methods of reproduction for record retention.* If approved by the district director in which a broker has been granted a permit and in which he has records located, a broker may use, in lieu of original documents, methods of reproduction other than microfilm, including microfiche, for the reproduction of records, provided the requirements of paragraphs (b) and (c) of this section are met. While original powers of attorney must be retained, copies also may be retained.

20. Further, § 111.23 is amended by adding new paragraphs (e), (f), and (g), to read as follows:

* * * * *

(e) *Exemption.* (1) *Applicability.* The procedure to maintain financial records on a centralized system basis is available to brokers who have been granted permits to do business in more than one district.

(2) *Request.* A written request for authorization to maintain financial records on a centralized system basis shall be submitted to the regional commissioner responsible for the region in which the centralized records are to be maintained. The written request shall include:

(i) The address at which the broker desires to maintain the centralized accounting records. This location must be within a district where the broker has been granted a permit.

(ii) A detailed statement describing all the records of financial transactions to be maintained at the centralized location, the methodology of record maintenance, a description of any automated data processing to be applied, and a list of all the broker's customs business activity locations.

(iii) An agreement that if the authorization is granted, no change in the records, the manner of recordkeeping, or the location at which they will be maintained, will be made unless approved by Customs. Each request for a change requires prior approval in the same manner as prescribed above.

(iv) An agreement to comply with § 111.22,

(v) An agreement that all financial records pertaining to customs transactions will be made available to Customs for complete inspection in accordance with § 111.25 and § 162.1d of this Chapter after reasonable notice in writing has been provided.

(3) *Approval.* After the broker's request has been received and reviewed by the regional commissioner, he shall advise the broker, in writing, of his decision whether to authorize the broker to maintain financial records on a centralized system basis. If the regional commissioner denies the request he shall advise the broker of the reasons. Denial shall be without prejudice to reapply for an exemption. If the request involves records from districts not within the jurisdiction of the regional commissioner of the region where the request was filed, the regional commissioner should consult with the other affected regional commissioners before acting on the request.

(f) *Withdrawal of exemption.* Whenever an audit by Customs indicates that a broker to whom an exemption has been granted is not keeping records in accordance with the requirements of paragraph (e) of this section, the regional commissioner who granted the exemption shall notify the broker, in writing, of the audit finding(s). The regional commissioner shall provide the broker with 30 days from the date of notification to respond to the audit finding(s) unless a shorter period is deemed necessary. If the broker fails to respond, or if the regional commissioner determines that a broker has not responded satisfactorily to the audit finding(s), the regional commissioner shall withdraw the exemption by notice in writing. The withdrawal shall not become effective until 30 days after the date of mailing of the notice. The broker shall thereafter keep and maintain records as required by paragraph (a) of this section.

(g) *Reproduction of centralized accounting records.* The regional commissioner for the region in which a broker has been granted an exemption to maintain financial records on a centralized system basis, provided in paragraph (e) of this section, is responsible for approving requests for the reproduction of centralized financial records provided under paragraphs (b) and (d) of this section.

§§ 111.24 and 11.25 [Amended]

21. Sections 111.24 and 111.25 are amended by removing the words "Books and papers" in the section headings and, in each instance inserting, in their place, "Records".

§§ 111.24, 111.25, 111.26, and 111.27 [Amended]

22. The first sentence of §§ 111.24, 111.25, and 111.27, the second sentence of § 111.27, and the section heading of §§ 111.26 and 111.27 are amended by removing the words "books and papers" and, in each instance inserting, in their place, "records".

23. Section 111.26 is amended by removing the words "book or paper" and inserting, in their place, "record".

24. Section 111.28 is amended by revising paragraph (b) and adding a new paragraph (c), to read as follows:

§ 111.28 Responsible supervision.

* * * * *

(b) *Employee information.*

(1) *Current employees; General.* Each broker shall submit, in writing, to each district director where the broker has a

permit to transact customs business, a list of the names of persons currently employed in that district. For each such employee, the broker also shall provide the current home address, last prior home address, social security number, date and place of birth, and if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker. After the initial submission, the list shall be updated and submitted with the status report required by § 111.30(d) of this part.

(2) *New employees.* Within 10 days after a new employee has been employed for 30 days, the broker shall submit, in writing, to the district director, the same information as set forth above for any new employee.

(3) *Terminated employees.* Within 30 days after the termination of employment of any employee employed longer than 30 days, the broker shall submit, in writing, to the district director, the name of the terminated employee.

(4) *Broker's responsibility.* A broker is responsible for providing the information required in paragraphs (b)(1), (b)(2), and (b)(3) of this section. However, in the absence of culpability by the broker, Customs will not hold him responsible for the accuracy of information provided to the broker by the employee.

(c) *Termination of qualifying member or officer.* If a licensed broker who is a qualifying member of a partnership, or officer of an association or corporation, ceases his employment as a qualified member or officer, that broker shall give written notice immediately of that fact to the Commissioner and send a copy of the written notice of each district director where a permit has been granted to the partnership, association, or corporation.

25. Section 111.29(a) is revised to read as follow:

§ 111.29 Diligence in correspondence and paying monies.

(a) *Due diligence by broker.* Each broker shall exercise due diligence in making financial settlements, in answering correspondence, and in preparing or assisting in the preparation and filing of records relating to any customs business matter handled by him as a broker. Payment of duty, tax, or other debt or obligation owing to the Government for which the broker is responsible, or for which the broker has received payment from a client, shall be made to the Government on or before the date that payment is due. Payments received by a broker from a client after the due date shall be transmitted to the Government within 5 working days from receipt by the broker. Each broker shall provide a written statement to a client accounting for funds received for the client from the Government, or received from a client where no payment has been made, or received from a client in excess of the Governmental or other charges properly payable as part of the client's customs business, within 60 days of receipt. No written statement is required if there is actual payment by a broker of such funds.

* * * * *

26. Section 111.30 is amended by revising the section heading and paragraph (b) to read as follows, by removing the words "is licensed" in the first sentence of paragraph (c) and inserting in their place, "has been granted a permit", by revising paragraph (d) and adding a new paragraph (e) to read as follows:

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report.

* * * * *

(b) *Organization.* A partnership, association, or corporation shall immediately inform the Commissioner and each district director of the districts in which it has a permit, of the following changes:

(1) The date on which the licensed member or officer who is the qualifying member or officer ceases to be a member or officer and the name of the broker who will succeed as the qualifying member or officer; or

(2) Any change in the Articles of Agreement, Charter, or Articles of Incorporation relating to the transaction of customs business.

* * * * *

(d) *Status report.* Each broker shall file a status report with Customs on February 1, 1979, and on February 1 of each third year thereafter. The report shall be accompanied by a fee as set forth in § 111.96. A report received during the month of February will be considered filed timely. The report shall be addressed to the U.S. Customs Service, Attention: Entry, Licensing and Restricted Merchandise Branch, Washington, DC 20229. A copy also shall be filed with the district director in each district where the broker has been granted a permit to transact customs business. No form or particular format is required. Each individual broker shall state whether he is actively engaged in transacting business as a broker. If so, he shall state the name under, and the address at which, his business is conducted (if he is a sole proprietor); or the name and address of his employer, unless his employer is a corporation, partnership or association broker for which he is a qualifying officer or member. The report of each corporation, partnership or association shall state the name under which its business as a broker is being transacted, its business address, the names and addresses of the members of the partnership or officers of the corporation or association qualifying it for a license, and whether it is actively engaged in transacting business as a broker. If the licensed person fails to file the required report by March 1 of the reporting year, the license is suspended by operation of law on that date. By March 31 of the reporting year, the Commissioner shall transmit written notice of the suspension to the licensee by certified mail, return receipt requested, at the address reflected in Customs records. If the licensed person files the required report within 60 days of receipt of the notice, the license shall be reinstated upon payment of $100. If the licensed person does not file the required report within the 60-day period, the license shall be revoked without prejudice to the filing of an application for a new license. Notice of the revocation shall be published in the Customs Bulletin.

(e) *Location.* Upon the permanent termination of a brokerage business, both the Commissioner and the district director of each Customs district for which a permit has been issued shall be provided written notification of the name and address of the party having legal custody of the brokerage business records. Responsibility for notification shall be as follows:

(1) The broker, upon the permanent termination of his brokerage business;

(2) The licensed partner(s), upon the permanent termination of the partnership brokerage business;

(3) The licensed association or corporate officer(s), upon the permanent termination of the association or corporate brokerage business.

§ 111.35 [Amended]

27. Section 111.35 is amended by removing the words "merchandise imported after March 15, 1962," and inserting in their place, "customs transactions".

28. The heading and text of § 111.37 are revised to read as follows:

§ 111.37 Misuse of license or permit.

A broker shall not permit his license, permit or his name to be used by or for

any unlicensed person, other than his own employees authorized to act for him, or by or for any broker whose license or permit is under suspension in the solicitation, promotion or performance of any customs business or transaction.

29. The heading and text of § 111.43 are revised to read as follows:

§ 111.43 Display of license and permits.

Each licensee shall display its permit in the principal office within the district so it may be seen by anyone transacting business in the office. Photocopies of the permit shall be conspicuously posted in each branch office within the district. Photocopies of the license also may be posted.

30. Part 111 is revised by adding a new § 111.45 to read as follows:

§ 111.45 Revocation by operation of law.

(a) *License.* The failure of a broker that is licensed as a corporation, association, or partnership to have, for any continuous period of 120 days, at least one officer of the corporation or association, or at least one member of the partnership, validly licensed, shall, in addition to causing the broker to be subject to any other sanction, result in the revocation by operation of law of its license and any permits issued to a corporation, association, or partnership. The Commissioner will notify the broker in writing of an impending revocation or lapse by operation of law 30 days before the revocation or lapse is due to occur.

(b) *Permit.* On or after October 31, 1987, the failure of a broker who has been granted a permit, to employ, for any continuous period of 180 days, at least one individual who is licensed within the district (or region, if an exception has been granted pursuant to § 111.19(d)), for which a permit was issued, shall, in addition to causing the broker to be subject to any other sanction, result in the revocation of the permit by operation of law.

(c) *Notification.* If the license or permit of a partnership, association, or corporation is revoked by operation of law, the Commissioner will notify the organization of the revocation. If an individual broker's permit is revoked by operation of law, the Commissioner will notify the broker. A copy of the notice will be sent to the district director. Notice to the public of the revocation will be given by publication in the Customs Bulletin.

31. The heading for Subpart D is revised to read as follows:

Subpart D—Cancellation, Suspension, or Revocation of License or Permit, or Monetary Penalty in Lieu Thereof

32. Part 111 is revised by adding a new § 111.50 to read as follows:

§ 111.50 General.

This subpart relates to cancellation, suspension, or revocation of a license or a permit, or assessment of a monetary penalty in lieu thereof under the provisions of section 641(d)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2)(B)). The provisions for assessment of a monetary penalty under sections 641(b)(6) and 641(d)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(6), 1641(d)(2)(A)), are contained in Subpart E.

§ 111.51 [Amended]

33. The heading and text of § 111.51 are amended by adding the words "or permit" after "license" each time it is used.

34. Section 111.52 is revised to read as follows:

§ 111.52 Voluntary suspension of license or permit.

The Commissioner may accept a broker's written voluntary offer of suspension for a specific period of time of the broker's license or permit under such terms and conditions as the parties may agree.

35. The heading and text of § 111.53 are revised to read as follows:

§ 111.53 Grounds for suspension or revocation of license or permit or monetary penalty in lieu thereof.

Other than as set forth below, the appropriate Customs official may suspend, for a specific period of time, or revoke the license or permit of any broker or assess a monetary penalty in lieu of suspension or revocation, for the following reasons:

(a) The broker has made or caused to be made in any application for any license or permit under this part, or report filed with Customs, any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application or report any material fact which was required.

(b) The broker has been convicted, at any time after filing of an application for a license under § 111.12, of any felony or misdemeanor which the appropriate Customs officer finds:

(1) Involved the importation or exportation of merchandise;

(2) Arose out of the conduct of customs business; or

(3) Involved larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds (infractions set forth in this subparagraph may form the basis for an action to suspend or revoke only);

(c) The broker has violated any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(d) The broker has counseled, commanded, induced, procured, or knowingly aided or abetted the violation by any other person of any provision of any law enforced by Customs or the rules or regulations issued under any such provision;

(e) The broker has knowingly employed, or continues to employ, any person who has been convicted of a felony, without the written approval of the Commissioner; or

(f) The broker has, in the course of customs business, with intent to defraud, in any manner willfully and knowingly deceived, misled or threatened any client or prospective client.

§ 111.54 [Amended]

36. Section 111.54 is amended by removing the words "section 641(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1641(b))" in the first sentence and inserting, in their place, "section 641(d)(2), Tariff Act of 1930, as amended (19 U.S.C. 1641(d)(2))".

37. Section 111.57(b) is revised to read as follows:

§ 111.57 Determination by Commissioner.

* * * * *

(b) *Determination to prefer charges.* If the Commissioner determines that charges will be preferred, he shall notify the district director of his determination and require that a proposed statement of charges be prepared for his review, if not previously submitted.

38. Section 111.58 is amended by removing the last sentence and by adding a new sentence between the first and second sentences to read as follows:

§ 111.58 Content of statement of charges.

* * * The statement of charges also shall specify the sanction being proposed (e.g., suspension of the broker's license, or revocation of the license) but if a suspension is proposed the charges need not state a specific period of time for which suspension is proposed. * * *

39. Section 111.59(a) is amended by removing the words "Unless the

Commissioner, under § 111.57, has determined that the preliminary proceedings shall not be followed, the" and inserting, in their place, "The", and by revising paragraph (b) to read as follows:

§ 111.59 Preliminary proceedings.

* * * * *

(b) *Notice of preliminary proceedings.* The district director shall serve upon the broker, as set forth in § 111.63, written notice that:

(1) Transmits a copy of the proposed statement of charges;

(2) Informs him that formal proceedings are available to him;

(3) Informs him that 5 U.S.C. 554 and 558 will be applicable if formal proceedings are necessary;

(4) Invites him to show cause why the formal proceedings should not be instituted;

(5) Informs him that he may make submissions and demonstrations of the character contemplated by the cited statutory provisions;

(6) Invites any negotiation for settlement of the complaint or charge that the broker deems it desirable to enter into;

(7) Advises him of his right to be represented by counsel;

(8) Specifies the place where the broker may respond in writing; and

(9) Advises the broker that the response must be received within 30 days of the date of the notice.

§§ 111.58 and 111.60 [Amended]

40. Sections 111.58 and 111.60 are amended by removing the word "defense" and inserting, in its place "response", wherever it appears.

§ 111.61 [Amended]

41. Section 111.61 is amended by inserting the words "no response is filed or" between "If" and "the" in the fourth sentence.

§ 111.64 [Amended]

42. Section 111.64(a) is amended by removing the number "5" and inserting, in its place, "15".

§ 111.65 [Amended]

43. Section 111.65 is amended by removing the words "on the ground that additional time is necessary to prepare a defense" and inserting, in their place, "for good cause".

§ 111.66 [Amended]

44. Section 111.66 is amended by removing the words "on behalf of the Government" in the first sentence and inserting, in their place, "by the parties", and the words "suspension or revocation" in the last sentence and inserting, in their place, "suspension for a specified period of time or revocation or monetary penalty in lieu thereof".

45. Section 111.67 is amended by revising paragraphs (a) and (d) and adding a new paragraph (e) to read as follows:

§ 111.67 Hearing.

(a) *Hearing officer.* The hearing officer shall be an administrative law judge appointed pursuant to 5 U.S.C. 3105.

* * * * *

(d) *Transcript of record.* The district director shall provide a competent reporter to make a record of the hearing. When the record of the hearing has been transcribed by the reporter, the district director shall deliver a copy to the hearing officer, the broker and the Government representative without charge.

(e) *Government representatives.* The Commissioner shall designate one or more persons to represent the Government at the hearing.

46. The heading and text of § 111.74 are revised to read as follows:

§ 111.74 Decision and notice of suspension or revocation or monetary penalty.

If the Secretary of the Treasury, in the exercise of his discretion based solely on the record, issues an order of suspension for a specified period of time or revocation of the license of a broker or a monetary penalty in lieu thereof, the Commissioner will notify the broker in writing and publish a notice of suspension or revocation or monetary penalty in lieu thereof in the **Federal Register** and in the Customs Bulletin unless an appeal is filed by the broker in the Court of International Trade as provided for under section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The order of suspension or revocation shall become effective 60 days after the issuance of such order unless the Secretary finds that a more immediate effective date is in the national or public interest. If a monetary penalty is assessed and no appeal is filed, that penalty shall be tendered within 120 days of the issuance of the order, or the license shall automatically be suspended until payment is made.

47. Section 111.75 is revised to read as follows:

§ 111.75 Appeal from the Secretary's decision.

An appeal from the order of the Secretary of the Treasury suspending or revoking a license or permit or assessing a monetary penalty in lieu thereof may be taken in accordance with the provisions of section 641(e), Tariff Act of 1930, as amended (19 U.S.C. 1641(e)). The commencement of such proceedings shall, unless specifically ordered by the Court, operate as a stay of the Secretary's order.

§ 111.76 [Amended]

48. Section 111.76 is amended by removing the words "hearing officer" in the first sentence of paragraph (a) and in every sentence of paragraph (b) and, in each instance, inserting, in their place, "Commissioner".

49. Section 111.80 is revised to read as follows:

§ 111.80 Saving provision.

Any proceeding for revocation or suspension of a license instituted prior to October 30, 1984, shall be governed by the provisions of 19 CFR Part 111 which were in force at the time the proceeding was instituted. For the purposes of this provision, the commencement of preliminary proceedings shall be considered the institution of proceedings for revocation or suspension, if preliminary proceedings were held.

50. Part 111 is amended by adding a new § 111.81 to read as follows:

§ 111.81 Settlement and compromise.

The Commissioner, with the approval of the Secretary of the Treasury, may settle and compromise any disciplinary proceeding which has been instituted under this Part according to the terms and conditions agreed to by the parties, including but not limited to the reduction of any proposed suspension or revocation to a monetary penalty.

51. Further, Part 111, Subpart E, is amended by adding §§ 111.91 through § 111.95 to read as follows:

Subpart E—Monetary Penalty

§ 111.91 Grounds for imposition of a monetary penalty; maximum penalty.

The appropriate Customs officer may assess a monetary penalty or penalties as follows: (a) An amount not to exceed an aggregate of $30,000 for any of the reasons set forth in § 111.53, except for those listed in paragraph (b)(3) of that section; or (b) An amount not to exceed an aggregate of $30,000 for all violations and $10,000 for each violation of § 111.4.

§ 111.92 Notice.

The appropriate Customs officer shall issue a written notice which advises the broker or other person of the allegations or complaints against him and explains that the person has a right to respond to the allegations or complaints in writing

within 30 days of the date of mailing of the notice. The district director has discretion to provide additional time for good cause. Any notice, the basis of which is an alleged violation of § 111.53(b) or which exceeds an aggregate of $10,000 for all alleged violations, shall be referred to the Director, Entry Procedures and Penalties Division, Customs Headquarters, for approval before it is issued.

§ 111.93 Application for relief.

The person shall follow the procedures set forth in Part 171 of this Chapter in filing an application for relief.

§ 111.94 Decision of appropriate Customs officer.

The appropriate Customs officer shall follow the procedures set forth in Part 171 of this Chapter in considering the application for relief. After the appropriate Customs officers have considered the allegations or complaints and any timely response made, a written decision shall be issued which sets forth the final determination and the findings of fact and conclusions of law on which the determination is based. If the final determination is that the person is liable for a monetary penalty, the person shall pay, or make arrangements for payment, within 60 days of the date of the final determination. If the monetary penalty is not paid or arrangements made for payment within the time limitations, the appropriate Customs officer shall refer the matter to the Department of Justice for institution of appropriate judicial proceedings.

§ 111.95 Supplemental petition for relief.

A final determination of the district director or other appropriate Customs officer in excess of $1,000 may be the subject to a supplemental petition for relief under the provisions of § 171.33 of this Chapter. A final determination of $1,000 or less is a final decision and is not subject to further administrative review.

52. Part 111 is amended by removing the words "Customhouse broker" and "Customhouse brokers" wherever they appear and inserting, in their place, "Customs broker" and Customs brokers", respectively.

53. Section 111.96 is revised to read as follows:

§ 111.96 Fees.

(a) *License fee.* Each applicant for a broker's license pursuant to § 111.12, or by special examination pursuant to § 111.13(c), shall be charged a fee of $300 to defray the costs to Customs for the preparation and administration of the examination and other expenses in processing the application. If an applicant either fails to appear for an examination without giving notice at least 24 hours before the examination, or does not pass the examination required by § 111.11(a)(4), $100 of the fee will be refunded.

(b) *Permit fee.* Each application for a permit pursuant to § 111.19 shall be accompanied by a one-time fee of $100 to defray the costs of processing the application. If for any reason a permit lapses or is revoked, payment of the permit fee is necessary before the permit can be reinstated.

(c) *User fee.* An annual user fee of $125 will be assessed for each permit held by an individual, partnership, association or corporate broker.

(1) The fee is payable for each calendar year in each district where a broker has a permit to do business. If a broker receives a permit at a time other than the beginning of a calendar year, the full $125 must be paid immediately. If a broker fails to pay the fee by January 1 of each year or immediately at the time he receives his permit, the district director will notify the broker in writing of failure to pay and revoke the permit to operate. The notice will constitute revocation of the permit.

(2) For calendar year 1986, brokers must remit payment of $125 by August 5, 1986, in each district where they have a permit to do business. If payment is not made by August 5, 1986, notice will be given and revocation will be effective August 5, 1986.

(d) *Status report fee.* The status report provided for in § 111.30 shall be accompanied by a fee of $100 to defray the costs of administering the reporting requirement.

(e) *Payment of fee.* All fees shall be paid by check or money order payable to the U.S. Customs Service.

PART 171—FINES, PENALTIES, AND FORFEITURES

1. The authority citation for Part 171, Customs Regulations (19 CFR Part 171), is revised to read as set forth below. Statutory citations appearing elsewhere in Part 171 are removed.

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

a. Section 171.14 also issued under 46 U.S.C. 883.

b. Subpart C also issued under 19 U.S.C. 1641, 22 U.S.C. 401, 46 U.S.C. 7, 320.

c. Section 171.44 also issued under 40 U.S.C. 304j, 304k.

§ 171.12 [Amended]

2. Section 171.12(b) is amended by removing the words "paragraph (c)" and inserting, in their place, "paragraph (c) or (d)".

3. Paragraph (d) of § 171.12 is redesignated as paragraph (e) and a new paragraph (d) is added to read as follows:

§ 171.12 Filing of petition.

* * * * *

(d) *Petitions for remission or mitigation of monetary penalty.* Petitions for remission or mitigation of a monetary penalty assessed under the provisions of Part 111, Subpart E, shall be filed within 30 days of the date of mailing of the notice.

* * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by deleting OMB Control No. 1515–0089 and the entry pertaining to it and the language presently pertaining to OMB Control No. 1515–0100 and inserting the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB Control Numbers.

19 CFR Section	Description	OMB Control No.
*	*	*
Part 111	Requirements that licensed customs brokers must keep current records of all accounts and all financial transactions as a broker.	1515-0100
*	*	*

William von Raab,

Commissioner of Customs.

Approved: July 31, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-19256 Filed 8-25-86; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 177

[T.D. 86-163]

Revision of Guidelines Concerning Tariff Classification of Imported Backpacking Tents

AGENCY: Customs Service, Treasury.

ACTION: Notice of revised guidelines.

SUMMARY: Pursuant to a court decision that recognized backpacking as a sport, Customs developed a set of guidelines to use to determine which imported backpacking tents qualify as sports equipment for tariff purposes. Those guidelines established parameters concerning the material, capacity, dimensions, and weight of tents. However, due to technological advances involving tent material and construction methods, Customs was of the opinion that the guidelines may have become obsolete. Comments were solicited on the matter, and after review and further analysis, this document sets forth a revised set of guidelines for the classification of imported backpacking tents. Use and application of the new guidelines will in some instances result in higher rates of duty being assessed on certain tents that will no longer qualify as sports equipment.

EFFECTIVE DATE: The revised guidelines will become effective for all merchandise entered for consumption or withdrawn from warehouse for consumption on or after November 24, 1986.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Classification and Value Division, U.S. Customs Service, 1301 Constitution avenue, NW., Washington, DC (202)–566–8181).

SUPPLEMENTARY INFORMATION:

Background

On July 8,1985, Customs published a notice in the **Federal Register** (50 FR 27831), that the guidelines used to determine the tariff classification of imported backpacking tents were being reviewed. The necessity for these guidelines resulted from the decision in *The Newman Importing Co., Inc. v. United States*, 76 Cust. Ct. 143, C.D. 4648 (1976), wherein the court held that backpacking was a sport and tents used in pursuit of backpacking could be considered sport equipment. This made it necessary to distinguish between tents used for backpacking and tents used for other purposes.

Those guidelines, published in C.S.D. 79–108 (August 21, 1978) are as follows:

(1) Backpacking tents must be composed of dacron or nylon.

(2) Such tents must be designed for no more than 4 persons.

(3) If designed for 1 or 2 persons, the tents must weigh no more than 10 pounds, including all accessories necessary to pitch the tent, and have a carry size of no more than 24 inches in length and 8 inches in diameter.

(4) If designed for 3 or 4 persons, the tents must weigh no more than 15 pounds, including all accessories necessary to pitch the tent, and have a carry size of no more than 36 inches in length and 12 inches in diameter.

Tents meeting these guidelines are currently classified as sport equipment, not specially provided for, in item 735.20, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202), at a rate of duty of 5.04 percent ad valorem. Prior to the issuance of these guidelines Customs had been classifying backpacking tents under items 389.60, TSUS, a residual provision for articles of textile materials.

Since those guidelines were issued in 1978, technological advances in tent material and construction methods have occurred which permit tent manufacturers to produce lightweight camping tents for general recreational use, so-called family or car camping tents. These lightweight camping tents fall within the specifications of the 1978 guidelines and, therefore, for Customs purposes, are classified in item 735.20, TSUS, although the tents were not "specially designed" for backpacking within the meaning of *Newman Importing, supra*. Tents not designed as sport equipment for backpacking should be classified under the provision for tents and sleeping bags, of manmade fibers, in item 286.11, TSUS, at a current rate of duty of 12.5 percent ad valorem.

To correct this situation, Customs proposed that a revised set of guidelines be used for classifying tents. These revisions were planned to account for new materials and construction methods and return the classification scheme to one consistent with the intent of *Newman Importing, supra*. The proposed revised guidelines were as follows:

To qualify for classification as "sport equipment" under item 735.20, TSUS, Customs is of the opinion that a tent must meet the following guidelines:

(1) It must be specially designed for the support of backpacking.

(2) It must be composed of nylon or polyester fabric.

(3) If designed for 1 or 2 persons, the tent must meet the following criteria:

(a) Have a floor area of 45 square feet or less;

(b) Weigh 8½ pounds or less, including tent bag and all accessories necessary to pitch the tent;

(c) Have a carry size of 30 inches or less in length and 9 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 1,900 cubic inches.

(4) If designed for 3 or 4 persons, the tent must meet the following criteria:

(a) Have a floor area of 65 square feet or less;

(b) Weigh 12 pounds or less, including tent bag and all accessories necessary to pitch the tent;

(c) Have a carry size of 30 inches or less in length and 10 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 2,350 cubic inches.

Any tent with a floor space of more than 65 square feet and a standing height of more than 60 inches is a tent designed for general recreational use. Written comments were solicited concerning this proposal.

Discussion of Comments

Seven comments were received, the majority being favorable. Those in favor generally were of the view that lightweight tents for general recreational use should not be classifiable as sports equipment.

Four commenters suggested that the language as to fabric content be broadened. Specifically, it was requested that item 2 of the criteria be amended to read "2) It must be composed of nylon, polyester or any other fabric of man-made fibers." The commenters claimed that such a definition would encourage and permit the development and use of higher technology fabrics and finishes. Customs agrees with this change and has incorporated it into the final revised guidelines.

Another concern of three commenters was the current practice of certain importers entering tent "skins", i.e., the fabric portion of the tent, separately from the metal frame portion in order to comply with the size and weight standards of the guidelines. Through such action these importers would receive the more favorable duty treatment that the sport equipment classification provides. It is proposed that the revised guidelines specifically address this issue and permit classification of tent "skins" under item 735.20, TSUS, only if Customs is supplied with the remainder of the tent package that will actually be sold with the tent skin and that the entire package comply with the provisions of these guidelines.

Customs agrees that tent "skins" imported separately from the total tent package should not be classified as sport equipment unless the entire package complies with the guidelines. Customs would go further, however, and deny classification of tent "skins" as sport equipment unless proof satisfactory to Customs is provided that the entire package of which the "skins" are a part complies with the guidelines. If any part of the tent package (including

tent skin, frame, tent bag, accessories or packing) is not imported in the same shipment with all remaining parts, in order to receive the benefit of the sport equipment classification for such part, the importer must supply Customs with a sample of the complete tent package so a determination of compliance can be made. The burden in such situations shall be on the importer.

One commenter suggests that an effective date for the guidelines of July 1, 1986, should be promulgated. This would ensure that the revised guidelines apply only to prospective transactions. Many transactions have been negotiated in the industry on the basis of existing guidelines. Through specifications of the July 1, 1986, effective date, the guidelines would become effective without compromising those transactions. Customs agrees that the effective date of these revised guidelines should provide sufficient time for the industry to adjust. However, instead of naming a specific date which might provide too short a period when finally published, the revised guidelines will come effective for merchandise entered for consumption or withdrawn from warehouse for consumption 90 days after publication in the **Federal Register**

One commenter who generally favors the proposed guidelines suggests further refinement of the guidelines to provide specific measurements for 3 as well as 4-person tents. Customs does not believe separate guidelines for 3 and 4-person tents are necessary. Further refinement will only serve to cause confusion and defeat the purpose of relatively uncomplicated guidelines.

One commenter states that the phrase "sport of backpacking"is ambiguous. We do not agree. In *Newman Importing, supra,* the court provided a clear definition, holding backpacking to be "an activity in which persons travel on foot in wild areas and maintain themselves with supplies and equipment carried on their backs. . . ". *The Newman Importing Co., Inc. v. United States, supra,* at p. 144. These guidelines are in inappropriate forum in which to expand clear judicial definition.

Three commenters state that no technological advances have occurred that warrant revision of the guidelines. Customs notes that this view is in direct contravention to statements made by other commenters taking notice of the changes that technology has wrought in this area. Without further proof that no advances have been made, the bare statements of these commenters cannot be accepted.

One commenter requested that an alternative standard of measurement be made applicable because of nontraditional tent packages that are now being marketed. Customs is of the view that the new guidelines take such alternatives into account. Carry size may now be measured in cubic inches. The guidelines further recognize that not all tents are carried in a cylindrical shape.

One commenter suggests that backpacking tents should be classified on the basis of their portability. The physical measurements and weight of the tent are deemed to be arbitrary standards upon which to classify the tent. Customs is of the view that this argument is without merit. Portability is an absolutely subjective means upon which no meaningful standards can be constructed. The only sensible method of determining a tent's eligibility for classification as a backpacking tent is by quantifying its size and weight.

It was noted by one commenter that technological advances have expanded the numbers and styles of tents available to the backpacker and that the proposed guidelines would curtail the choices available. Customs notes that many of the tents entering under the current guidelines are general recreational tents and not those contemplated by judicial decision as qualifying for treatment as sport equipment.

Finally, one commenter states that size restrictions penalize tall people who wish to backpack. The guidelines do not take into account the comfort of these backpackers. Customs is of the opinion that backpacking tents are not designed for the storage of gear and equipment, changing, standing, or eating, but rather to serve as a shelter and a temporary sleeping area for backpackers. Therefore, Customs believes that the square footage and size criteria in the revised guidelines are more than ample for the designated number of persons. The tents qualifying for the tariff classification as sport equipment are not to be used for general recreation.

Revised Guidelines

The following are the final revised guidelines governing the classification of imported backpacking tents.

To qualify a tent as "sport equipment" under item 730.20, TSUS, the following criteria must be met:

(1) It must be specially designed for the sport of backpacking.

(2) It must be composed of nylon, polyester, or any other fabric of man-made fibers.

(3) If designed for 1 or 2 persons, the tent must meet the following criteria:

(a) Have a floor area of 45 square feet or less, and

(b) Weight 8½ pounds or less, including tent bag and all accessories necessary to pitch the tent, and

(c) Have a carry size of 30 inches or less in length and 9 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 1,900 cubic inches.

(4) If designed for 3 or 4 persons, the tent must meet the following criteria:

(a) Have a floor area of 65 square feet or less; and

(b) Weigh 12 pounds or less, including tent bag and all accessories necessary to pitch the tent; and

(c) Have a carry size of 30 inches or less in length and 10 inches or less in diameter. If other than cylindrical in shape, the tent package must not exceed 2,350 cubic inches.

Any tent with a floor space of more than 65 square feet and a standing height of more than 60 inches is a tent designed for general recreational use.

If any part of the tent package (including tent skin, frame, tent bag, accessories or packing) is not imported in the same shipment with all remaining parts, in order to receive the benefit of the sport equipment classification for such part, the importer must supply Customs with a sample of the complete tent package so a determination of compliance can be made.

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.

Alfres R. De Angelus,
Acting Commissioner of Customs.

Approved: August 5, 1986.

Francis A. Keating, II,
Assistant Secretary of the Treasury.

[FR Doc. 86-19258 Filed 8-25-86; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging; Charges for Meals

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (DOL) is amending the temporary alien agricultural and logging labor certification regulations to increase the amount covered agricultural and logging employers may charge their U.S. and alien workers each day for meals. The final rule also provides for annual adjustments of the allowable charges based upon Consumer Price Index (CPI) data.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Bruening. Telephone: 202–376–6228.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 10, 1985, DOL published in the **Federal Register**, at 50 FR 50313, a proposed rule to amend the temporary alien agricultural and logging labor certification regulations to increase the amount covered agricultural and logging employers may charge their U.S. and alien workers each day for meals, and to provide for annual adjustments of the allowable charges based upon Consumer Price Index (CPI) data. Interested persons were requested to submit written comments, to be received on or before January 9, 1986. This document adopts the proposed rule as the final rule.

II. Temporary Alien Labor Certification Process

Whether to grant or deny an employer's petition to import a nonimmigrant alien to the United States for the purpose of temporary employment is solely the decision of the Attorney General and his designee, the Commissioner of the Immigration and Naturalization Service (INS). 8 U.S.C. 1101(a)(15)(h)(ii) and 1184(a) and (c); 8 CFR Part 2. Pursuant to the requirement that the Attorney General consult with appropriate agencies of the Government concerning the importation of nonimmigrant alien (so-called "H–2") workers, INS has determined that prior to granting or denying such petitions it first will request DOL to advise INS on the availability of qualified U.S. workers for the jobs offered to the H–2 aliens, and whether the wages and working conditions attached to such job offers will adversely affect similarly employed workers. 8 U.S.C. 1184(c); 8 CFR 214.2(h)(3)(i).

Pursuant to the INS regulations, DOL has published regulations at 20 CFR Part 655, Subpart C, for the certification of nonimmigrant aliens for temporary employment in agriculture and logging in the United States.

III. Provisions of Meals

The temporary alien agricultural labor certification regulations require the employer to provide the worker with three meals a day, except that where under prevailing practice or longstanding arrangement at the establishment workers prepare their own meals, employers need furnish only free and convenient cooking facilities. 20 CFR 655.202(b)(4)(1985).

The regulations require that the job offer to the alien and U.S. workers state the charge to the worker for daily employer-provided meals. Previously, the maximum charge was $4.00 per day, unless the Regional Administrator for Employment and Training (RA) had approved a higher cost. 20 CFR 655.211 (1985). The final rule increases the charge permitted without RA approval to $4.94 per day. Employers may petition the RA to allow a higher daily meal charge, previously up to $5.00 per day. 20 CFR 655.202(b)(4) and 655.211 (1985). The final rule increases that higher amount to $6.17 for providing 3 meals per day. The final rule's increase in the maximum daily meal charge does not mean that all or most employers covered by this program will be permitted to increase their meal charges to $6.17 per day. For any charge over $4.94 per day, the petition and documentation requirements of 20 CFR 655.211(b) (1985) remain in force.

In developing the final rule, ETA examined several statistical series related to food. These were: (1) The Bureau of Labor Statistics' (BLS') Consumer Price Index for All Urban Consumers for Food (CPI–U for Food); (2) the U.S. Department of Agriculture's (USDA's) Market Basket of Farm Foods Index; (3) the Farm to Retail Price Spread Series; and (4) the Thrifty Food Plan Series.

The CPI, published monthly by the BLS in DOL, is one of the best known economic indicators of prices. It is a measure of the average change in prices over time in a fixed market basket of goods and services. The CPI–U for Food includes the measurement of the retail cost of food purchased in stores as well as food consumed away from home, such as meals in restaurants.

The USDA Market Basket of Farm Foods Index includes food prepared at home. However, it excludes food prepared and consumed away from home.

The Farm to Retail Price Spread Series measures the difference between retail cost and the equivalent farm value of foods. It indicates the total charge made by firms for assembling, processing, transporting and distributing the foods that make up the market basket.

The Thrifty Food Plan uses a base which comes from what households eligible for food stamps pay for food. The data base assumes that food for all meals is purchased at the store and prepared and consumed at home. It excludes food prepared and consumed away from home.

Based upon ETA's review of these statistical series, which included consultation with BLS and USDA, it has concluded that the CPI–U for Food Series, since it does include food consumed away from home, is the most appropriate series to use in computing adjustments in meals charge for the type of operation where food is prepared and served to groups at centralized feeding facilities, as is the case with most employers who provide daily meals to their agricultural and logging workers.

The Consumer Price Index for All Urban Consumers for Food showed an increase of 23.4 percent from March 1980 (when the charges set forth in the regulations at §§ 655.202(b)(4) and 655.211 last were amended) through December 1984. Consequently, ETA will use these CPI data and authorize employers who provide their covered U.S. and alien workers with three meals a day to charge the workers each day, without RA approval, no more than $4.94, an increase of 23.4 percent from the current $4.00. ETA also will increase the current maximum daily charge, with RA approval, of $5.00 by 23.4 percent to $6.17. A charge higher than $4.94 per day may be authorized with the approval of the RA based on documentary evidence submitted by the employer to justify a higher charge. ETA also will use the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that to compute future annual adjustments in the allowable charges, and will provide for annual publication of such adjustments by notice in the **Federal Register**. The first such adjustments will be made and published in 1986.

IV. Anticipated Effect of Final Rule on Covered Workers

The majority of employers who provide meals to their covered workers were granted approval in 1980/1981 to charge their workers the then current maximum rate of $5.00 per day. A sampling of information supplied by such employers, primarily those in the sugarcane industry in Florida, where virtually all of the workers are served daily meals in centralized facilities,

shows that the acutal costs to the employers for providing three daily meals to a worker range from $5.00 to $6.61 per day. Not all employers are expected to be able to justify actual costs substantially higher than the proposed new maximum of $6.17 per day for the next season. Hence, employers may be authorized to charge their workers up to the maximum, but not always the maximum allowed. In most cases, based upon information available at present to ETA, the increased daily charge to a worker is expected to be no more than $1.00. The modest increase in the daily meal charge is not expected to have any impact on the recruitment of workers. Moreover, when workers are provided meals in centralized facilities, they get the benefit of more substantial and nutritious food than they might purchase for themselves, as well as having food prepared for them, thus saving them time and energy which would be needed to prepare their own meals.

As the result of increases in computed agricultural adverse effect wage rates (AEWRs) since 1980, ranging from 12.6 percent to 48 percent, depending upon the State involved, the increases in the minimum daily wages of the workers, calculated on the basis of an 8-hour day, range from $3.75 to $15.76. The highest AEWR applies to Florida sugarcane harvesting, where the AEWR increased from $4.90 per hour in 1980 to $6.06 per hour in 1985. Even the lowest estimated increase in the minimum daily wage of a worker exceeds the maximum possible increase in the daily meal charge. Moreover, workers employed on a piece-rate basis, such as apple and citrus fruit pickers, or on a task-rate basis, such as sugarcane harvesters, usually earn considerably more than the guaranteed minimum. Piece rates and task rates have also increased since 1980, since they must be designed to produce at least the applicable AEWR. Hence, disposable income of the workers has increased to the point where an increase in the daily meal charge of about $1.00, in most cases, should impose no undue hardship upon the workers.

Employers have indicated they will be hard pressed to maintain the current quality and quantity of food provided to their workers unless they can help defray a greater portion of the total expense of providing such food by means of an increase in the daily meal charge.

V. Comments on Proposed Rule

Eight comments were received on the proposed rule. Seven were from employers or their representatives. They generally supported adoption of the proposed rule. One commenter representing farmworkers objected to its adoption.

One employer-commenter recommended adoption of the rule as it was proposed.

Five employer-commenters preferred elimination of the maximum limits on charges which can be made and adoption of the "reasonable cost" standard in the Employment Standards Administration's (ESA's) regulation at 29 CFR Part 531 which relates to wage payments under the Fair Labor Standards Act. ETA has not accepted this suggestion because of paperwork requirements and other financial complexities of ESA's standards, which ETA believes would be extremely burdensome to all but the largest-sized agricultural and logging employers, and ETA's lack of expertise in this area (as well as insufficient resources), which would render proper administration of this approach impractical.

Three employer-commenters suggested that meal charges higher than those proposed be adopted. The ETA believes the increased charges set forth in the present rulemaking are fair to both employers and workers. Moreover, as the rule provides, the charges will be adjusted annually.

Four employer-commenters commented on the one-year lag in the indexing approach, and two of them recommended the inclusion of an allowance to provide for inflation in costs which may have occurred between December of the year just concluded and December of the year prior to that. While the ETA acknowledges there is a one-year lag, it is not persuaded that there is a suitable methodology to compensate for the lag. The suggestion, therefore, was not adopted.

Two commenters contended that farmworkers consume more food than urban workers and their meal costs, as a class, are higher. No evidence is available to support this contention.

The worker-representative who commented based his objections to the proposed rule on the following observations: (1) Costs of providing food may be lower in a rural setting than they are in an urban area; (2) too much reliance was being placed upon data from one crop activity in one area of the country (Florida sugarcane) to justify the need for an adjustment; and (3) farmworkers have not actually realized the benefits from wage increases in recent years because of litigation on the adverse effect wage rate (AEWR) methodology. The commenter also suggested that adjustments should be based on statistics which do not include inflationary factors present in an urban restaurant situation, but not present in the farm environment. The commenter suggested use of the Thrifty Food Plan Series as an alternative to the CPI–U for Food Series.

ETA has not been persuaded by this commenter for the following reasons:

(1) There is no statistical series related to food consumed away from home that separates rural/urban data. The BLS does not obtain data separately for rural areas;

(2) While Florida sugarcane growers employ about 50 percent of the 20,000 H–2 aliens certified annually by the ETA, reliance also was placed upon information supplied by East Coast apple growers who use H–2 aliens and who also indicated that actual costs for providing food to workers had greatly exceeded the established ceilings; and

(3) Most of the litigation between 1983–1985 concerning the AEWR methodology has been resolved, and arrangements are being made for disbursement of pay due workers from escrow accounts which growers had established.

Further, ETA has considered and rejected use of the Thrifty Food Plan Series because it is based on the amount households eligible for food stamps pay for food. This assumes that food for all meals is purchased at a store and prepared and consumed at home. It specifically excludes food prepared and consumed away from home, thereby making it inappropriate for this purpose.

After reviewing the comments, EPA remains convinced that the CPI–U for Food Series is the most appropriate series to use in computing adjustments in meal charges for the type of operation where food is prepared and served to groups at centralized feeding facilities, as in the case with most employers who provide daily meals to their agricultural and logging workers. ETA, therefore, has determined to revise the regulations at 20 CFR 655.202(b)(4) and 20 CFR 655.211(a) as set forth below.

Regulatory Impact

The final rule will affect only those relatively few employers in the agricultural and logging sectors using nonimmigrant alien workers ("H–2 visaholders") in temporary agricultural and logging jobs. It will not have the financial or other impact to make it a major rule, and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291 (February 17, 1981).

At the time of publication of the proposed rule in the **Federal Register**,

the Department of Labor notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule will not have a significant economic impact on a substantial number of small entities. It applies only to the small number of employers (and their workers) who employ nonimmigrant aliens in agriculture and logging in the United States.

Catalogue of Federal Domestic Assistance Number

This program is listed in the *Catalogue of Federal Domestic Assistance* as Number 17.202, "Certification of Foreign Workers for Agricultural and Logging Employment."

List of Subjects In 20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Forests and forest products, Guam, Labor, Migrant labor, Wages.

Promulgation of Final Rule

Accordingly, 20 CFR Part 655 is amended as follows:

PART 655—LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for Part 655 is revised to read as follows and the authority citations following all the sections in Part 655 are removed:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii) and 1184(c); 29 U.S.C. 49 *et seq.;* 8 CFR 214.2(h)(3)(i).

2. Section 655.202 is amended by revising paragraph (b)(4) to read as follows:

§ 655.202 Contents of job offers.

* * * * *

(b) * * *

(4) The employer will provide the worker with three meals a day, except that where under prevailing practice or longstanding arrangement at the establishment workers prepare their meals, employers need furnish only free and convenient cooking and kitchen facilities. Where the employer provides the meals, the job offer shall state the cost to the worker for such meals. Until a new amount is set pursuant to this paragraph (b)(4), the cost shall not be more than $4.94 per day unless the RA has approved a higher cost pursuant to § 655.211 of this Part. Each year the charge allowed by this paragraph (b)(4) will be changed by the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments shall be effective on their publication by the Administrator in the **Federal Register.**

* * * * *

3. Section 655.211 is amended by revising paragraph (a) to read as follows:

§ 655.211 Petition for higher meal charges.

(a) Until a new amount is set pursuant to this paragraph (a), the RA may permit an employer to charge workers up to $6.17 for providing them with three meals per day, if the employer justifies the charge and submits to the RA the documentary evidence required by paragraph (b) of this section. A denial in whole or in part shall be reviewable as provided in § 655.212 of this Part. Each year the maximum charge allowed by this paragraph (a) will be changed by the 12-month percent change for the Consumer Price Index for All Urban Consumers for Food between December of the year just concluded and December of the year prior to that. The annual adjustments shall be effective on their publication by the Administrator in the **Federal Register.**

* * * * *

Signed at Washington, DC, this 20th day of August, 1986.

William E. Brock,

Secretary of Labor.

[FR Doc. 86-19233 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[T.D. 8097]

Procedure and Administration; Returns Required on Magnetic Media

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the required use of magnetic media for filing certain returns. The regulations extend the due date for certain requests for waiver or approval of a magnetic medium to July 31, 1986. The regulations apply to persons required to file Forms W-2 and W-2P in 1987.

EFFECTIVE DATE: The regulations are effective as of August 26, 1986 and generally apply to returns filed after December 31, 1986.

FOR FURTHER 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.

2. If the inquiry relates to magnetic media filing for returns required on Form W-2 or W-2P, see the list of regional magnetic coordinators of the Social Security Administration under supplementary Information.

SUPPLEMENTARY INFORMATION:

List of Regional Magnetic Coordinators, Social Security Administration

For further information contact 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—For Persons Residing In

Social Security Administration, J.F. Kennedy Building, Boston, Mass. 02203, ATTN: Joanne Shulman, R. 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.

Background

On March 25, 1986, the **Federal Register** published final regulations relating to section 6011(e) of the Internal Revenue Code of 1954 (51 FR 10348). The regulations were adopted 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).

Under those regulations, any person that is required to use certain forms, including Form W–2 (Wage and Tax Statement) or W–2P (Statement for Recipients of Annuities, Pensions, Retired Pay, or IRA Payments), for the purpose of making a return must provide the information required by such form on magnetic media, unless (a) the person is a low-volume filer with respect to the return or (b) 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 is treated as a failure to file the return and may subject the person to the corresponding penalty.

Returns required on Form W–2 or W–2P for calendar year 1986 may generally be filed on the prescribed paper form if fewer than 500 returns were required to be filed on that form for the preceding calendar year. Returns required on such forms for calendar years after 1986 may generally be filed on the prescribed paper form if fewer than 250 returns were required to be filed on that form for the preceding calendar year. The regulations 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 regulations, 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 regulations 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 returns of 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. The regulations contained in this document extend the due date for applications for consent and requests for waivers to July 31, 1986, for Forms W–2 and W–2P to be filed in 1987.

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. A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for final regulations subject to 5 U.S.C. 553(b)(B). Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

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.

List of Subjects in 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.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 301 is amended as follows:

Procedure and Administration Regulations (26 CFR Part 301)

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

Authority: 26 U.S.C. 7805. * * * Section 301.6601–2 also issued under 26 U.S.C. 6011(e).

§ 301.6011–2 [Amended]

Par. 2. Section 301.6011–2 is amended as follows:

1. Paragraph (b)(2)(i) is amended by removing "June 30, 1986" and by adding in its place "July 31, 1986".

2. Paragraph (c)(4)(i)(A) is amended by removing "June 30, 1986" and by adding in its place "July 31, 1986".

This Treasury decision merely extends the due date for certain requests for waiver or approval of a magnetic medium. For this reason, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

James I. Owens,

Acting Commissioner of Internal Revenue.

Approved: August 11, 1986.

J. Roger Mentz,

Assistant Secretary of the Treasury.

[FR Doc. 86–19302 Filed 8–25–86; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF–233; Re: Notice No. 591, T.D. ATF–187/204]

Revision and Realignment of the Boundaries of Alexander Valley and Northern Sonoma Viticultural Areas

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: ATF is revising the boundary of the Alexander Valley viticultural area in Sonoma County, California, to include vineyard land which ATF had inadvertently omitted from the northeastern corner of the viticultural area with the issuance of T.D. ATF–187 [49 FR 42719], to extend the boundary at the northeastern corner to include land on which new vineyards were planted in 1985; to realign the western portion of the boundary to conform with that of the Northern Sonoma viticultural area; and, to include the Digger Bend area north and east of Healdsburg.

ATF is revising the boundary of the Northern Sonoma viticultural area in Sonoma County, California, to include land on which the new vineyards were planted in 1985 and to realign the northeastern and northwestern portions of the boundary to conform to the descriptions of like portions of the boundary of the Alexander Valley viticultural area.

EFFECTIVE DATE: This final rule is effective September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, Coordinator, FAA,

Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Ariel Rios Federal Building, Room 6237, Washington, DC 20226, Telephone: (202) 566-7626.

SUPPLEMENTARY INFORMATION:

Background

With the issuance of T.D. ATF-187 on October 24, 1984, and T.D. ATF-204 on May 17, 1985, ATF established, respectively, the Alexander Valley and the Northern Sonoma viticultural areas on Sonoma County, California.

Petition No. 1

On January 25, 1985, ATF received a petition for revision of the northeastern corner of the Alexander Valley viticultural area to include sections 33 and 34, Township 12 N., Range 10 W. Both sections are in Sonoma County and adjoin the Sonoma County-Mendocino County line. The area within these sections, approximately 2.4 square miles or 1,536 acres, consists of uplands at elevations between 1,600 feet and 2,400 feet above sea level on Pine Mountain. Within the area there are 57.5 acres of vineyards consisting of one established vineyard (1974) of 13 acres and four newly planted vineyards (1985) of 3, 8, 11, and 22.5 acres, respectively.

Based on the evidence submitted with this petition, ATF finds that the land in the area shares similar geological history, topographical features, soils, and climatic conditions as adjoining land within the previously established boundary of the viticultural area.

Northern Sonoma

ATF's decisions to establish and now to revise the boundary of the Alexander Valley viticultural area affect the boundary of the Northern Sonoma viticultural area.

In the preamble to the notice proposing the Northern Sonoma viticultural area, ATF stated its intention to have the proposed boundary coincide generally with the "outer" portions of the boundaries of the Alexander Valley, Dry Creek Valley, Russian River Valley and Knights Valley viticultural areas. In the preamble to T.D. ATF-204, ATF repeated this statement.

In reviewing the petition to revise the Alexander Valley boundary, however, ATF discovered that the statement in the preceding paragraph, while conforming to ATF's expressed intentions, was not in agreement with the final rule in T.D. ATF-204. ATF attributes this discrepancy to the fact that in T.D. ATF-187 ATF compressed the eastern and western legs of the boundary of the Alexander Valley viticultural area but failed to incorporate conforming changes in T.D. ATF-204.

The revised Northern Sonoma boundary includes the site of the vineyard established in 1974 in section 33, T. 12 N., R. 10 W., as well as the sites of the four vineyards planted in 1985 in section 34, T. 12 N., R. 10 W.

In addition, the revisions of the northeastern and northwestern portions of the boundary effectively exclude approximately 32.5 square miles of rugged mountainous terrain on which ATF had found no evidence of viticulture via the rulemaking process for establishment of the Alexander Valley viticultural area.

Petition No. 2

T.D. ATF-187 established the southern portion of the boundary of the Alexander Valley viticultural area along a ridge of low-lying hills to the north of the Digger Bend area which is north and east of Healdsburg. T.D. ATF-159 [48 FR 48813] issued October 21, 1983, established the northern portion of the boundary of the Russian River Valley viticultural area along this same ridge of hills.

Based on the evidence submitted in a petition filed on January 16, 1986, ATF finds that the Digger Bend area has climate, soil, and other features which are common to the Alexander Valley viticultural area. Accordingly, ATF is amending the southern portion of the boundary of the Alexander Valley viticultural area to include the land and vineyards in the Digger Bend area. The southern portion of the boundary of the Alexander Valley viticultural area is extended to encompass approximately 8 square miles or 5,120 acres of which 275 acres are devoted to vineyards.

Amended Boundaries

The description of the boundary of the established Alexander Valley viticultural area, as found in 27 CFR 9.53(c), is amended (1) to provide for inclusion of sections 33 and 34, Township 12 N., Range 10 W., and portions of sections 3 and 4, Township 11 N., Range 10 W., (U.S.G.S. "Asti" Quadrangle 7.5 minute series map), (2) to effect a minor conforming change in the western portion of the boundary at the southwest corner of section 1, T. 11 N., R. 11 W., and (3) to extend the boundary from the southwestern corner at State Highway 101 east and south to Fitch Mountain and Black Peak, effectively creating overlapping of the Alexander Valley and Russian River Valley viticultural areas at Digger Bend.

ATF is revising the boundary of the Northern Sonoma viticultural area, as found in 27 CFR 9.70, (1) to include part of section 3, T. 11 N., R. 10 W., and the entirety of section 34, T. 12 N., R. 10 W., (U.S.G.S. "Sonoma County, CA" map dated 1970, scale 1:100,000) and (2) to align the northeastern and northwestern portions of the boundary with the eastern and western portions of the boundary for the Alexander Valley viticultural area.

Comments

ATF received two written comments addressing two different aspects of the proposal.

One commenter opposed any further dilution of the appellation "Alexander Valley" by amendments which would increase the land area within the viticultural area. However, this commenter did not dispute any of the data submitted by either petitioner.

The second commenter, the petitioner for the pending Coastal Sonoma viticultural area, opposed inclusion of the Digger Bend area within the Russian River Valley viticultural area. This commenter states that the Digger Bend area should be removed from the Russian River Valley viticultural area since "(F)rom a climatic point of view, the boundary of the Russian River Valley as it was first proposed was a good first approximation, but not entirely accurate."

The establishment and subsequent revision of a viticultural area is dependent upon the finding by ATF that the area is distinctive from surrounding areas pursuant to the criteria prescribed in 27 CFR 4.25(e)(2). It is the responsibility of the petitioner(s) to submit evidence distinguishing the land area within the boundary from that excluded by the boundary line.

ATF finds that the evidence submitted by the petitioner for the Digger Bend revision supports the proposal in Notice No. 591 to include the Digger Bend area within the Alexander Valley and Russian River Valley viticultural areas. ATF's review of the data submitted by the petitioner, the letter from the former agricultural advisor for Sonoma County, the topography of the Digger Bend area in relation to areas to its north and south, and the limited thermograph readings, supports consideration of the Digger Bend area as being transitional between the "Coastal Warm" Alexander Valley and the "Coastal Cool" Russian River Valley. At the time of publishing Notice No. 591, ATF found little data to support a revision of the boundary of the Russian River Valley viticultural area to exclude the Digger Bend area. Upon the receipt of a petition containing such evidence, however, ATF would consider

proposing a revision of the boundary of the Russian River Valley viticultural area at a later date.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance with Executive Order 12291

In compliance with Executive Order 12291 issued February 17, 1981, ATF has determined that this final rule is not a "major rule" since it will not result in:

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

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

(c) 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.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The author of this document is Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

PART 9—[AMENDED]

Par. 1. The authority citation for 27 CFR Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. 2. ATF is amending § 9.53 of Subpart C of Title 27, Code of Federal Regulations, Part 9, by revising paragraphs (c)(3) through (c)(5) and (c)(21) through (c)(24), removing paragraphs (c)(25) and (c)(26), revising and redesignating paragraph (c)(27) as (c)(25), redesignating paragraphs (c)(28) through (c)(39) as paragraphs (c)(26) through (c)(37), removing paragraph (c)(40), and adding new paragraphs (c)(38) through (c)(40) to read as follows:

§ 9.53 Alexander Valley.

* * * * *

(c) *Boundary.* * * *

(3) Then east southeasterly in a straight line to the southeast corner of section 2, T. 11 N., R. 11 W.;

(4) Then south southeasterly in a straight line to the southeast corner of section 24, T. 11 N., R. 11 W.;

(5) Then southeasterly in a straight line across sections 30, 31 and 32, T. 11 N., R.. 10 W., to the point at 38°45′ N. latitude and 123°00′ E. longitude in section 5, T. 10 N., R. 10 W.;

* * * * *

(21) Then southeasterly in a straight line approximately 11,000 feet to the 991-foot peak of Fitch Mountain;

(22) Then east southeasterly approximately 7,000 feet in a straight line to the peak identified as having an elevation of 857 feet;

(23) Then east southeasterly approximately 1,750 feet to the peak identified as Black Peak;

(24) Then southeasterly approximately 7,333 feet to the peak identified as having an elevation of 672 feet;

(25) Then northeasterly approximately 5,000 feet in a straight line to the point of confluence of Brooks Creek with the Russian River in T. 9 N., R. 8 W., on the Healdsburg Quadrangle map;

* * * * *

(38) Then east-northeasterly approximately 10,000 feet in a straight line to the southeast corner of section 34, T. 12 N., R. 10 W.;

(39) Then north along the east boundary of section 34, T. 12 N., R. 10 W., to the northeast corner of section 34, T. 12 N., R. 10 W.;

(40) Then west along the north boundaries of sections 34 and 33, T. 12 N., R. 10 W., to the point of beginning.

* * * * *

Par. 3. ATF is amending § 9.70 of Subpart C of Title 27, Code of Federal Regulatons, Part 9, by revising paragraphs (b), (c) introductory text, (c)(1), and (c)(11) through (c)(14), redesignating paragraph (c)(15) as (c)(19), adding new paragraphs (c)(15) through (c)(18), redesignating paragraphs (c)(18) through (c)(23) as paragraphs (c)(23) through (c)(28) adding new paragraphs (c)(20) through (C)(22) to read as follows:

§ 9.70 Northern Sonoma.

* * * * *

(b) *Approved maps.* The approved maps for determining the boundary of the Northern Sonoma viticultural area are the U.S.G.S. Topographical Map of Sonoma County, California, scale 1:100,000, dated 1970, and the Asti Quadrangle, California, 7.5 minute series (Topographic) Map, dated 1959, photorevised 1978.

(c) *Boundary.* The Northern Sonoma Viticultural area is located in Sonoma County, California. The boundary description in paragraphs (c)(1) through (c)(28) of this section includes (in parentheses) the local names of roads which are not identified by name on the map.

(1) On the U.S.G.S. Topographical Map of Sonoma County, California, the beginning point is the point, in the town of Monte Rio, at which a secondary highway (Bohemian Highway) crosses the Russian River.

* * * * *

(11) The boundary proceeds north northwesterly in a straight line to the southeast corner of Section 14, Township 10 North, Range 9 West.

(12) The boundary proceeds north northwesterly in a straight line to the most eastern point of the northeastern line of Tzabaco land grant.

(13) The boundary proceeds west-northwesterly along the northeastern line of the Tzabaco land grant.

(14) On the Asti Quadrangle 7.5 minute series map, the boundary proceeds west-northwesterly in a straight line to the point on a peak identified as having an elevation of 830 feet.

(15) The boundary proceeds northwesterly 13,350 feet in a straight line to the point on a peak identified as having an elevation of 1,070 feet.

(16) The boundary proceeds northwesterly in a straight line to the point on a peak identified as having an elevation of 1,301 feet.

(17) The boundary proceeds east-northeasterly approximately 10,000 feet in a straight line to the southeast corner of section 34, Township 12 North, Range 10 West.

(18) On the U.S.G.S. Topographical Map of Sonoma County, California, the boundary proceeds north along the east boundary of section 34, Township 12 North, Range 10 West, to the Sonoma County-Mendocino County line.

(19) The boundary follows the Sonoma County-Mendocino County line west then south to the southwest corner of Section 34, Township 12 North, Range 11 West.

(20) The boundary proceeds in a straight line east southeasterly to the southeast corner of section 2, Township 11 North, Range 11 West.

(21) The boundary proceeds in a straight line south southeasterly to the southeast corner of section 24, Township 11 North, Range 11 West.

(22) The boundary proceeds in a straight line southeasterly across sections 30, 31 and 32 in Township 11 North, Range 10 West, to the point at 38°45' North latitude parallel and 123°00' East longitude in section 5, T. 10 N., R. 10 W.

* * * * *

Signed: July 14, 1986.

W.T. Drake,

Acting Director.

Approved August 5, 1986.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 86-19139 Filed 8-25-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF EDUCATION

34 CFR Part 674

Postsecondary Education; National Direct Student Loan Program

Correction

In FR Doc. 86-17690, beginning on page 28312, in the issue of Wednesday, August 6, 1986, make the following corrections:

§ 674.6a [Corrected]

1. On page 28314, first column, in amendatory instruction 3, "674.6" should read "674.6a".

2. On the same page, first column, in the section heading, "§ 673.6a" should read "§ 674.6a".

3. On the same page, first column, § 674.6a(a) third line, after "subsequent" insert "award years".

4. On the same page, first column, § 674.6a(c)(1), third line, "in" should read "to".

5. On the same page, first column, § 674.6a(c)(2), fourth line, "repayments" was misspelled.

6. On the same page, second column, § 674.6a(c)(3)(ii), first line, "Subtracting" was misspelled.

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 261

Prohibitions; Fossil Collecting

AGENCY: Forest Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: In keeping with the language of the Archaeological Resources Protection Act of 1979 and in response to informal comments from the scientific and academic communities, the Forest Service is clarifying its regulations concerning fossil collecting on National Forest System lands. The language on "paleontological resources" is being moved to a separate paragraph and the requirement for permits is being limited specifically to vertebrate fossils and commercial activities.

DATES: Effective date: August 26, 1986. Comments due on or before October 27, 1986.

ADDRESSES: Send written comments to R. Max Peterson, Chief (2800), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

The public may inspect comments received on this interim rule in the office of the Director, Minerals and Geology Management Staff, Room 606, 1621 North Kent Street, Rosslyn, Virginia 22209, from the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Tom King, Minerals and Geology Management Staff, USDA, P.O. Box 2417, Washington, DC 20013. (703-235-9745).

SUPPLEMENTARY INFORMATION: Current regulations prohibit the excavation and removal of any paleontological object from National Forest System lands without first obtaining a special use authorization in accordance with 36 CFR 261.1a. The regulations define a paleontological resource as ". . . evidence of fossilized remains of multicellular invertebrate and vertebrate animals and multicellular plants, including imprints thereof . . . ." Moreover, the language of The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb) distinguishes between "archaeological" and "paleontological" resources, which we interpret to mean that Federal land management agencies are not mandated to exercise the same degree of protection for the two resources.

The collection of paleontological objects on National Forest System lands is a legitimate scientific and educational pursuit and there is no evidence of widespread conflicts or problems that would require a blanket prohibition on all activities as currently provided in 36 CFR 261.9. Vertebrate fossils have traditionally been accorded special significance and will remain subject to regulation. Where there is a need to protect other paleontological resources at a unique site, land managers may issue special closure orders pursuant to 36 CFR 261.53(c).

Paleontological objects found in an archaeological context are considered part of the archaeological resource and would remain subject to the prohibitions at 36 CFR 261.9 and 36 CFR 296.4.

Since the field season for scientific and academic research is already underway, there is a need to make this interim rule effective immediately. However, public comments are invited and will be fully considered in developing a final rule.

Regulatory Impacts and Review

This interim rule has been reviewed under Executive Order 12291, The Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and implementing Departmental procedures. The Assistant Secretary of Agriculture for Natural Resources and Environment has determined that the regulation is not a major rule and will not have a significant economic impact on a number of small entities. It will have little or no effect on the economy because it affects only Forest Service land managers. The regulation may reduce administrative costs for analysis of permit conditions, permit issuance and administration, law enforcement, and other legal actions previously required to control fossil collecting.

Based on both past experience and environmental analysis, this interim rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environmental assessment or an environmental impact statement (40 CFR 1508.4).

This interim rule contains no information collection requirements as defined in 5 CFR Part 1320.

List of Subjects in 36 CFR Part 261

Law enforcement, National Forests.

Therefore, for the reasons, set forth above, Part 261 of Chapter II of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 261—[Amended]

1. The authority citation for Part 261 continues to read as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 101, (f)); 82 Stat. 916 (16 U.S.C. 1246, (i)); 92 Stat. 1650 as amended (16 U.S.C. 1133 (c)–(d)(1)), unless otherwise noted.

2. Paragraphs (g) and (h) are revised and a new paragraph (i) is added to § 261.9 to read as follows:

§ 261.9 Property.

* * * * *

(g) Digging in, excavating, disturbing, injuring, destroying, or in any way damaging any prehistoric, historic, or archaeological resource, structure, site, artifact, or property.

(h) Removing any prehistoric, historic, or archaeological resource, structure, site, artifact, property.

(i) Excavating, damaging, or removing any vertebrate fossil or removing any paleontological resource for commercial purposes without a special use authorization.

Dated: July 26, 1986.

George S. Dunlop,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86–19151 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[HSQ-115-F]

Medicare Program; End Stage Renal Disease Program: Redesignation of Networks and Reorganization of Network Organizations

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

ACTION: Final rule.

SUMMARY: This final rule revises the requirements in current regulations pertaining to the End-Stage Renal Disease (ESRD) networks and organizations and establishes provisions for new, more efficient network organizations. This rule removes the criteria that define existing networks, removes the requirement that HCFA change designations of ESRD networks through rulemaking, and removes the list of currently-designated networks that now appears in regulations. It is intended that these amendments will increase the efficiency and effectiveness of the ESRD program by instituting a faster process for changing network designations and organizations as program needs arise. These amendments also permit the reduction of the number of existing networks to as few as 14, which is consistent with section 9214 of Pub. L. 99–272, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).

DATES: These regulations are effective September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Spencer Colburn (301) 594–3413.

SUPPLEMENTARY INFORMATION:

I. Background

The Social Security Amendments of 1972 (Pub. L. 92–603) extended Medicare coverage to individuals with end-stage renal disease (ESRD) who require dialysis or transplantation. At that time, the broad array of professionals and facilities involved in the treatment of persons with ESRD indicated the need for a system to promote effective coordination. We believed that the integration of hospitals and other health facilities into organized networks was the most effective way to assure the delivery of needed ESRD care. Therefore, on July 1, 1975, we published proposed regulations (40 FR 27782) and final regulations on June 3, 1976 (41 FR 22502) that included provisions for implementing the existing ESRD networks.

Those regulations—

- Required that ESRD facilities be organized into coordinated systems ("networks") for the delivery of ESRD care;
- Required that the "networks" organize themselves through the establishment of a network coordinating council for each network area, with representation from all ESRD facilities in each network;
- Required that each network coordinating council appoint a medical review board to review the appropriateness of ESRD patient care and services;
- Required that a network and its coordinating council act as liaison between the Federal government and the available community resources, with the coordinating council supplying the Secretary information which the Secretary could use to make determinations, and make recommendations to member facilities as needed to achieve the objectives of the network;
- Specified the membership requirements and responsibilities of medical review boards;
- Provided for a relationship between networks and health care review organizations and health service planning organizations;
- Identified minimal utilization rates and the requirements for approval of facilities with respect to such rates;
- Outlined general requirements for all facilities furnishing ESRD services; and
- Contained a list of designated network areas.

Subsequently, the End-Stage Renal Disease Amendments of 1978 (Pub. L. 95–292), amended title XVIII of the Social Security Act (the Act) by adding section 1881; section 1881(c) statutorily authorizes the establishment of ESRD network areas and network organizations, consistent with criteria the Secretary finds appropriate to assure the effective and efficient administration of ESRD program benefits.

With respect to ESRD networks, section 1881(c) of the Act requires the Secretary to—

- Establish ESRD network areas and organizations;
- Prescribe in regulations requirements with respect to membership in network organizations by individuals having financial or control relationships with ESRD providers and facilities:
- Take into account the network goals and performance in determining whether to certify new or expanded facilities in the network area and to terminate or withhold certification of a facility for failure to cooperate with network goals; and
- Provide guidelines for the planning and delivery of services as necessary to assist the network organizations in developing their goals to promote the use of self-dialysis and transplantation.

Section 1881(c) further requires the Secretary to establish a national ESRD medical information system to assure the effective and efficient administration of Medicare benefits. The existing networks have been receiving copies of the national medical information forms from ESRD facilities prior to submitting the forms to us.

Section 1881(c) of the Act also specifies that the network organizations for each area—

- Include a coordinating council, an executive committee, and a medical review board;
- Include at least one patient as a member on each coordinating council and executive committee;

- Encourage the use of treatment settings most compatible with the successful rehabilitation of the patient;
- Develop criteria and standards relating to the quality and appropriateness of patient care;
- Develop network goals for the placement of patients in self-care settings and for transplantation;
- Evaluate the procedures used in the network to assess the appropriateness of patients for proposed treatment modalities;
- Identify those network members that are not cooperating with network goals and assist those facilities to develop appropriate plans of correction; and
- Submit an annual report on July 1 of each year that includes the network goals, data on the network's performance in meeting its goals (including data on the comparative performance of network members), identification of facilities that have consistently failed to cooperate with network goals and recommendations with respect to the need for additional or alternative services in the network area including self-dialysis training, transplantation and organ procurement facilities.

In summary, the amendments made to section 1881(c) of the Act did not include all of the provisions related to networks which had been included in the final regulations published on June 3, 1976 (41 FR 22502). These regulations were more prescriptive than the statute. The requirements contained in the 1976 regulations that were not statutorily required included the following:

- Specific criteria for designating network areas (§ 405.2110).
- Representation from all ESRD facilities on each network coordinating council (§ 405.2111).
- Review of the appropriateness of ESRD patient care and service by medical review boards (§ 405.2111).
- Membership of network coordinating councils by professional disciplines (§ 405.2111).
- Specific initial functions of network coordinating councils (§ 405.2111).
- Specific ongoing functions of network coordinating councils and network executive committees (§ 405.2112).
- Relationship of network coordinating councils with the Federal government and the available community resources (§ 405.2112).
- Membership requirements of specific disciplines for medical review boards (§ 405.2113).
- Current responsibilities of medical review boards (§ 405.2113).
- Reporting requirements of medical review boards (§ 405.2113).
- Relationship of ESRD networks to health care review organizations and health service planning organizations (§ 405.2114).

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) was enacted which requires the Secretary to maintain renal disease network organizations as authorized under section 1881(c) of the Act, and not merge the network organizations into other organizations or entities. The Secretary may consolidate network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

II. Notice of Proposed Rulemaking

On April 15, 1986, we published a notice of proposed rulemaking to implement section 9214 of Pub. L. 99–272 (51 FR 12714). Briefly, the major provisions of the notice proposed to:

- Remove the definition of "Network Coordinating Council" (§ 405.1202).
- Redefine "Network, ESRD" as all Medicare-approved ESRD facilities in a geographic area that we designate and define "Network Organization" as the administrative governing body to the network and liaison to the Federal government (§ 405.2102).
- Delete the requirements for publishing network designations in regulations, and remove the criteria for designating networks which would result in reducing the number of network organizations to a minimum number (but not fewer than 14) (§ 405.2110).
- Delete the specific membership requirements for the network coordinating council in § 405.2111 that go beyond the statutory requirements and include the remaining requirements of that section as new network organization requirements in § 405.2112.
- Specify the duties, responsibilities and functions of the new network organizations (§ 405.2112).
- Delete the requirements that specific professional medical and social service personnel be members of the medical review board and the specific functions required of the medical review board (§ 405.2113).
- Remove the requirements for network coordinating councils to enter into working arrangements with health care review organizations and health service planning organizations (§ 405.2114).
- Delete the requirement that information obtained from network coordinating councils be used in the utilization rate determination (§ 405.2121).
- Delete the requirement that an ESRD facility must provide evidence of service needs in a network for additional dialysis services (§ 405.2132).
- Remove the requirements for membership and representation in the network (§ 405.2134).
- Make conforming regulation changes concerning the roles of the network organization, network executive committee and medical review board (§§ 405.2136 and 405.2138).
- Delete the Appendix to Subpart U that provides the list of designated ESRD networks.

III. Analysis of and Reponses to Public Comments

We received 192 pieces of correspondence from 18 of the 32 existing ESRD network, 3 hospitals, 104 ESRD facility staff, 11 ESRD patients, 3 ESRD patient advocacy groups, and 3 members of Congress. In addition, we received comments from ESRD facility chain organizations, State Health Departments, physician and nurse associations, hospital associations, a health systems agency, the Forum of ESRD Networks, medical schools, physicians, nurses, social workers, and other interested parties. The comments and our responses to those comments are discussed below.

A. Consolidation of Networks

Comment: A number of commenters opposed consolidation of the current ESRD network organizations. These commenters suggested that new larger organizations would lose the personal contact that has been established among the facilities, eliminate the authority and capability to fulfill the statutory mandates, and be unable to address the problems unique to a small geographic area. The commenters also suggested that there are financial disincentives to consolidation (for example, start-up costs of new organizations, increased travel and meeting expenses, and increased costs due to lack of voluntary participation in the organization).

Several commenters were in favor of consolidating the 32 networks to streamline the ESRD program and to concentrate on the quality assurance activities.

Response: We agree that initial phase-in of the new contract organizations will result in changes in the working relationships between ESRD facilities and the new network organizations. This effect can be expected from any reorganization of an existing program. However, prudent management of the networks requires that the networks be

designated in the most efficient structure possible to meet the organization goals.

B. Elimination of Networks

Comment: A few commenters stated that the concept of networks, while originally a good idea, is no longer valid and that the networks should be eliminated.

Response: The maintenance of ESRD networks is mandated by section 1881(c) of the Act, and we do not have statutory authority to eliminate them.

C. Provisions of Pub. L. 99-272

Comment: A few commenters believe that the proposed regulations did not take into account the provisions of Pub. L. 99-272. The commenters believe that the intent of Pub. L. 99-272 requires that the regulations define specifically the criteria for the new organizations, explain the transition from 32 networks to as few as 14, provide information on the projected level of funding, better define the functions of the new organizations, and describe the raw data that will be gathered for quality assurance studies.

Response: Section 9214 of Pub. L. 99-272 specifies that the Secretary will maintain renal disease networks as authorized under section 1881(c) of the Act, and may not merge the network organizations into other organizations or entities. The statute further provides that the Secretary may consolidate the network organizations, but only if the consolidation does not result in fewer than 14 such organizations being permitted to exist.

These regulations require specifically that the network organizations perform the network functions as mandated by section 1881(c) of the Act. In addition, we intend to award contracts for at least 14 organizations in keeping with the provisions of Pub. L. 99-272. We do not believe it necessary to specify in regulations the number of network organizations. We also do not believe it appropriate to explain the network transition process, the funding mechanism or other administrative functions in regulations. The level of funding, number of facilities or networks, and the size of the patient population are all subject to change, and the regulations process does not permit timely and rapid response to these changes. We will respond to these changes administratively to assure the flexibility to accomplish the goals of the statute.

D. Quality Assurance, Patient Health and Safety

Comment: A number of commenters expressed concern that the network organizations would no longer conduct quality assurance activities and that only the current ESRD networks can evaluate care and assure patient health and safety in the specialized environment of ESRD facilities.

Response: We will require the new network organizations to develop criteria and standards relating to the quality and appropriateness of care and to evaluate the procedures used by the facilities in the network in accessing patients for placement in appropriate treatment modalities to ensure the quality of care. We will include these activities in the contracts with the network organizations and monitor them as appropriate.

We continue to believe that ensuring patient health and safety in ESRD facilities is the responsibility of the State survey agencies and HCFA regional offices. These organizations have the experience and expertise to evaluate compliance with health and safety requirements by all types of Medicare providers, including ESRD facilities. In addition, we are developing an outcome-oriented survey process for ESRD facilities to provide a more valid and reliable assessment of the care being furnished to patients and to assure that the facilities are meeting the needs of their patients.

E. Patient Access and Health Planning

Comment: Two commenters suggested that changes to the present network system would limit patient access to care and compromise health planning activities in areas without a certificate of need program.

Response: The regulations provide specifically that designation of ESRD networks does not require a patient to seek care only in facilities in the network area where the patient lives, or limit patient choice of physicians or facilities, or limit patient referral by physicians to facilities in another network. We do not believe the regulations will in any way compromise patients' access to care. Networks do not have the authority to participate directly in the health planning process. Networks have provided necessary data to the authorized health planning agencies and will continue to do so.

F. Area Designation Process

Comment: Several commenters objected to the removal of the current requirement that ESRD networks be designated through rulemaking. The commenters believe that there should be an opportunity to comment on network area designations and that the provider community should be consulted about network configurations.

Response: Because of the dynamic nature of the ESRD program, as evidenced by the rapid growth of both facilities and the patient population, the rulemaking process is inadequate to address properly program needs with respect to the designation of ESRD networks. Section 1881(c) of the Act provides the Secretary with broad authority to designate ESRD networks in accordance with any criteria the Secretary believes appropriate. Therefore, the Secretary may choose network configurations that would best serve ESRD patients, the facilities and the ESRD program. We do not wish to exclude the concerns of patients or providers with respect to this issue, but we do not believe it is necessary to include network designations in regulations. Any comments that we have received have been given extensive consideration and any future recommendations regarding network designations will be given full consideration prior to the designation of networks.

G. Network Organization Duties

Comment: A few commenters suggested that the regulations do not provide specific functions and duties for the network organizations. One commenter suggested that networks be given a specific consultative role to Utilization and Quality Control Peer Review Organizations (PROs) and Health Systems Agencies (HSAs).

Response: We intend to remove burdensome requirements that were not statutorily mandated. We have specified in § 405.2112 the network functions that are authorized by the statute. As we stated in the proposed rule (51 FR 12715), we believe the duties and responsibilities contained in the current regulations are burdensome and obsolete. By requiring network organizations to perform only those duties specified in the statute, we believe we are providing for more effective and efficient administration of network activities. If it becomes necessary to require network organizations to pursue additional activities (such as the data collection activities discussed below), we will amend the contract with the network organizations to include those activities. In addition, we have revised § 405.2112 to reflect the statutory requirement that networks develop criteria and standards to evaluate the quality and appropriateness of care that we included in our preamble discussion in the proposed rule but inadvertently omitted from the regulation section.

We agree that it may be desirable for some of the network organizations to have formal arrangements with HSAs or PROs. However, we have not included this requirement in regulations because it may not be necessary for each network organization to maintain formal arrangements with HSAs or PROs. We will monitor network organizations and include the requirement as appropriate in contracts.

H. Network Data Activities

Comment: Two-thirds of all commenters expressed concern about the role of networks in data collection and validation. Many of the commenters believe that removing network organizations from these activities would seriously compromise the integrity of the national medical information data system and possibly hinder the network organizations in their medical review activities.

Response: We agree with the commenters that removal of the network organizations from the various data activities would, at least temporarily, affect the high degree of compliance currently exhibited by ESRD facilities in supplying complete, valid data to the medical information system. Therefore, we will retain the network data collection and validation functions for the new network organizations. Contracts will specify the necessary data collection functions and provide mechanisms for monitoring those functions.

I. Appointed Panels

Comment: Several commenters expressed concerns regarding the appointment of the network coordinating council, executive committee and medical review board by the network organization. The commenters believe that there should be universal participation on the network coordinating council by all providers and that elected, rather than appointed, bodies will elicit better participation by member facilities.

Response: The network organizations, under contract to HCFA, will be responsible for naming the members of these three entities, assigning them specific duties and monitoring their performance. As stated in the proposed rule (51 FR 12717), the mechanism used to identify and recruit these members, and the delineation of their duties, will be addressed by the potential network organizations in their contract proposals. This does not preclude the contractors from having full participation on the network coordinating council if they believe that this would most effectively address the contract's task.

In addition all ESRD facilities are required, by virtue of their Medicare certification, to participate in network activities and pursue network goals. Finally, we are developing regulations to implement intermediate reimbursement sanctions against facilities that fail to cooperate with network goals.

J. Requirements for Representation by Specific Disciplines

Comment: A few commenters believe it is appropriate to retain the current regulatory requirements that specific health disciplines be represented on the network coordinating council and medical review board. They contend that these individuals are best qualified to evalaute the quality and appropriateness of care and to resolve patient grievances.

Response: We do not agree that it is necessary to retain these prescriptive requirements in regulations. We will include in the contract with the new network organizations a requirement that members of the medical review board be individuals qualified to evaluate the quality and appropriateness of care delivered to ESRD patients. We will also require network organizations to develop a patient grievance protocol. As stated above, the mechanism for identifying potential board members and their actual appointment is subject to approval by us through the contracting process. We believe that these provisions adequately address the concerns raised regarding this issue.

K. Patient Representation

Comment: Several commenters expressed concern over consumer representation on network committees. Many believe that the requirement for one patient representative will limit patient participation and patient services such as health education and review of grievances.

Response: We do not intend to diminish consumer participation in network activities. The proposed rule specifies that the network coordinating council and executive committee must include *at least* one patient representative; that requirement is mandated by section 1881(c) of the Act. There is nothing to preclude a network organization from appointing additional patient representatives if necessary or appropriate.

L. Contracting Process

Comment: A number of commenters opposed the use of competitive contracts for funding the organizations. They believe that competitive contracts would substantially reduce voluntary participation in network activities and that potential contractors would be less committed to renal patients and facilities. The commenters are concerned that the new network organizations would not take advantage of existing network expertise. The commenters are also concerned that the current organizations would be precluded from participating in the competitive bid process.

One commenter supports the contracting process but believes it should be subject to public comment.

Response: The competitive bidding process will take into account potential contractors' technical capabilities, experience and proposed plans for performing the requirements of the contract. We believe these elements will assure that network contracts are awarded to organizations that are fully committed to meeting the needs of the ESRD program. We further believe that the competitive bidding process will result in a more effective and more efficient delivery of the network services and enhance our monitoring capability of network organizations. There will be nothing in the request for proposals that will preclude existing networks from submitting proposals for the new networks organizations.

We will specify in contracts the details of the duties and responsibilities of the network organizations. However, we believe that the substance of the contracts has already been subject to notice and public comment through our publication of the April 15, 1986 proposed rule and this final rule.

M. Extension of Comment Period

Comment: Two commenters requested that we extend the public comment period, so that they may thoroughly consider the long-term implications the proposed rule would have on the ESRD program.

Response: We believe that the 30-day period was sufficient time for receipt of comments on the proposed regulation changes and the number, diversity, and detail of the comments received support our belief.

N. Consideration of Public Comments

Comment: Two members of Congress requested that we consider comments submitted by an ESRD network in promulgating the final regulations.

Response: We wish to assure all commenters that we gave every timely comment we received thorough consideration and careful deliveration in formulating this final rule. We believe

that our discussion of the specific comments provides adequate rationale for the changes we made from the proposed rule and those instances where we maintained the position stated in the proposed rule.

O. Withdrawal of Regulation Changes

Comment: Several commenters suggested that our proposed rule be withdraw, primarily because it did not retain the network data collection function. A few commenters expressed general opposition to any changes in the current network system.

Response: We continue to believe that this final rule will result in more efficient network organizations that will better address the needs of ESRD patients and the renal community. To the extent that network performance relative to available resources is enhanced, the entire ESRD program will benefit. As mentioned previously, we will include, as a task for the contractors, the network data collection and validation activities.

IV. Summary of Changes in the Final Regulations

A. Network Data Activities

After reviewing the public comments, we have decided to retain the network data functions that network organizations have been performing. The existing networks have been receiving copies of the national medical information forms from ESRD facilities for validation, analysis, and support of network activities prior to submitting the forms to us. We will specify these functions, and any additional data collection activities, in our contracts with the new network organizations, and we will continue to monitor network performance regarding these functions.

B. Technical Correction

In the proposed rule, we included mention in the preamble of the statutory requirement for network organizations to develop criteria and standards relating to the quality and appropriateness of patient care (51 FR 12715) and inadvertently omitted the requirement from the regulations text. We have revised § 405.2112 to add a new paragraph (c) to include this requirement as a function of a network organization.

V. Final Notice and Request for Proposals

We are developing separately a list of the consolidated ESRD network boundaries that we will be publishing shortly as a final notice in the **Federal Register.**

Additionally, we will publish an announcement of a request for proposals (RFP) in the Commerce Business Daily (CBD) that will appear for 15 consecutive days. During those 15 days, interested parties may request copies of the RFP. On the fifteenth day the announcement appears in the CBD, we will distribute copies of the RFP to existing organizations that we feel currently have the expertise to perform network organization functions and any other parties that request copies. We will accept proposals within 30 days from the date that we issue copies of the RFP.

VI. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any "major rule" that is likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, government agencies or geographic regions, or meet other threshold criteria that are specified in that order. In addition, consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–12), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities.

Because ESRD networks are such a small activity, with a total FY 1986 budget of less than $5 million, these changes do not meet any of the criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. However, the planned reductions in numbers of network areas and organizations will clearly affect all or almost all existing network organizations. Since these organizations are a creation of the government and are funded by us solely to fulfill the requirements of the law, they are not the kind of small entities to which the Regulatory Flexibility Act is usually considered to apply. Nonetheless, they are small organizations, and a substantial number of them would experience a significant adverse economic effect as a result of our changes. Therefore, the following discussion, in combination with the other sections of the preamble of this rule, serves as a voluntary regulatory flexibility analysis.

As previously noted, this rule will expedite the ESRD network designation or redesignation process by eliminating the requirement that such designation be accomplished through rulemaking. This rule will also delete the network criteria from the current regulations and provide for the reorganization of network organizations in each designated network. These procedural changes will not have any economic impact in themselves.

Existing network organizations will be affected only when we actually redesignate networks and make arrangements with new network organizations. We do not expect this redesignation to have an adverse effect on ESRD facilities or beneficiaries. Rather, to the extent that network performance relative to available resources is enhanced, the entire ESRD program will benefit.

We intend to replace existing network organizations with a more effective and efficient system. We believe that at this time there is no need for a narrow geographic focus and that essential functions may be best accomplished by the smallest number of entities. The health care delivery system generally is capable of accomplishing operational coordination of the delivery of needed services without reliance on special additional organizations such as the ESRD networks. As a desirable by-product, these changes will reduce the regulatory burden on the suppliers of ESRD services, while continuing to assure the health and safety of Medicare beneficiaries.

In conclusion, we believe that the adverse economic impact of our reductions will be limited to the affected entities and their immediate employees. Such adverse consequences as may be anticipated will not be of sufficient magnitude to offset the advantages to be gained by anticipated improvements in efficiency, effectiveness, economy, and quality of care.

VII. Information Collection Requirements

Sections 405.2112(f) and 405.2136(c)(3) of this final rule contain information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). A notice will appear in the **Federal Register** when approval is obtained.

If you wish to submit comments on the information collection requirements contained in this final rule, you may submit comments to:

Desk Officer, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Chapter IV is amended as set forth below.

Part 405 is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart U—Conditions for Coverage of Suppliers of End-Stage Renal Disease (ESRD) Services

1. The authority citation for Part 405 Subpart U is revised to read as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr), unless otherwise noted.

2. The table of contents for Subpart U is amended by removing the section numbers and titles for §§ 405.2111, 405.2114 and 405.2132; revising the titles of §§ 405.2112 and 405.2134 to read "ESRD network organizations." and "Condition: Participation in network activities.", respectively; and removing the reference to the APPENDIX.

3. Section 405.2100 is revised to correct the statutory reference in paragraph (a) and to remove references to ESRD networks and coordinating councils as follows:

§ 405.2100 Scope of subpart.

(a) The regulations in this subpart prescribe the role which End-Stage Renal Disease (ESRD) networks have in the ESRD program, establish the mechanism by which minimal utilization rates are promulgated and applied, under section 1881(b)(1) of the Act, and describe the health and safety requirements that facilities furnishing ESRD care to beneficiaries must meet. These regulations further prescribe the role of ESRD networks in meeting the requirements of section 1881(c) of the Act.

(b) The general objectives of the ESRD program are contained in § 405.2101, and general definitions are contained in § 405.2102. The provisions of §§ 405.2110, 405.2112 and 405.2113 discuss the establishment and activities of ESRD networks, network organizations and membership requirements and restrictions for members of the medical review boards. Sections 405.2120 through 405.2124 discuss the establishment of minimal utilization rates and the requirements for approval of facilities with respect to such rates. Sections 405.2130 through 405.2140 discuss general requirements for, and description of, all facilities furnishing ESRD services. Sections 405.2160 through 405.2164 discuss specific requirements for facilities which furnish ESRD dialysis services. Sections 405.2170 and 405.2171 discuss specific requirements for facilities which furnish ESRD transplantation services.

4. Section 405.2102 is amended by removing the lower-case, lettered paragraph designations and placing the definitions in alphabetical order, revising the definitions of "Network, ESRD" and removing the definition of "Network Coordinating Council", and adding, in alphabetical order, a definition of "Network Organization" to read as follows:

§ 405.2102 Definitions.

* * * * *

Network, ESRD. All Medicare-approved ESRD facilities in a designated geographic area specified by HCFA.

Network Organization. The administrative governing body to the network and liaison to the Federal government.

* * * * *

5. Section 405.2110 is revised to read as follows:

§ 405.2110 Designation of ESRD networks.

HCFA designated ESRD networks in which the approved ESRD facilities collectively provide the necessary care for ESRD patients.

(a) *Effect on patient choice of facility.* The designation of networks does not require an ESRD patient to seek care only through the facilities in the designated network where the patient resides, nor does the designation of networks limit patient choice of physicians or facilities, or preclude patient referral by physicians to a facility in another designated network.

(b) *Redesignation of networks.* HCFA will redesignate networks, as needed, to ensure that the designations are consistent with ESRD program experience, consistent with ESRD program objectives specified in § 405.2101, and compatible with efficient program administration.

§ 405.2111 [Removed]

6. Section 405.2111 is removed.

7. Section 405.2112 is revised to read as follows:

§ 405.2112 ESRD network organizations.

HCFA will designate an administrative governing body (network organization) for each network. The functions of a network organization include but are not limited to the following:

(a) Developing network goals for placing patients in settings for self-care and transplantation.

(b) Encouraging the use of medically appropriate treatment settings most compatible with patient rehabilitation.

(c) Developing criteria and standards relating to the quality and appropriateness of patient care.

(d) Evaluating the procedures used by facilities in the network in assessing patients for placement in appropriate treatment modalities.

(e) Making recommendations to member facilities as needed to achieve network goals.

(f) On or before July 1 of each year, submitting to HCFA an annual report that contains the following information:

(1) A statement of the network goals.

(2) The comparative performance of facilities regarding the placement of patients in appropriate settings for—

(i) Self-care; and

(ii) Transplantation.

(3) Identification of those facilities that consistently fail to cooperate with the goals specified under paragraph (f)(1) of this section.

(4) Recommendations with respect to the need for additional or alternative services in the network including self-dialysis training, transplantation and organ procurement.

(g) Evaluating and resolving patient grievances.

(h) Appointing a network coordinating council, executive committee (each including at least one patient representative), and a medical review board, and supporting and coordinating the activities of each.

8. Section 405.2113 is revised to read as follows:

§ 405.2113 Medical review board.

(a) *General.* The medical review board must be composed of individuals qualified to evaluate the quality and appropriateness of care delivered to ESRD patients.

(b) *Restrictions on medical review board members.*

(1) A medical review board member must not review or provide advice with respect to any case in which he or she has, or had, any professional involvement, received reimbursement or supplied goods.

(2) A medical review board member must not review the ESRD services of a facility in which he or she has a direct or indirect financial interest (as

described in section 1126(a)(1) of the Act).

§ 405.2114 [Removed]

9. Section 405.2114 is removed.

§ 405.2120 [Amended]

10. Section 405.2120 is amended by removing the reference "Section 226(g) of the Social Security Act (42 U.S.C. 426(g))" and inserting in its place, the correct reference "Section 1881(b)(1) of the Social Security Act (42 U.S.C. 1395rr(b)(1))".

§ 405.2121 [Amended]

11. Section 405.2121 is amended by removing paragraph (a) and redesignating paragraphs (b), (c) and (d) as (a), (b) and (c), respectively.

§ 405.2122 [Amended]

12. Section 405.2122(b)(2)(ii) is amended by removing the reference "§ 405.2102(r)(7)" and inserting, in its place, the reference "§ 405.2102".

§ 405.2132 [Removed]

13. Section 405.2132 is removed.

14. Section 405.2134 is revised to read as follows:

§ 405.2134 Conditions: Participation in network activities.

Each facility must participate in network activities and pursue network goals.

15. Section 405.2136 is amended by revising the introductory paragraph, removing paragraph (b)(5), and revising paragraph (c) introductory text, reprinting paragraph (c)(3) introductory text unchanged for the convenience of the reader, and revising paragraphs (c)(3)(v), (c)(3)(vi), and (h) to read as follows:

§ 405.2136 Condition: Governing body and management.

The ESRD facility is under the control of an identifiable governing body, or designated person(s) so functioning, with full legal authority and responsibility for the governance and operation of the facility. The governing body adopts and enforces rules and regulations relative to its own governance and to the health care and safety of patients, to the protection of the patients' personal and property rights, and to the general operation of the facility. The governing body receives and acts upon recommendations from the network organization. The governing body appoints a chief executive officer who is responsible for the overall management of the facility.

* * * * *

(c) Standard: chief executive officer. The governing body appoints a qualified chief executive officer who, as the ESRD facility's administrator: Is responsible for the overall management of the facility; enforces the rules and regulations relative to the level of health care and safety of patients, and to the protection of their personal and property rights; and plans, organizes, and directs those responsibilities delegated to him by the governing body. Through meetings and periodic reports, the chief executive officer maintains on-going liaison among the governing body, medical and nursing personnel, and other professional and supervisory staff of the facility, and acts upon recommendations made by the medical staff and the governing body. In the absence of the chief executive officer, a qualified person is authorized in writing to act on the officer's behalf.

* * * * *

(3) The responsibilities of the chief executive officer include but are not limited to:

* * * * *

(v) Maintaining and submitting such records and reports, including a chronological record of services provided to patients, as may be required by the facility's internal committees and governing body, or as required by the Secretary.

(vi) Participating in the development, negotiation, and implementation of agreements or contracts into which the facility may enter, subject to approval by the governing body of such agreements or contracts.

* * * * *

(h) *Standard: medical staff.* The governing body of the ESRD facility designates a qualified physician (see § 405.2102) as director of the ESRD services; the appointment is made upon the recommendation of the facility's organized medical staff, if there is one. The governing body establishes written policies regarding the development, negotiation, consummation, evaluation, and termination of appointments to the medical staff.

§ 405.2138 [Amended]

16. Section 405.2138(e) is amended by removing the words "Network Council" and inserting in their place, the words "network organization".

§ 405.2161 [Amended]

17. Section 405.2161(a) is amended by removing the reference "§ 405.2102(r)(5)" and inserting in its place, the reference "§ 405.2102".

§ 405.2162 [Amended]

18. Sections 405.2162 (a) and (c) are amended by removing the reference "§ 405.2102(r)(4)" and inserting in its place, the reference "§ 405.2102".

§ 405.2163 [Amended]

19. Sections 405.2163 (c) and (d) are amended by removing the references "§ 405.2102(r)(6)" and "§ 405.2102(r)(2)" and inserting in their places, the references "§ 405.2102" and "§ 405.2102", respectively.

§ 405.2164 [Amended]

20. Section 405.2164(a) is amended by removing the phrase "§§ 405.2132, 405.2134, and 405.2137.", and inserting in its place, the phrase "§§ 405.2134 and 405.2137 that relate to participation in the network activities and patient long-term programs.".

§ 405.2170 [Amended]

21. Section 405.2170 is amended by removing the references "§ 405.2102(r)(7)" and "§ 405.2102(r)(5)" and inserting in their places, the reference "§ 405.2102".

§ 405.2171 [Amended]

22. Sections 405.2171 (b) and (c) are amended by removing the references "§ 405.2102(r)(6)" and "§ 405.2102(r)(2)" and inserting in their places, the reference "§ 405.2102".

23. The Appendix to Subpart U is removed.

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

Dated: July 11, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 25, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-19146 Filed 8-25-86; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[GEN Docket 84-801; FCC 86-350]

Exemptions from Technical Standards for Computing Devices

AGENCY: Federal Communications Commission.

ACTION: Clarification of final rule; notice of availability.

SUMMARY: The Commission gives notice of availability of a clarification of its exemptions from the computing devices rules under Part 15, Subpart J. This

action is intended to provide the public with a better understanding of the type of equipment the Commission considers to fall under the scope of the exemption for computing test equipment, as specified in § 15.801(c) of the Rules.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Technical Standards Branch, Office of Engineering & Technology, (202) 653-7316.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, GEN Docket 84-801, adopted, August 5, 1986, released August 12, 1986.

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

Summary of Report and Order

1. The Commission clarifies its exemptions from the rules under Part 15, Subpart J, with regard to large computing equipment built in small quantity and industrial, scientific, and medical test equipment. This action is taken in response to petitions filed by Electronic Associates Inc. (RM-4246), Cray Research, Inc. (RM-4797), and Denelcor, Inc. (RM-4816), seeking relief from the computing device rules for large digital or computing equipment built in small quantity and/or used in facilities such as public utilities, industrial plants, laboratories, hospitals, universities for research, simulation, evaluation, maintenance and other analytical or scientific applications. More specifically, the Commission concludes that it is ineffective to exempt computing devices from Part 15 of the Rules based on production quantity or equipment size, and to restrict the definition of digital test equipment to applications in scientific and university laboratories. Further, the Commission describes in more detail the type of equipment it considers to fall under the scope of the exemption of § 15.801 of the Rules covering computing test equipment.

Final Regulatory Flexibility Analysis

2. Because it has been decided not to amend the Rules, a final regulatory flexibility analysis is not necessary.

Ordering Clauses

3. Accordingly, it is ordered that the subject petitions are dismissed. It is further ordered that this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-19199 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-27; RM-5157, RM-5364]

Radio Broadcasting Services; Topsail Beach and Wilmington, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 267A to Topsail Beach, North Carolina, as the community's first local FM service, at the request of Jeffrey D. Southmayd, and dismisses the request of Woolfson Broadcasting Corporation of Wilmington, Inc. to substitute Channel 266C2 for Channel 265A at Wilmington, North Carolina. Channel 267A requires a site restriction of 8.4 kilometers (5.2 miles) southwest to avoid short-spacing to Station WRAL, Raleigh, North Carolina, and to the construction permit for Station WAZZ, New Bern, North Carolina, specifying minimum Class C facilities.

DATES: Effective September 26, 1986. The filing window for applications for this channel will be announced at a future date following the grant of a license for Station WAZZ, New Bern, North Carolina, at its new site.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-27, adopted August 8, 1986, and released August 20, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of allotments is amended by adding under North Carolina, Topsail Beach, Channel 267A.

Charles Schott

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-19197 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-209, RM-4923; RM-5154]

Radio Broadcasting Services; Naguabo, Puerto Rico, Charlotte Amalie, VI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates Channel 225A to Naguabo, P.R., with a site restriction of 9.7 kilometers east, as the community's first local FM service, at the request of Reyes Ruiz Rivera and Robert Rodriguez. The license of Station WSTT, Caribbean Basin Broadcasting, Ch. 226 at Charlotte Amalie, V.I., is modified to specify Channel 282. Applicants for Ch. 225A at Naguabo will be required to share with Station WRIO, Ponce, P.R., the costs incurred by Station WSTT in changing its channel of operation. With this action, this proceeding is terminated.

DATES EFFECTIVE: September 26, 1986. The filing window for Channel 225A at Naguabo, P.R. will open on September 29, 1986, and close on October 27, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-209, adopted August 8, 1986, and released August 20, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202(b), the table of allotments is amended by adding Naguabo, Channel 225A, under Puerto Rico, and by revising Channel 226 to Channel 282 for Charlotte Amalie, Virgin Islands.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-19192 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-80; RM-5303; FCC 86-374]

Television Broadcasting Services; Gary, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action approves an agreement to exchange channels by the permittees of noncommercial educational television Station WCAE, Channel*50, Gary, Indiana and commercial television Station WDAI, Channel 56, Gary, Indiana. As a result of this approval, Channel 56 in the Television Table of Assignments is now reserved for noncommercial educational use while Channel 50 is no longer reserved. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-80, adopted August 11, 1986, and released August 19, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. In § 73.606(b), the table of assignments is amended, under Indiana, by revising Channels *50 to 50 and 56+ to *56+ for Gary.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-19196 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of commercial fishery closure and request for comments.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the commercial coho salmon fishery in the fishery conservation zone (FCZ) from Point Delgada, California, to the U.S.-Mexico border at midnight, August 20, 1986, because the overall coho quota south of Cape Falcon, Oregon, has been met. The commercial salmon fishery in the same area continues as scheduled for all salmon species except coho. The closure is necessary to conform to the preseason announcement of 1986 management measures. This action is intended to ensure conservation of coho salmon.

EFFECTIVE DATES: Closure of the FCZ from Point Delgada, California, to the U.S.-Mexico border to commercial salmon fishing for coho is effective at 2400 hours Pacific Daylight Time (PDT), August 20, 1986. Comments on this notice will be received until September 3, 1986.

ADDRESS: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206-526-6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specific at § 661.21(a)(1) that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were made effective on April 30, 1986 (51 FR 15620, May 5, 1986). The 1986 commercial fisheries for all salmon species in the FCZ from Cape Falcon, Oregon, to the U.S.-Mexico border were established as follows:

Subarea	All-Species Season
Cape Falcon to Cape Blanco, OR.	July 1-July 20, July 23 through coho quota (fishery continues for all except coho from coho quota through October 31)
Cape Blanco, OR to Pt. Delgada, CA.	June 16-19, June 23-26, June 30 through earlier of August 31, coho quota or chinook quota (fishery continues for all except coho after coho quota is met through earlier of August 31 or chinook quota)
Pt. Delgada, CA to U.S.-Mexico Border.	June 1 through earlier of September 30 or coho quota (fishery continues for all except coho after coho quota is met through September 30)

An overall quota of 463,000 coho salmon (hooking mortality and harvest) was established for the ocean troll fisheries south of Cape Falcon, Oregon. The overall area quota was partitioned into two major subarea quotas. The subarea from Cape Falcon, Oregon, to Point Delgada, California, has a harvest quota of 383,000 coho, while the subarea south of Point Delgada, California, has a harvest quota of 26,800 coho salmon.

The commercial fishery in the subarea from Cape Falcon, Oregon, to Point Delgada, California, was closed to coho fishing effective midnight, July 24, 1986, when it was projected that its 383,000 coho harvest quota had been met (51 FR 26899, July 28, 1986). Fishing continued for all species except coho salmon.

Based on the best available information through August 17, commercial landings plus hooking mortality allowances from the overall area south of Cape Falcon are estimated

to have exceeded the overall quota of 463,000 coho.

The Regional Director consulted with the Chairman of the Pacific Fishery Management Council and the Directors of the Oregon Department of Fish and Wildlife and the California Department of Fish and Game (CDFG) regarding a closure of the commercial coho fishery in the subarea from Point Delgada, California, to the U.S.-Mexico border. The CDFG Director confirmed that California will close the commercial coho fishery in State waters adjacent to this subarea of the FCZ effective 2400 hours PDT August 20, 1986, and will reopen the commercial fishery in the same area for all salmon species except coho effective 0001 hours PDT August 21, 1986.

Therefore, the Secretary issues this notice to close the commercial coho fishery in the FCZ from Point Delgada, California, to the U.S.-Mexico border effective 2400 hours PDT August 20, 1986. At 0001 hours PDT August 21, 1986, the commercial fishery in the same area reopens as scheduled for all salmon species except coho.

This notice does not apply to other fisheries which may be operating in other areas.

Other Matters

This action is taken under 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: August 21, 1986.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

[FR Doc. 86-19301 Filed 8-21-86; 4:57 pm]

BILLING CODE 3510-22-M

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50 CFR Part 663

[Docket No. 60845-6045]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of fishing restriction and request for comments.

SUMMARY: NOAA issues this notice announcing the amount of the quota remaining and the allocation of this remainder between gear types for the 1986 sablefish fishery off Washington, Oregon, and California. This action is required by the emergency interim rule effective August 22, 1986 which supersedes regulations promulgated under the Pacific Coast Groundfish Fishery Management Plan. This action is necessary to provide a year-round fishery, minimize discards, and allocate the remainder of the sablefish quota equitably between user groups based on the best available scientific data.

EFFECTIVE DATE: August 22, 1986, until modified, superseded, or rescinded.

ADDRESSES: Comments on this action should be sent to Rolland A. Schmitten, Director Northwest Region, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115, or E. Charles Fullerton, Director Southwest Region, 300 S. Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206-526-6150 or E. Charles Fullerton at 213-514-6196.

SUPPLEMENTARY INFORMATION: An emergency interim rule effective August 22, 1986 (51 FR 29933 on August 21, 1986) imposes an 8,000 pound trip limit on trawl landings of sablefish caught off Washington, Oregon, and California. It also states that the remainder of the optimum yield (OY) quota for sablefish will be determined at the time the trip limit is imposed, and that this remainder will be allocated 55 percent for trawl landings and 45 percent for fixed gear landings based on the ratio of average landings by these two gear types between 1981 and 1985. The reasons for the trip limit and allocations, and the provisions for announcing and changing them, are set forth in the emergency interim rule and are not repeated here.

The best scientific information available indicates that 5,300 metric tons (mt) of the 13,600 mt OY for sablefish remain as of August 22, 1986. Accordingly, 2,915 mt (55 percent) is allocated for trawl landings and 2,385 mt (45 percent) is allocated for fixed gear landings. These allocations and the trawl trip limit may be adjusted based on the best data available on or near October 1, but the 55:45 per cent ratio will not change. Any changes in the allocations will be published by notice in the **Federal Register**. As provided in the emergency rule, if either allocation is reached before the end of the fishing year, further landings by that gear type will be prohibited. If the OY is reached, all further landings of sablefish by any gear are prohibited.

Classification

The determination of the amount of OY remaining and the allocations based on this amount are calculated using the most recent data available. The aggregate data upon which these determinations are based are available for public inspection at the Office of the Director, Northwest Region (see **ADDRESSES**) during business hours until the end of the comment period.

This action is taken under the authority of the emergency interim rule at 51 FR 29933, 50 CFR 663.22 and 663.23 and is in compliance with Executive Order 12291. Section 663.23 states that the Secretary will publish a notice in the **Federal Register** in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to public interest. These allocations are necessary to reduce the rate of catch of sablefish, thereby minimizing the likelihood of closure of the fishery. They also provide for equitable shares of the remainder of OY for trawl and fixed gear. As stated in the emergency interim rule, these allocations must be determined at the time the trawl trip limit becomes effective. Consequently, delay of these actions is impracticable and contrary to the public interest and they are taken in final form effective August 22, 1986.

The public had opportunity to comment on sablefish issues at meetings of the Pacific Fishery Management Council and its advisory bodies in July 1986. Public comments on this action will be accepted for 15 days after publication of this notice in the **Federal Register**.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: August 21, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-19300 Filed 8-21-86; 4:54 pm]

BILLING CODE 3510-22-M

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50 CFR Part 674

[Docket No. 50694-5094]

High Seas Salmon Fishery Off Alaska

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

ACTION: Notice of opening of fishery.

SUMMARY: NOAA issues this notice opening specific parts of the fishery conservation zone (FCZ) off Southeastern Alaska to commercial fishing for chinook salmon for six days. This action is necessary to allow fishermen more time to harvest the number of chinook salmon authorized by the Pacific Salmon Commission. This action is a conservation and management measure intended to fully

utilize the chinook salmon resources available.

DATES: This notice is effective at 0001 hours Alaska Daylight Time (ADT), August 21, 1986, through 2400 hours ADT on August 26, 1986. Public comments on this notice are invited until September 20, 1986.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 30-day comment period, the data upon which this notice is based will be available for public inspection during business hours (0800 to 1630 ADT, Monday through Friday) at the NMFS Alaska Regional Office, Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Chief, Fisheries Management Division, NMFS), 907–586–7228.

SUPPLEMENTARY INFORMATION: Salmon fishing in the FCZ off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP). This FMP was developed and amended by the North Pacific Fishery Management Council (Council) and is implemented by NOAA through regulations appearing at 50 CFR Part 674.

In March 1986, the Pacific Salmon Commission limited the 1986 chinook salmon harvest by all fisheries in Southeastern Alaska to 254,000 fish, exclusive of the harvest of chinook salmon resulting from Alaska's new enhancement activities. A final rule announcing this limit and setting the base salmon fishing periods for 1986 was published on July 21, 1986 (51 FR 26159). The commercial salmon fishery in the FCZ began on June 20, 1986.

On July 9, 1986, the Secretary of Commerce (Secretary) closed a small area of the FCZ to commercial salmon fishing (51 FR 25528, July 15, 1986) to slow the rate at which chinook salmon were being harvested so that the number harvested did not exceed the limit imposed by the Pacific Salmon Commission (51 FR 25528). The notice stated that if the actual number of chinook salmon harvested fell considerably short of the limit before the season ended on September 20, 1986, then NMFS might reopen the closed area to allow the troll fishery to harvest the remainder of its quota.

On July 30, 1986, the Secretary closed an area between Cape Cross and Cape Fairweather to all commercial salmon fishing to protect coho salmon returning to the northern inside areas of Southeastern Alaska (51 FR 27860, August 4, 1986).

On August 11, 1986, NOAA closed the entire FCZ to all commercial salmon fishing for 10 days (51 FR 29107, August 14, 1986). This closure was intended to allow coho salmon to escape the ocean and coastal fishery so they could move to inside waters and the spawning grounds.

As of August 20, 1986, the estimated harvest of chinook salmon in Southeastern Alaska by all fisheries amounted to 211,000, exclusive of the harvest of 9,000 chinook salmon from Alaska's new enhancement facilities. The components of the chinook salmon harvest are winter troll, 23,000; summer troll, 155,000; net fisheries, 20,000; and the sport fishery, 22,000. Thus, the 211,000 harvest of chinook salmon as of August 20 fell short of the 254,000 chinook salmon limit set by the Pacific Salmon Commission by approximately 43,000 chinook salmon.

Because this is a substantial number of chinook salmon still available for harvest, the Secretary has decided to reopen the troll fishing season for chinook salmon in all areas of the FCZ, including those which were previously closed. Based on the number of boats expected to be fishing and their historical catch per boat-day, this 43,000 will probably be harvested in six days. This fishing period will begin when the fishery for other salmon species resumes on August 21. When this chinook harvesting period ends, trollers may continue to harvest other salmon species in the FCZ, with one exception, after they have unloaded any chinook salmon they have on board. The exception is the area known as the Outer Fairweather grounds, described in the closure notice referred to above at 51 FR 25528, which will close again on August 27 to minimize hook-and-release mortality on sublegal chinook salmon.

If the total chinook harvest is still short of the limit after the actual chinook harvest from this fishery has been tabulated and the remaining harvests by the gillnet and sport fisheries have been forecasted, then another short period for harvesting chinook will be granted the trollers before the season closes on September 20, 1986.

Regulations implementing the FMP at § 674.23(a) provide that the Secretary may modify the time and area limitations governing the fishery whenever he determines that the condition of any salmon species in any part of the management area is substantially different from the condition anticipated in the FMP. In making such a determination, he may consider the following factors:

(a) The effect of overall fishing effort within any part of the management area;

(b) The catch per unit of effort and the rate of harvest;

(c) The relative abundance of salmon stocks within the management area;

(d) The condition of salmon stocks throughout their ranges; and

(e) Any other factors relevant to the conservation of salmon.

Having reviewed the evidence of the 1986 harvest of chinook salmon, the Secretary has determined that the effect of overall fishing effort in the FCZ, the catch per unit of effort, the high rate of harvest, and the apparent relative abundance of chinook stocks within the FCZ portion of the management area indicate that the condition of chinook stocks is substantially different from the condition anticipated in the FMP. He has also found that this difference reasonably requires a modification of time or area limitations if chinook stocks are to be conserved and managed adequately. Therefore, the Secretary is implementing the 6-day reopening of the chinook fishery prescribed by this action.

The reopening will become effective after this notice has been filed for public inspection with the Office of the Federal Register and the chinook fishery reopening has been publicized for 48 hours through procedures of ADF&G.

Other Matters

The Assistant Administrator for Fisheries, NOAA, has determined that the chinook harvest in Southeastern Alaska will fall short of the salmon treaty limit unless this notice takes effect promptly. He finds, therefore, that it would be impracticable and contrary to the public interest to provide advance notice and a prior opportunity for public comment or to delay for 30 days the effective date of this notice under the provisions of 5 U.S.C. 553 (b) and (c).

This action is authorized by 50 CFR Part 674 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 674

Fisheries, Reporting and recordkeeping requirements.

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

Dated: August 21, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–19285 Filed 8–21–86; 4:13 pm]

BILLING CODE 3510-22-M

50 CFR Part 683

[Docket No. 60583-6128]

Western Pacific Bottomfish and Seamount Groundfish Fisheries

Correction

In FR Doc. 86-17211, beginning on page 27413, in the issue of Thursday, July 31, 1986, make the following corrections:

§ 683.7 [Corrected]

1. On page 27417, first column, in § 683.7(d)(2), first line, the Morse code should read "(.–. –.– – –.–. –.– –)".

683.9 [Corrected]

2. On the same page, second column, § 683.9(d)(1), first line, "applicant" should read "application".

3. On the same page § 683.9(d)(3)(i), first line, "had" should read "has".

§ 683.21 [Corrected]

4. On page 27418, § 683.21(b)(2)(vii), "part" should read "port".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Proposed Revision of the U.S. Standards for Lentils, Review of the U.S. Standards for Whole Dry Peas and U.S. Standards for Split Peas

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Lentils, U.S. Standards for Whole Dry Peas, and U.S. Standards for Split Peas. Pursuant to this review, FGIS proposes to set grade limits for skinned lentils for U.S. No. 1 and U.S. No. 2 grades, and lower the percentage of skinned lentils necessary for a Sample grade designation. This change is proposed to facilitate the marketing of lentils. No changes are proposed to the U.S. Standards for Whole Dry Peas and the U.S. Standards for Split Peas.

DATE: Comments must be submitted on or before September 25, 1986.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250, telephone (202) 382–1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

David R. Galliart, Acting Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of pea and lentil inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees and licensed persons.

Standards Review

The review of the U.S. Standards for Lentils (7 CFR 68.601–68.611), U.S. Standards for Whole Dry Peas (7 CFR 68.401–68.410), and U.S. Standards for Split Peas (7 CFR 68.501–68.510) included a determination of the continued need for the standards; a review of changes in marketing factors and functions affecting the standards; and a determination of the potential for improving the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective of the review was to assure that the standards continue to serve the needs of the market to the greatest extent.

In the course of reviewing the standards for whole dry peas, split peas, and lentils, various meetings were held by the dry pea and lentil industry that were attended by pea and lentil producers, processors, and domestic and export merchandisers as well as representatives of FGIS. It was the consensus of industry members attending these discussions that the current U.S. Standards for Whole Dry Peas and U.S. Standards for Split Peas are meeting the needs of the pea industry and no changes are needed at this time. However, industry representatives recommended revisions to the U.S. Standards for Lentils to establish in the lentil grade requirements (§ 68.607) the factor of skinned lentils.

Skinned lentils are defined in the standards as lentils from which three-fourths or more of the seedcoat has been removed (§ 68.601(1)). On October 15, 1981, FGIS proposed a Sample grade designation for lentil samples found to contain more than 15.0 percent skinned lentils (46 FR 50802). In the comments received on that proposal, two commenters stated that, if more than 15.0 percent skinned lentils graded a lot U.S. Sample grade, there should be some limits on skinned lentils for U.S. No. 1 and U.S. No. 2 grades. In response to the comments FGIS stated that further study would be necessary to determine grade limits for skinned lentils for U.S. No. 1 and No. 2 grades. The Sample grade designation for samples containing more than 15.0 percent skinned lentils was made effective February 11, 1982 (47 FR 6245).

An FGIS study of the percentages of skinned lentils found in the 1985 crop year, determined that the average percentage of skinned lentils was 1.01 percent based on 150 samples. Four of the samples examined exceeded 4.0 percent skinned lentils, three samples exceeded 7.0 percent, and the range of skinned lentils was from 0.0 to 11.2 percent. The results of this study support the industry recommendations for new limits for skinned lentils in the grade requirements. This change would facilitate the marketing of lentils.

Based on all information available including the results of the FGIS study and recommendations from the lentil industry, it is proposed that maximum limits be established for skinned lentils at 4.0 percent for a U.S. No. 1 grade and 7.0 percent for a U.S. No. 2 grade. Currently, if lentils contain more than 15.0 percent skinned lentils, they would not meet the requirements in the standards for U.S. No. 1 or U.S. No. 2. Therefore, in § 68.607, the requirement for sample grade regarding skinned lentils which is designated as (d) would be removed.

Accordingly, FGIS proposes that the U.S. Standards for Lentils be revised to include grade limits for skinned lentils under § 68.607, Grades and grade requirements for dockage-free lentils. FGIS proposes that no changes be made to the U.S. Standards for Whole Dry Peas which appear at 7 CFR 68.401–68.410 and the U.S. Standards for Split Peas which appear at 7 CFR 68.501–68.510.

Comments including data, views, and arguments are solicited from interested persons. In addition, minor non-

substantive changes are proposed to be made to the table format in § 68.607.

A comment period of 30 days is specified in this proposed rule in order that any revised standards, if adopted, may be made effective during the 1986–87 marketing year.

List of Subjects in 7 CFR Part 68

Administrative practices and procedures–FGIS, Agricultural commodities, Export.

PART 68–[AMENDED]

1. The authority citation for Part 68 is revised to read as follows:

Authority: Sec. 203, 205, Agricultural Marketing Act of 1946 (7 U.S.C. 1622, 1624).

Accordingly, it is proposed that 7 CFR Part 68 be amended by revising § 68.607 to read as follows:

§ 68.607 Grades and grade requirements for dockage-free lentils. (See also § 68.609.)

Grade	Maximum limits of—						Minimum requirements—color
	Defective lentils			Foreign material			
	Total	Weevil-damaged lentils	Heat-damaged lentils	Total	Stones	Skinned lentils	
	(percent)	(percent)	(percent)	(percent)	(percent)	(percent)	
U.S. No. 1	2.0	0.3	0.2	0.2	0.1	4.0	Good.
U.S. No. 2	3.5	0.8	0.5	0.5	0.2	7.0	Fair.

U.S. Sample grade: U.S. Sample grade shall be lentils which—
(a) Do not meet the requirements for the grades U.S. Nos. 1 or 2; or
(b) Contain more than 14.0 prcent moisture, live weevils or other live insects, metal fragments, broken glass, or a commercially objectionable odor; or
(c) Are materially weathered, heating, or distinctly low quality.

Dated: August 13, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86–19217 Filed 8–25–86; 8:45am]

BILLING CODE 3410-EN-M

Federal Crop Insurance Corporation

7 CFR Part 400

[Amdt. No. 1; Doc. No. 3252S]

General Administrative Regulations—Appeal Procedure

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend Subpart J to Part 400 in Chapter IV of Title 7 of the Code of Federal Regulations (CFR), known as 7 CFR Part 400—General Administrative Regulations—Subpart J. Appeal Procedure. The intended effect of this rule is to prescribe procedures under which a person may request review of determinations made by FCIC, as they affect the Standard Reinsurance Agreement between FCIC and a Multi-Peril Crop Insurance Company (MPCI), with respect to yields and coverages established on the basis of actuarial data provided by FCIC. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments on this proposed rule must be received not later than October 27, 1986, to be sure of consideration.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1990.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small business, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The Appeal Regulations provide administrative procedures under which any person or organization may request and obtain review and appeal of determination made by FCIC. The regulations, found at 7 CFR Part 400, Subpart J, and published in the **Federal Register** on Wednesday, February 12, 1986 at 41 FR 5147, set forth the levels of appeal and prescribe the manner and format of such procedure.

FCIC, upon review of these regulations, has determined that no provision exists for an appeal by a producer whose contract with an MPCI company has been reinsured by FCIC under the Standard Reinsurance Agreement, when such producer disagrees with the actuarial data relative to yields and coverages relating to the producer's farming operation. FCIC provides such actuarial data for this purpose. Under the present Appeal Regulations, a producer who disagrees with the actuarial data provided by FCIC and used by the MPCI company for insurance purposes, has no means of appealing the actuarial determination of FCIC.

Under this proposed amendment to the Appeal Regulations the insured producer will be afforded access to the appeal process administered by FCIC for the purpose of contesting the actuarial data affecting the MPCI policy.

The information collection control numbers assigned by Office of Management and Budget (OMB) are found at Subpart H to 7 CFR Part 400.

FCIC is soliciting comments on this proposed rule for 60 days after the date of publication of the rule in the **Federal**

Register. All written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 400

Crop insurance, Administrative regulations–Review and appeal procedure.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend 7 CFR Part 400, Subpart J—General Administrative Regulations; Appeal Procedure, in the following instances:

PART 400—[AMENDED]

1. The authority citation for 7 CFR Part 400, Subpart J, continues to read as follows:

Authority: Pub. L. 75–430, 52 Stat. 72 et seq., as amended (7 U.S.C. 1501 et seq.).

2. 7 CFR 400.92 is revised to read as follows:

§ 400.92 Rights of appeal.

Appeal is available to:

(a) Any person determined to be indebted to the Corporation as a result of:

(1) Overpaid indemnities; or

(2) Non-payment of premium.

(b) Any person whose claim for indemnity under insurance obtained pursuant to this Chapter has been denied;

(c) Any person whose request for insurance provided for in this Chapter has been denied;

(d) Any party to a contract who has received notification of a determination by the Corporation regarding any terms or conditions of the contract between the person and the Corporation which the party disputes;

(e) Any person whose request for relief under the Good Faith Reliance on Misrepresentation provisions of the crop insurance regulations contained in this Chapter has been denied in whole or in part; or

(f) Any party to a crop insurance contract with a multi-peril insurance company (a company which is a party to a Standard Reinsurance Agreement with the Corporation) whose contract has been reinsured by the Corporation, provided that the appeal is related to yield and coverage issues based upon actuarial data furnished by the Corporation, which said party disputes. In such cases, the Corporation shall notify the multi-peril insurance company of the appeal request and such company shall be offered an opportunity to participate in the appeal hearing.

Done in Washington, DC, on April 30, 1986.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–19288 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–08–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–162–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would requires replacement of an existing 50-ampere, 3-phase circuit breaker with a 35-ampere circuit breaker on certain Boeing Model 757 airplanes. This circuit breaker provides current overload protection for the auxiliary power unit (APU) starter transformer rectifier unit (TRU). This action is prompted by reports of smoke and fumes in the aft cargo compartment and passenger deck, resulting from seizure of the APU starter motor and failure of the existing circuit breaker to open.

DATES: Comments must be received on or before October 17, 1986.

ADDRESS: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–162–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth J. Schroer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S; telephone (206) 431–2943. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested person are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before asking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested person. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–162–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

An operator of a Boeing Model 757 airplane reported two occurrences of overheating of the transformer recitifier unit (TRU) for the auxiliary power unit (APU) starter motor, due to the seizure and over current of the starter motor. In one instance, the overheat condition caused the aft cargo compartment to fill with smoke. In the other instance, an open flame was reported coming from the transformer rectifier unit.

An examination revealed that the existing 50-ampere circuit breaker does not provide current overload protection for the transformer rectifier unit when an auxiliary power unit starter motor has seized.

Boeing has issued Alert Service Bulletin 757–24A0032, dated May 16, 1986, which describes the installation of a 35-ampere circuit breaker to protect the starter transfomer rectifier unit against a possible overheat condition.

Since this condition may exist or develop on other airplanes of the same type design, an AD is proposed that would require replacement of a 50-ampere circuit breaker with a 35-ampere breaker in accordance with Boeing Alert Service Bulletin 757–24A0032, dated May 16, 1986, or later FAA-approved revision.

It is estimated that 28 airplanes of U.S. registry would require modification, that it would require 2 manhours per airplane to accomplish installation, and that the average labor charge would be $40 per manhour. The cost of one 35-ampere circuit breaker per airplane is estmated to be $145 per unit. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,300.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 757 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing

Applies to the Model 757 series airplanes specified in Boeing Alert Service Bulletin 757–24A0032, dated May 16, 1986, certificated in any category. To minimize the fire hazard associated with overheating of the transformer rectifier unit of the auxiliary power unit starter motor, accomplish the following within 3 months after the effective date of this AD, unless previously accomplished:

A. Replace the 50-ampere circuit breaker used for the auxiliary power unit starter transformer rectifier unit with a 35-ampere circuit breaker in accordance with Boeing Service Bulletin 757–24A0032, dated May 16, 1986, or later FAA-approved revision.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modification required by this AD.

All persons affected by this proposal who have not already received copies of the appropriate service document may obtain copies upon request to the Boeing Commerical Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9100 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19167 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–128–AD]

Airworthiness Directives; British Aerospace Model DH/HS/BH–125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require modifications to the Auxiliary Power Unit (APU) installation on certain British Aerospace (BAe) Model DH/HS/BH–125 series airplanes. This action is needed to prevent APU fuel leakage into the rear equipment bay and to provide the electrical grounding of the starter/generator to the airframe. This action is necessary to correct a reported potential fire hazard.

DATE: Comments must be received on or before October 17, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–128–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–128–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of conditions on certain Model

BAe–125 series airplanes in which: (1) inadequate sealing of the APU plenum shroud at the turbine plenum drain outlet may result in APU fuel leakage into the rear equipment bay, and (2) the APU starter/generator case is not electrically grounded. These conditions may result in a potential fire hazard.

British Aerospace has issued BAe Service Bulletin 49–31–9286A, dated March 24, 1986, which describes modification of the sealing method in the area of the turbine plenum drain outlet (Modification No. 259286A); and BAe Service Bulletin 49–32–9210A, dated March 24, 1986, which describes installation of twin duty bonding cables between the APU accessory case and ground terminal post 16 on the main engine beam (Modification No. 259210A). The CAA has classified both service bulletins as mandatory.

These airplane models are manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the modification and installation described in the British Aerospace service bulletins previously mentioned. This AD would apply to all BAe Model 125 series airplanes, up to and including aircraft serial number 258030, equipped with an APU in accordance with Modification No. 251605 or 258748.

It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 14 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $11,200.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($560). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

British Aerospace

Applies to British Aerospace (BAe) Model DH/HS/BH–125 series airplanes identified in BAe Service Bulletins 49–31–9286A and 49–32–9210A, both Revision 1, and both dated March 24, 1986, certificated in any category. Compliance is required within 6 months after the effective date of this AD. To reduce the possibility of APU fuel leakage in the rear equipment bay, and assure electrical bonding of the starter/generator to the airplane, accomplish the following, unless previously accomplished:

1. Seal the APU plenum shroud at the turbine plenum drain outlet in accordance with BAe Service Bulletin 49–31–9286A, Revision 1, dated March 24, 1986, Modification No. 259286A.

2. Install twin heavy duty bonding cables between the APU accessory case and ground terminal post 16 on the main engine beam in accordance with BAe Service Bulletin 49–32–9210A, dated March 24, 1986, Modification No. 259210A.

3. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Northwest Mountain Region.

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

All persons affected by this proposed directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 19, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–19168 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–152–AD]

Airworthiness Directives: Weber Aircraft Technical Standard Order (TSO) C39a Passenger and Flight Attendant Seats

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require replacement of certain aft seat track fittings on Weber passenger and flight attendant seats. This proposal is prompted by a report that some seat floor attach fittings were not processed in accordance with the prescribed heat treat specification. As a result, in certain critical installations, the strength of these fittings is inadequate. This AD is necessary to reduce the potential for structural failure of a seat attachment fitting during an emergency landing.

DATE: Comments must be received no later than October 16, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration (FAA), Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM–103), Attention: Airworthiness Rules Docket No. 86–NM–152–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Weber Aircraft, 2820 Ontario Street, Burbank, California 91510. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Eierman, Aerospace Engineer, Systems & Equipment Section, ANM–173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office; telephone (213) 297–1388. Mailing Address: FAA, Northwest Mountain Region, Western Aircraft Certification Office, ANM–173W, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 86-NM-152-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

It was reported that certain aft seat track fittings on Weber seats were not processed in accordance with the prescribed heat treat specification. The seats are approved under TSO C39a. Under critical loading conditions that occur on unsymmetrical triple seats, seat track fittings which do not meet the prescribed heat treat specification are understrength and structurally inadequate.

The FAA has reviewed and approved Weber Service Bulletins 833437-25-505 and 833509-25-508 which describe how these fittings can be identified, and list the seat assembly part numbers, seat assembly serial numbers, aircraft and aircraft customers on which these seat track fittings were installed by Weber.

Since this condition is likely to exist on any Weber seat using these seat track fittings, an airworthiness directive (AD) is being proposed which will require the replacement of the existing seat track fittings in accordance with the service bulletins previously mentioned. It is estimated that 7,000 seats would be affected by this AD, that it would require one man hour per seat to replace the fittings, and that the average labor cost would be $40 per hour. Replacement parts would be furnished by the manufacturer at no charge. Based on these figures the total cost impact of the AD on U.S. operators is estimated to be $280,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regualtion which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Felxibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, airplanes using Weber seats are operated by small entities. A copy of a draft regultory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, aircraft

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Weber Aircraft

Applies to Ancra part number 45238-10 (Weber SCD 833437-401) and Ancra part numbers 45232-10, -11, -12 (Weber SCD 833509-401, 403, 405) aft seat track fittings used on Weber Aircraft TSO C39a passenger and flight attendant seats.

Note: Part numbers are not marked on the individual seat track fittings. Weber Service Bulletins Nos. 833437-25-505, dated March 14, 1986, and 833509-25-508, dated June 15, 1986, describe how these fittings can be identified and list the seat assembly part numbers, seat assembly serial numbers, aircraft, and aircraft customer on which these seat track fittings were installed by Weber.

Compliance required within 90 days after the effective date of this AD, unless previously accomplished.

To eliminate aft seat track fittings from service which do not meet minimum airworthiness requirements and would not provide required seat restraint in the event of an emergency landing, accomplish the following:

A. Replace the seat track fittings in accordance with Weber Aircraft Service Bulletin Nos. 833437-25-505, dated March 14, 1986, and 833509-25-508, dated June 15, 1986, or later FAA-approved revisions.

B. Alternate means of compliance which provide and acceptable level of saftey may be used when approved by the Manager, Western Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Weber Aircraft, 2820 Ontario Street, Burbank, California 91510. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

Issued in Seattle, Washington, on August 18, 1986.

Joseph W. Harrell,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-19171 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AAL-3]

Proposed Revision of Transition Area at Galena, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the transition area at Galena, AK. The revised transition area will provide additional controlled airspace from 1,200 feet above the surface (AGL) to the base of overlying controlled airspace between the 40-mile radius of Galena VORTAC and 46-mile radius of Galena VORTAC. This action is proposed so that it will allow for the use of radar vectors routinely within a 40 nautical mile (NM) radius of Galena VORTAC between 1,200 feet AGL and 14,500 feet above mean sea level (AMSL.) This would permit the minimum vectoring altitude in this area to be lowered from 15,000 feet AMSL to 6,000 feet AMSL.

DATE: Comments must be received on or before October 20, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attention: Manager, Air Traffic Division, Docket

No. 86–AAL–3, 701 C Street, Box 14, Anchorage, AK 99513–0087.

The official docket may be examined in the FAA Rules Docket, Office of the Regional Counsel, Third Floor, Module F, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK.

FOR FURTHER INFORMATION CONTACT: Robert C. Durand, Procedures and Airspace Specialist, (AAL–536), Air Traffic Division, Federal Aviation Administration, 701 C. Street, Box 14, Anchorage, AK 99513–0087, telephone (907) 271–5903.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AAL–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Regional Air Traffic Division, Third Floor, Module B, Federal Building U.S. Courthouse, 701 C Street, Anchorage, AK, 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, Manager, Operations, Procedures, and Airspace Branch, Air Traffic Division, Alaskan Region, 701 C Street, Box 14, Anchorage, AK, 99513–0087. 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 extend the base of controlled airspace at 1,200 feet above the surface, from within a 40-mile radius of the Galena VORTAC, to within a 46-mile radius of the Galena VORTAC, Galena, AK.

This airspace designation will permit Galena Approach Control to vector departure and arrival aircraft below 15,000 feet AMSL within a 40 NM radius of the Galena VORTAC. 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 proposes to amend Part 71 of the Federal Aviation Regulations (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. Section 71.181 is amended as follows:

Galena, AK—[Amended]

By removing the words "40-mile" wherever it appears and substituting the words "46-mile".

Issued in Anchorage, Alaska, on August 20, 1986.

John H. Groeneveld,

Acting manager, Air Traffic Division.

[FR Doc. 86–19170 Filed 8–25–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM86–12–000]

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

August 21, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; errata.

SUMMARY: The Commission is correcting errors in the Notice of Proposed Rulemaking which appeared in the **Federal Register** on July 29, 1986 (51 FR 27050). The errors appear in footnote 23 which presents some statistics on bond ratings and bond yields.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8293.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is correcting errors which appeared in its Notice of Proposed Rulemaking issued July 21, 1986. 51 FR 27050 (July 29, 1986).

Through a miscalculation, footnote 23 presents some statistics on bond ratings and bond yields which are in error. The middle 90 percent range for Standard and Poor's bond ratings is from AA+ to BB+, not AA to BBB− as reported. For this range, the spread of bond yields was 97 basis points not 90 basis points as reported.

The workpapers supporting the statistics in this footnote have been placed in the public record.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of return.

The following correction is made in Generic Determination of Rate of Return on Common Equity for Public Utilities published in the **Federal Register** on July 29, 1986 at 51 FR 27050:

On page 27054, change the third sentence of footnote 23

from

"For the same time period, the middle 90 percent range would have been from AA to BBB– and the spread was 90 basis points".

to

"For the same time period, the middle 90 percent range would have been from AA+ to BB+ and the spread was 97 basis points".

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–19255 Filed 8–25–86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR PART 6

Proposed Customs Regulations Amendments Relating to International Aircraft Reporting Requirements at Douglas, AZ

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations relating to the requirements concerning the arrival and reporting to Customs of civil aircraft at Douglas, Arizona.

Within the Douglas, Arizona, area there are two airports: Bisbee-Douglas International, which has been designated as an "international airport", and Douglas Municipal, a "landing rights" airport. Bisbee-Douglas International has also been designated by Customs as one of the airports at which private aircraft arriving from areas south of the U.S. must land for Customs processing.

Because of minimal use of the facility and due to various enforcement considerations detailed in this document, it is not feasible for Customs to continue to provide service.

Accordingly, the designation of Bisbee-Douglas as an international airport should be revoked and Douglas-Municipal should be substituted for Bisbee-Douglas on the list of airports designated for the arrival of private aircraft from areas south of the U.S. for Customs processing.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Thomas Hargrove, Office of Inspection & Control (202) 566–5607.

SUPPLEMENTARY INFORMATION:

Background

Under section 1109(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1509(b)), the Secretary of the Treasury is authorized to designate places in the U.S. as ports of entry for civil aircraft arriving from any place outside of the U.S., and for merchandise carried on the aircraft. These airports are referred to as "international airports", and the location and name of each are listed in § 6.13, Customs Regulations (19 CFR 6.13). In accordance with § 6.2, Customs Regulations (19 CFR 6.2), the first landing of every civil aircraft arriving in the U.S. must be at one of these international airports unless the aircraft has been specifically exempted from this requirement or permission to land elsewhere has been granted. Custom officers are assigned to all international airports to accept entries of merchandise, collect duties, and enforce Customs laws and regulations. If a civil aircraft desires to land at a "landing rights airport", which means an airport which has not been designated as an international airport, permission must first be obtained and Customs must assign personnel to that airport for that aircraft.

Within the Douglas, Arizona, area there are two airports: Bisbee-Douglas International Airport, which has been designated as an "international airport", and Douglas Municipal Airport, a landing rights airport.

A review of Customs operations in the area indicates that there is a relatively low number of international aircraft arrivals at Bisbee-Douglas International Airport. Most of the arrivals are light aircraft (single/multi-engine) as opposed to jets or turbos and very few of the arrivals are locally based. It has also been learned that the Federal Aviation Administration (FAA) is planning on closing its facility at the airport. Because of the minimal use of the facility, it is not cost-effective for the FAA, Customs, or the Immigration & Naturalization Service, which share responsibility for clearing private aircraft, to continue to provide service. It has also been determined that because of the surrounding mountainous terrain; three restricted military areas to the west; and two military operations areas to the northeast; safety hazards exist in landing in the area. Of particular concern to Customs is the fact that the airport is located approximately 15 miles from the U.S.-Mexican border. This distance gives smugglers the opportunity to engage in "touch and go" or air drop smuggling of illegal drugs and contraband. "Touch and go" smuggling involves reporting Bisbee-Douglas as the first U.S. destination but actually landing somewhere else first, quickly unloading contraband, and continuing on the Bisbee-Douglas. Air drop smuggling involves flying very low over some point between the border and Bisbee-Douglas, pushing contraband out of the aircraft to be retrieved on the ground, and continuing on to Bisbee-Douglas. Additionally, the lack of security lighting and inability to see aircraft on touchdown makes tracking of individual aircraft very difficult. This is a further impediment to effective drug interdiction in the area. It takes 10–15 minutes after touchdown for aircraft to arrive for inspection.

Douglas Municipal Airport is located closer to the U.S.-Mexican border thus significantly reducing the distance in which aircraft can "touch and go" or engage in air drop smuggling. Further, the lighting and space available for Customs officers will allow full view of aircraft immediately on touchdown.

For all of these reasons, the designation of Bisbee-Douglas as an international airport should be revoked and Douglas Municipal should be substituted for Bisbee-Douglas on the list of airports designated for the arrival of private aircraft from areas south of the U.S. for processing.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1310

Constitution Avenue, NW., Washington, DC 20229.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

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

List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air carriers, Aircraft, Airports.

Proposed Amendments

It is proposed to amend Part 6, Customs Regulations (19 CFR Part 6), as set forth below.

PART 6—AIR COMMERCE REGULATIONS

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624; 49 U.S.C. 1474, 1509.

§ 6.13 [Amended]

2. It is proposed to amend § 6.13 by removing "Douglas, Ariz." under the column headed "Location" and "Bisbee-Douglas International Airport" under the column headed "Name".

§ 6.14 [Amended]

3. It is proposed to amend § 6.14(g) by removing "Bisbee-Douglas International Airport" under the column headed "Name" and inserting, in its place, "Douglas Municipal Airport".

William von Raab,

Commissioner of Customs.

Approved: July 31, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-19259 Filed 8-25-86; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 112

Proposed Customs Regulations Amendment Concerning Suspension or Revocation of a Cartman's or Lighterman's License

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations concerning the suspension or revocation of a cartman's or lighterman's license. Currently, one of the enumerated circumstances under which a district director may suspend or revoke such a license is when the holder of that license, or the officer of a corporation holding that license, is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime.

It has come to Customs attention that a literal interpretation of the regulation allows corporation officers to commit acts constituting the specified offenses, resign from the corporation before conviction, and therefore allow the corporation to retain its cartman or lighterman license. This may occur even if the officer resigns in name only but continues to exercise control over the corporation.

Therefore, Customs now proposes to amend its regulations to permit suspension or revocation of a cartman or lighterman license if the officer of a corporation holding such a license is convicted of a felony or a misdemeanor involving theft, if the criminal act was committed while the person was still an officer of that corporation. This would end the ploy of resigning to avoid suspension or revocation of the license and would more accurately reflect Customs position that those demonstrating criminal behavior are not entitled to the position of trust involved in the professions of cartman or lighterman.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Kathleen McGuigan, Office of the Chief Counsel, (202-566-6245).

SUPPLEMENTARY INFORMATION:

Background

Part 112, Customs Regulations (19 CFR Part 112), contains the regulations governing the conduct of carriers, cartmen, and lightermen. Subpart C of that part sets forth the regulations controlling the licensing of cartmen and lightermen. Cartmen are those who transport goods or merchandise within the limits of a port. Lightermen are those who transport goods or merchandise on a barge, scow, or other small vessel to or from a vessel within a port, or from place to place within a port.

Section 112.30, Customs Regulations (19 CFR 112.30), lists the grounds under which the license of a cartman or lighterman may be suspended or revoked. Section 112.30(a)(5) states that if the holder of such a license, or an officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime, the district director may suspend or revoke the license.

It has come to Customs attention that a literal interpretation of this regulation is allowing officers of corporations to commit acts constituting the specified offenses, resign from the corporation before conviction, and therefore allow the corporation to retain its cartman or lighterman license. This is occurring even in instances when the officer has resigned from his or her corporation in name only but continues to exercise control over the corporation.

Customs desires to make it clear that application of this provision is dependent upon a conviction arising from an act or acts committed while a person was a corporate officer. The person's employment status at the time of the conviction is unimportant. Therefore, resignation, discharge, demotion, or promotion, or any change in the employment status of the corporate officer prior to conviction will not preclude the district director from suspending or revoking the corporation's cartman or lighterman license.

Therefore, Customs is now proposing to amend § 112.30(a)(5) to permit suspension or revocation of a cartman or lighterman license if the officer of a corporation holding such a license is convicted of a felony, or is convicted of a misdemeanor involving theft, smuggling, or a theft-connected crime, if the criminal act was committed while the person was still an officer of that corporation. This amendment would end the ploy of the corporate officer resigning to avoid the corporation losing its cartman or lighterman license even thought the resignation may be in name only. The amendment would also more accurately reflect Customs position that those demonstrating criminal behavior are not entitled to the position of trust

involved in the professions of cartman or lighterman.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

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

List of Subjects

In General

Customs duties and inspection, Imports.

19 CFR Part 112

Administrative practice and procedures, Common carriers.

Proposed Amendment

It is proposed to amend Part 112, Customs Regulations (19 CFR Part 112), as set forth below.

PART 112—CARRIERS, CARTMEN, AND LIGHTERMEN

1. The authority citation for Part 112 continues to read as follows:

Authority: 19 U.S.C. 66, 1551, 1565, 1623, 1624.

§ 112.30 [Amended]

2. It is proposed to amend § 112.30(a)(5) by removing the semicolon, replacing it with a period, and adding the following, "Any change in the employment status of the corporate officer (*e.g.*, discharge, resignation, demotion, or promotion) prior to conviction for a felony or conviction for a misdemeanor involving theft, smuggling, or a theft-connected crime resulting from acts committed while a corporate officer, will not preclude application of this provision."

Alfred R. De Angelus,

Acting Commissioner of Customs.

Approved: August 8, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86–19257 Filed 8–25–86; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[SECNAV Instruction 5211.5C]

Availability of Department of Navy Records and Publications of the Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rulemaking amendment.

SUMMARY: The Department of the Navy proposes to establish a specific exemption from certain provisions of the Privacy Act of 1974 (5 U.S.C. 552a) for a system of records.

DATE: Comments must be received on or before September 25, 1986.

ADDRESS: Send any comments to Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Aitken at the above address or telephone: 202/697–1459, Autovon: 227–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy proposes to exempt certain provisions of system of records No4385–2, "Hotline Program Case File" under the provisions of 5 U.S.C. 552a (k) (1), (2), (5), (6), and (7).

List of Subjects in 32 CFR Part 701

Privacy, Exemption, Investigative information, Records.

Accordingly, it is proposed to amend Subpart G of 32 CFR Part 701 as follows:

1. The authority citation continues to read as follows:

Authority: 5 U.S.C. 552, as amended by Public Law 93–502, 32 CFR Part 286 (40 FR 8190).

2. Add paragraph (o) to § 701.117

Subpart G—Privacy Act Exemptions

* * * * *

§ 701.117 Exemptions for specific Navy record systems.

* * * * *

(o) *Naval Sea Systems Command.*

(1) *ID–N04385–2.*

System name: Hotline Program Case File.

Exemption: Portions of this system of records are exempt from the following subsections of Title 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f).

Authority: 5 U.S.C. 552a (k) (1), (2), (5), (6), and (7).

Reason: Exempted portions of this system consist of information compiled for the purpose of investigations, including reports of informants and investigators. Such investigations may be associated with identifiable individuals. Disclosure of files in this system would interfere with orderly investigations, and possibly result in the concealment, destruction, or fabrication of evidence, and possibly jeopardize the safety and well-being of informants, witnesses and their families. Such disclosures could also reveal and render ineffectual investigatory techniques and methods and sources of information and could further result in the invasion of the personal privacy of individuals only incidentally related to an investigation. Depending on the nature of the complaint, records may contain information that: Is currently and properly classified pursuant to executive order and must be kept secret in the interest of national defense or foreign policy, is confidentially provided information located in investigatory records compiled for the purposes of enforcement of non-criminal law, relates to qualifications, eligibility, or suitability for Federal employment, is test or examination material used to determine qualifications for appointment or promotion in the Federal service, is confidentially provided information used to determine potential for promotion in the armed services.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

[FR Doc. 86–19207 Filed 8–25–86; 8:45 am]

BILLING CODE 3810–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3070-4]

Approval and Promulgation of Implementation Plans; Minnesota

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve a revision to the carbon monoxide (CO) portion of the Minnesota State Implementation Plan (SIP), pertaining to the intersection of Snelling and University Avenues in the City of St. Paul (Ramsey County). USEPA is proposing to approve this SIP revision because it provides for attainment of the CO national ambient air quality standards (NAAQS) as expeditiously as practicable.

DATE: Comments on this revision and on the proposed USEPA action must be received by September 25, 1986.

ADDRESSES: Copies of the revision request, the technical support document and other materials relating to this rulemaking are available at the following addresses: (It is recommended that you contact Steven D. Griffin, at (312) 353-3849 before visiting the Region V office.)

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

Minnesota Pollution Control Agency, Division of Air Quality, 1935 West County Road B-2, Roseville, Minnesota 55113

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven D. Griffin, (312) 353-3849.

SUPPLEMENTARY INFORMATION: On June 16, 1980 (45 FR 40579), USEPA approved the CO SIP for air quality control region (AQCR) 131. AQCR 131 is comprised of the Counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington, which includes the Minneapolis-St. Paul area. The SIP includes such measures as the Federal Motor Vehicle Control Program (FMVCP), along with a transportation control plan (TCP). The FMVCP allows for CO reduction allowances based on emissions controls for late-model vehicles. Minneapolis-St. Paul's TCP consists of reductions based on a bus/freeway project, computerized traffic management, a fringe parking program, stricter enforcement of traffic ordinances, improved transit system, and the development of Hennepin and First Avenue North as a one-way street pair. These measures were designed to ensure attainment and maintenance of the CO NAAQS by December 31, 1982.

Despite the implementation of the measures contained in the 1980 SIP, a monitor located at the intersection of University and Snelling Avenues in the City of St. Paul continued to record violations of the CO NAAQS after December 31, 1982. USEPA formally notified the State, in a February 24, 1984, letter to the Governor, that the CO SIP for the City of St. Paul (Ramsey County) was deficient, and a revised SIP was requested of MPCA.

This notice of SIP deficiency was issued pursuant to section 110(a)(2)(H) of the Act. In response to the notice of SIP deficiency, MPCA has submitted two requests for rulemaking action to USEPA: (1) On June 18, 1984, MPCA submitted to USEPA a request to redesignate all of AQCR 131 to attainment for CO, excluding only the intersection of Snelling and University Avenues; and (2) On May 20, 1985, MPCA submitted a CO SIP revision for the Snelling/University intersection. These submittals will be discussed separately below.

I. Redesignation Request

In a separate rulemaking action, pursuant to 40 CFR Part 81, USEPA is proposing a redesignation to CO attainment for the 7-county AQCR 131, excluding an area of approximately 15 square miles within the City of St. Paul which would be retained as primary nonattainment. The redesignation is based on monitoring and modeling data for Ramsey and Hennepin Counties (Minneapolis-St. Paul area). Due to USEPA's concerns over possible isolated, unmonitored CO "hotspots", or localized areas experiencing standards violations, the Minnesota Department of Transportation (DOT) conducted modeling for the Snelling and University intersection, as well as three nearby intersections along Snelling and University Avenues. Based on this modeling and subsequent evaluations by USEPA, it was determined that arterial streets adjacent to Snelling and University Avenues comprised potential hotspot intersections, which required additional modeling and analysis in compiling an attainment demonstration. These potential hotspot intersections will be addressed by a future SIP revision or redesignation request to be submitted by MPCA.

II. SIP Revision for the Snelling/University Intersection

A. Background

Snelling Avenue is a major north-south thoroughfare in the City of St. Paul and carries 30,000 to 35,000 vehicles per day. University Avenue is a major east-west thoroughfare connecting the Cities of Minneapolis and St. Paul and carries 17,000 to 25,000 vehicles per day. Due to the large amount of traffic on Snelling and University Avenues, MPCA began monitoring for CO near the intersection of these thoroughfares in August 1979. Since the start of this monitoring, the 8-hour CO standard has been consistently violated, despite implementation of the 1980 CO SIP. In 1982, the Snelling/University monitor recorded 30 exceedances of the 8-hour standard. The following contains a further discussion of the transportation control measures (TCMs) and the modeled attainment demonstration relating to the CO SIP. Review of this revision was based on USEPA's *Guidance Document for Correction of Part D SIPs for Nonattainment Areas*, January 27, 1984.

B. SIP Status

1. Review of the TCMs

The Metropolitan Council of the Twin Cities Area (the Council) was the lead agency in the preparation of the revised TCP. The May 20, 1985, submittal, included the Council's proposal to improve traffic flow along University and Snelling Avenues. The proposal contained Traffic System Management (TSM) actions and a comparative impact analysis of these actions, based on traffic evaluation programs and air quality emission and dispersion models. The TSM actions studied included signal timing upstream of the intersection, termed "GPGN progression", which was designed to allow good signal progression on northbound and southbound Snelling Avenue, perfect progression on westbound University Avenue and, if necessary, no progression for eastbound traffic. (For the purposes of this discussion, 'progression' is the relative flow of traffic from one signal to the next.) Other possible actions included a parking prohibition on University Avenue between Asbury and Fry (within 1 block in either direction of the Snelling intersection), prohibitions on turning movements which tend to slow traffic at the intersection, and diverting traffic from University Avenue.

Based on the Council's proposal on April 23, 1985, the MPCA Board approved the following:

(a) Implementation of the improved (GPGN) signal progression upstream of the Snelling/University intersection by December 31, 1987, to provide for attainment of the CO NAAQS; and

(b) Implementation of a parking ban on University Avenue by December 31, 1989, to ensure continuing maintenance of the CO NAAQS.

The City of St. Paul has agreed to implement any TCMs approved as part of the CO SIP. A letter dated April 17, 1986, from MPCA documents the City of St. Paul's commitment to implement the above measures.[1]

2. Additional Requirements for Part D CO SIPs

On January 22, 1981 (46 FR 7182), USEPA announced that several TCMs must be considered in developing a SIP submittal, pursuant to section 108(f) of the Act. These measures include vehicle inspection/maintenance, public transit improvements, car/van-pooling, traffic flow measures, and vehicle emissions controls. MPCA reviewed the TCMs, as required under section 108(f), and chose to implement those which were feasible.

USEPA's *Guidance Document* states that an approvable SIP submittal must also include a contingency plan to ensure progress toward attainment in the event that CO levels do not decrease as predicted. The Transportation Advisory Board will consider nonimplemented TCMs and make recommendations to the Council, if necessary.

The *Guidance Document* also requires reasonable further progress (RFP), or incremental CO reductions leading to the ultimate attainment of the CO NAAQS. In this instance, RFP will be achieved through reductions gained through the implementation of the FMVCP.

C. Modeled Attainment Demonstration

USEPA found that the Minnesota DOT used a model calibration technique which was unacceptable, because the modeling data were inappropriately calibrated using monitoring data. To correct this deficiency, a rollback technique was developed by USEPA using the modeling and monitoring concentration data. The rollback model showed that continuous application of GPGN signal progression by the end of 1987 would provide for CO reductions sufficient to attain the CO NAAQS at the Snelling/University intersection.

Therefore, USEPA believes that this SIP revision provides for attainment of the CO NAAQS at the University and Snelling intersection by December 31, 1987. In addition, USEPA believes that implementation of the parking ban will ensure continued maintenance of the CO NAAQS after the attainment date, as evidenced by the modeling analysis. Because MPCA's submittal of May 20, 1985, concerned only the intersection of Snelling and University Avenues, the remainder of the CO nonattainment area will be addressed by a future SIP revision or redesignation request to be submitted by MPCA.

Conclusion

USEPA proposes to approve MPCA's request to revise the CO SIP for the Snelling/University intersection. This SIP revision includes a commitment to implement the following measures:

1. GPGN signal progression, no later than December 31, 1987.

2. The University Avenue parking ban, no later than December 31, 1989.

This action does not constitute approval of an attainment demonstration for intersections adjacent to the Snelling/University intersection. These intersections were previously discussed in this notice. Any future rulemaking on this area, or portions thereof, will be based on attainment demonstrations to be submitted by MPCA. Implementation of signal progression on Snelling and University Avenues may be an important element in preparing these demonstrations.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether USEPA will approve the SIP revision. After review of all comments submitted, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the SIP revision.

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

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

[1] USEPA notes that St. Paul's commitment to implement is conditioned on USEPA's final approval of this SIP revision by December 1, 1986, due to the time required to design and implement the signal changes. USEPA will endeavor to accommodate this condition by the December 1 deadline. However, USEPA cannot compromise rulemaking procedures in this regard, and as a result, will not be able to approve the SIP revision if final rulemaking occurs after this deadline.

Authority: 42 U.S.C. 7401–7642.

Dated: December 31, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86–19238 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–5–FRL–3070–5]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 8, 1985, the State of Indiana requested that USEPA change the Total Suspended Particulates (TSP) designation for a portion of Lake County, Indiana, from primary and secondary nonattainment to secondary non-attainment only, with the exception of the City of East Chicago which would remain primary nonattainment. Under the Clean Air Act (Act), attainment status designations can be changed if sufficient data are available to warrant such a change. USEPA is proposing to disapprove the State's request because the technical information submitted by Indiana not adequately support the proposed redesignation.

DATE: Comments on this request and on USEPA's proposed action must be received by October 27, 1986.

ADDRESSES: Copies of the redesignation request, the technical support documents, and the supporting air quality data are available at the following addresses. (It is recommended that you telephone Colleen W. Comerford, at (312) 886–6034, before visiting the Region V office).

U.S. Environmental Protection Agency, Region V, Air Programs Branch (5AR–26), 230 S. Dearborn Street, Chicago, Illinois 60604

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206

Comments on this proposed action should be addressed to (please submit an original and three copies, if possible): Gary Gulezian, Chief Regulation Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886–6034.

SUPPLEMENTARY INFORMATION:

Background

Under section 107(d) of the Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standard (NAAQS) attainment status for each area of Indiana (43 FR 8962, March 3, 1978; 43 FR 45993, October 5, 1978). These area designations may be revised whenever the available data warrant a revision.

On May 8, 1985, the State of Indiana requested that USEPA redesignate a small area of Lake County, Indiana, for TSP. This area is currently designated as both primary and secondary nonattainment. The boundaries of the area are given below:

North—Lake Michigan
West—Illinois/Indiana Stateline
South—US 30 from the Stateline to I–65, I–65 from US 30 to I–94, and I–94 from I–65 to the Lake/Porter County line

The State has requested that USEPA redesignate this area to secondary nonattainment only, with the exception of the City of East Chicgo which would remain primary nonattainment. To support its request, the State submitted monitoring data collected from seven monitoring sites during the period 1980 to 1984. The data show no violations of the annual primary standard or the 24-hour primary standard outside of East Chicago during 1983 and 1984. In addition to the monitoring data, the State submitted operating permits, a status report on fugitive dust control, and an analysis of industrial production rates and the associated TSP concentrations at the three major steel companies located within this area. The State submittal also referred to the Lake County TSP plan, which was submitted for USEPA review on October 11, 1983, October 24, 1983, and April 16, 1984.

Redesignation Criteria

USEPA's criteria for section 107 redesignations are summarized in three policy memoranda: (1) An April 21, 1983, memorandum from Sheldon Meyers, then Director of the Office of Air Quality Planning and Standards, entitled "Section 107 Designation Policy Summary"; (2) A December 23, 1983, memorandum from G.T. Helms, Chief of the Control Programs Operation Branch, entitled "Section 107 Questions and Answers"; and (3) A September 30, 1985, memorandum from Gerald A. Emison, Director of the Office of Air Quality Planning and Standards, entitled "Total Suspended Particulate (TSP) Redesignations."

The major criteria for TSP redesignations from nonattainment are:

1. The most recent eight consecutive quarters of quality assured, representative air quality data must show no violations of the applicable NAAQS;

2. There must be a demonstration that the monitoring data accurately characterize the worst-case air quality in the area, if the redesignation is based primarily on monitored data;

3. There must be evidence of an implemented and enforceable control strategy that has been approved by USEPA;

4. Projections of ambient TSP levels at *anticipated* future operating rates for industrial sources must show no violations;

5. The redesignations must not result in a relaxation in the State Implementation Plan (SIP), unless the State demonstrates that the NAAQS will still be maintained with the relaxation; and

6. There must be evidence that disposition techniques are not responsible for the improvement in air quality.

Indiana's Technical Support

USEPA has reviewed Indiana's technical support in light of the above criteria and has found that the data are insufficient to support the redesignation request. Indiana's monitoring and modeling data, their representatives, the SIP and related permits, and projected TSP concentrations from industrial sources are discussed below.

The State submitted four years of air quality data, including the most recent eight consecutive quarters, showing no primary violations of the TSP NAAQS outside of East Chicago during 1983 and 1984. However, USEPA does not believe that these data accurately characterize the worst-case air quality in the area, or the maximum anticipated operating levels for major industrial sources. For instance, recent exceedances (1985) of the 24-hour primary NAAQS have been measured at a USEPA special purpose monitoring (SPM) site, which is located near U.S. Steel in Gary. Sharp variations in ambient TSP concentrations around the major sources located in Lake County, Indiana, have indicated to USEPA that the monitors may not be measuring the maximum ambient TSP levels in the area. Therefore, USEPA does not accept the State's rationale that the existing monitoring network is providing representative ambient air quality data. Lastly, industrial production in the Lake County area during the past few years has been down significantly from 1978 levels. Therefore, current data reflect lower operating levels. If production levels were to increase there is no guarantee that the increased emissions accompanying an increase in operation would not violate the primary TSP NAAQS, as discussed further below.

In its request for redesignation the State of Indiana took credit for the State-approved TSP plan, which was submitted to USEPA as a SIP revision on October 11, 1983, October 24, 1983, and April 16, 1984. USEPA published a notice of proposed rulemaking on January 31, 1985 (50 FR 4537), proposing to disapprove the Lake County TSP plan. To qualify as a basis for redesignation, a control strategy must be approved by USEPA. This is not the case with the Lake County TSP plan. In addition, the State, as part of their submittal, referred to the modeling included in the Lake County plan. The State's reliance on this modeling is inappropriate in view of USEPA's proposed disapproval of the plan and the citing of modeling deficiencies as one of the reasons for USEPA's proposed action.

The operating permits and the fugitive dust control plans submitted by Indiana as technial support for its redesignation offer no evidence of compliance by the affected sources. The technical support has to provide evidence of an implemented and enforceable control strategy by showing that the specified control efficiencies are based, first of all, on verified data, and, secondly, on some method of ensuring that sources comply with the specified emission limits, or control plans. The technical support also did not address whether dispersion techniques are responsible for the improvement in air quality. The technical support showing consistency with USEPA's stack height regulations is absent. Lastly, the State's comparison of industrial production levels and TSP concentrations contained numerous problems. These are detailed in USEPA's June 5, 1985, Technical Support Document. In short, the State's analysis failed to show that primary attainment would be maintained despite variations in industrial production.

Conclusion

USEPA is proposing to disapprove the redesignation of Lake County from primary and secondary nonattainment to secondary nonattainment (with the exception of the City of East Chicago), because the State has not submitted sufficient technical support. The technical support is insufficient for the following reasons:

(1) Failure to demonstrate that the existing air quality data accurately represents the worst-case air quality in the area (Note: recent primary TSP NAAQS exceedances in Lake County,

monitored by USEPA, indicate that the data provided by the existing monitoring network are not representative of worst-case ambient air quality);

(2) Lack of approved control measures (Note: USEPA has proposed disapproval of the State's plan (January 31, 1985; 50 FR 4537]);

(3) Even if USEPA were to approve the Lake County TSP control measures there is a lack of evidence showing that the affected sources have complied with the specified emission limits and control strategies;

(4) Failure to demonstrate attainment at anticipated future production levels; and

(5) Failure to demonstrate consistency with USEPA's Stack Height Regulations.

All interested persons are invited to submit written comments on the proposed disapproval. Written comments received by the date specified above will be considered in determining whether USEPA will finally disapprove the redesignation. After review of all comments, the Administrator of USEPA will publish the Agency's final action on the redesignation in the **Federal Register.**

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

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

Authority: 42 U.S.C. 7401–7642.

Dated: December 26, 1985.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 86–19237 Filed 8–25–86; 8:45am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 18

[GEN Docket 83-806]

Regulations concerning RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; order extending time to file reply comments.

SUMMARY: The Commission extends the deadline to file reply comments on the Notice of Proposed Rule Making (Notice), released May 8, 1986, in this proceeding, 51 FR 18004, (May 16, 1986). In the Notice, the Commission proposed to adopt radiated emission limits at frequencies below 30 MHz for RF lighting devices. This action is being taken in response to a request by the National Association of Broadcasters.

DATE: Reply comments are due September 5, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Liliane Volcy, Office of Engineering and Technology, tel: (202) 653–7316.

Order Extending Time To File Reply Comments

Adopted: August 14, 1986.

Released: August 19, 1986.

By the Chief Engineer.

1. On May 8, 1986, the Commission released a *Notice of Proposed Rule Making (Notice)*, FCC 86–205, 51 FR 18004 (May 16, 1986) in this proceeding. The *Notice* specified filing deadlines of June 30, 1986, for comments, and July 15, 1986, for reply comments. These deadlines were extended by thirty (30) days by the *Order Extending Time to File Comments and Reply Comments*, 51 FR 24872 (July 9, 1986).

2. Pursuant to § 1.46(b) of the Rules, the National Association of Broadcasters (NAB), on August 7, 1986, requested a 30-day extension of the deadline for filing reply comments. NAB asserts that there is insufficient time to respond properly to the issues raised in the comments on the *Notice* due to their technical complexity.

3. We recognize the concerns of NAB that additional time may be needed to gather relevant information in order to respond adequately to all issues. Because of the importance of this proceeding and our desire to have the most definitive response possible, we shall extend the time to file reply comments. However, since an extension of thirty (30) days had previously been granted, we believe that a twenty (20) day extension is sufficient to respond to the comments filed in this proceeding. Accordingly, an extension of time to September 5, 1986, for filing reply comments is Hereby Ordered, pursuant to the authority granted under § 0.241 of the Rules.

Thomas P. Stanley,

Chief Engineer.

[FR Doc. 86–19194 Filed 8–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-341, RM-5331]

Radio Broadcasting Services; Lowry, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by South Dakota State Board of Directors. Action taken herein proposes the allocation of Channel 264 to Lowry, South Dakota, at the request of the South Dakota State Board of Directors for Educational Television. Petitioner requests that the allocation be reserved as a first local noncommercial educational service. However, the Commission has found that Channel 220 is available within the noncommercial portion of the band. Therefore, Channel 264 is proposed for allotment on a nonreserved basis.

DATES: Comments must be filed on or before October 14, 1986, and reply comments on or before October 29, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Roy R. Russo, Esq., Martin I. Levy, Esq., Cohn & Marks, 1333 New Hampshire Ave. NW., Suite 600, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86–341, adopted August 1, 1986, and released August 20, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-19198 Filed 8-25-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

[Notice 86-8]

Nondiscrimination on the Basis of Handicap in Financial Assistance Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 23, 1986 (51 FR 19032), the Department published a notice of proposed rulemaking (NPRM) concerning making commuter rail services available to persons with disabilities. In response to several requests, the Department is extending the comment period for this NPRM.

DATE: Comments should be received by September 22, 1986.

ADDRESS: Comments should be addressed to Docket Clerk, Docket 56d, Department of Transportation, Room 4107, 400 7th Street, SW., Washington, DC 20590. Comments will be available for review by the public at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing ackowledgment of their comments should include a stamped, self-addressed postcard with their comment. The Docket Clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 7th Street SW., Washington, DC 20590; (202) 366-9306 or (202) 755-7687 (TDD).

SUPPLEMENTARY INFORMATION: On May 23, 1986, the Department published an NPRM requesting comment on serveral alternatives for providing commuter rail service, or a substitute for it, to disabled persons. The NPRM also requested comment on withdrawing 49 CFR Part 609 and shifting some of its provisions (concerning standards for vehicles and fixed facilities) to 49 CFR Part 27. The comment period on the NPRM was scheduled to close August 21, 1986.

The Department has received several requests to extend the comment period. These requests, most of which have come from commuter rail operators, ask that the comment period be extended until 60 days after certain studies concerning the utilization and costs of accessible commuter rail systems become available. The requests suggest that it would be useful for commenters to postpone making their comments until they had had the opportunity to review and respond to these studies.

The Department is concerned that an extension of the comment period of the length requested could unnecessarily delay the rulemaking. Since the Department is not certain of the date on which the studies will be available, the Department could not, at this time, designate a specific date as being 60 days after the studies are available. We do not believe it would be appropriate to extend the comment period for what, in effect, would be an indefinite time.

In addition, the Department is interested in receiving comments from commuter rail operators and other interested persons based on existing data and experience. While the Department hopes that the studies referred to in the NPRM will provide useful information for the regulatory evaluation or regulatory impact analysis to be produced in connection with the decision the Department makes on what, if any, final regulatory action to take on this subject, the Department does not believe it appropriate to delay the rest of the rulemaking process so that interested persons can comment on the basis of these studies.

For these reasons, the Department has decided not to extend the comment period until 60 days following the completion of studies which the Department hopes to use. If, following the receipt of these studies, the Department decides that it would be useful to seek the views of interested persons on the studies and their implications for the NPRM, the Department will re-open the comment period at that time.

However, few substantive comments on the NPRM have been received to date. In addition, the Department is aware that some potential commenters may have not sent comments to the docket pending the Department's, response to the requests for extending the comment period. In order to elicit additional comments, the Department will extend the comment period for 30 days. The new comment closing date is September 22, 1986.

Issued this 21st day of August, 1986, at Washington DC.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 86-19456 Filed 8-25-86; 10:12 am]

BILLING CODE 4910-62-M

Notices

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 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

Intent To Enter Into a Cooperative Agreement; Washington State University

AGENCY: Office of International Cooperation and Development, USDA.

ACTION: Notice of intent to enter into a cooperative agreement.

ACTIVITY: The Office of International Cooperation and Development (OICD) intends to enter into a Cooperative Agreement with Washington State University. The purpose of this relationship is to collaborate in the Mali Livestock Sector Improvement Project.

Authority

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

OICD announces the availability of funds during fiscal year 1986 (FY86) to enter into a cooperative agreement with Washington State University to collaborate in the Mali Livestock Sector Improvement Project. This activity is designed to improve the income and well-being of Mali's livestock producers as well as of others wholly or partially dependent on the livestock sector, including owners of draft animals, and consumers and suppliers of milk and meat. National and foreign exchange will also benefit from increased production of the national herd. This project builds on the collaboration of USDA, AID, and the university community. Results from the project, especially those activities in the Central Veterinary Laboratory will be shared with researchers in the US. The University will provide team leadership as a mechanism for its involvement and to expand their current involvement in animal health and livestock production in West Africa. This latter will build upon the University's long experience and considerable capabilities in East and Southern Africa related to animal health and livestock production. OICD will provide project assistance to the University.

Based on above, this is not a formal request for applications. Approximately $175,000 will be available in FY86–88. The proposed agreement will be funded for 24 months. Fund estimate and time period may vary and are subject to change.

Information may be obtained from: Nancy J. Croft, Contracting Officer, Management Services Branch, Office of International Cooperation and Development, U.S. Department of Agriculture (58–319R–6–038).

Dated: August 21, 1986.

Allen Wilder,

Contracting Officer.

[FR Doc. 86–19181 Filed 8–25–86; 8:45 am]

BILLING CODE 3410–DP–M

Office of the Secretary

Wisconsin Animal Waste Water Pollution Grant Program, Determination of Primary Purpose of Payments for Consideration as Excludable From Income

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of determination.

SUMMARY: The Secretary of Agriculture has determined that cost-share payments made to individuals under the Wisconsin Animal Waste Water Pollution Grant Program (i.e., the Wisconsin Farmers Fund) are made primarily for the purpose of soil and water conservation and protecting or restoring the environment. This determination, which is made in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended, and provisions of 7 CFR Part 14, permits recipients of these payments to exclude them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Howard C. Richards, Secretary, Wisconsin Department of Agriculture, Trade and Consumer Protection, 801 West Badger Road, P.O. Box 8911, Madison, Wisconsin 53708 (608) 266–1721 or James R. McMullen, Director, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, DC 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: Section 126 of the Internal Revenue Code of 1954, as added by the Revenue Act of 1978 and amended by the Technical Corrections Act of 1979 (the "Act"), provides that certain payments made under state programs may be eligible for exclusion from gross income if certain determinations are made. The Secretary of Agriculture must determine whether payments made under a state program, as described in section 126(a)(10) of the Act, are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making this determination, the Secretary of Agriculture must evaluate each program according to criteria set forth in 7 CFR Part 14.

One such conservation program carried out by the state of Wisconsin is the Wisconsin Animal Waste Water Pollution Grant Program authorized by the Wisconsin Farmers Fund (Wis. Stat. Ann. §§ 92.15 and 92.16). According to the state of Wisconsin regulations in effect with respect to this program, individual cost-share grants shall be used for the construction or repair of animal waste treatment or storage facilities or permanent runoff control structures needed to meet most water quality objectives. Cost-share grants may be applied to engineering design costs or construction costs or both. Individual cost-share grants shall be made under an agreement with the owner or operator. Payments may be made only upon certification by a qualified technician that the facility or structure has been completed in compliance with the agreement.

Wisconsin Stat. Ann. § 92.15 provides for cost-share assistance for animal waste treatment or storage facilities. Wisc. Stat. Ann. § 92.16 provides for earthen manure storage facilities. In order to be eligible for cost-share assistance from the state of Wisconsin for earthen manure storage facilities the county in which the facility is to be located must adopt an ordinance establishing minimum standards for design and construction which must be submitted to the state of Wisconsin Department of Agriculture for approval.

In order to be eligible for cost-share assistance for animal waste water-pollution control, a county must adopt a plan which is submitted to the state of Wisconsin Department of Agriculture for approval. State of Wisconsin cost-share funds may only be allocated to counties which have followed these procedures. Under the state of Wisconsin regulations, criteria have been developed for the allocation of funds generally based upon the number of feeding operations in the country and the relative severity of the water-pollution problems caused by the animal feeding operations.

The amount paid to an owner or operator of an animal feeding operation uder a cost-share grant is based on the cost of the proposed project, as determined by the county. Counties are required to establish standard cost-share rates applicable to animal waste storage facilities, animal waste treatment facilities, and permanent runoff control structures. The rate for cost-share grants may not exceed 70 percent of the total cost of the design and construction of the project. The maximum combined grant from all governmental sources may not exceed $10,000.

Individual cost-share grants shall be used for the engineering design, construction or repair of animal waste treatment or storage facilities or permanent runoff control structures needed to meet water quality objectives. Cost-share grants for permanent runoff control structures may include payments for: (1) Diversions, gutters, downspouts, collection basins, filter strips, waterways, outlet structures, conduits, and land shaping needed to manage runoff from the animal feeding operation; (2) permanent fencing needed to protect the structures; and (3) measures needed to establish perennial grasses including fertilizer, mineral and mulch materials.

The authorizing legislation, regulations, and operating procedures for the Wisconsin Farmers Fund Program of the state of Wisconsin which creates the Wisconsin Animal Water Pollution Grant Program have been carefully examined using the criteria set forth in 7 CFR Part 14. The Department has concluded that the payments made under this cost-share program are made to provide financial assistance to eligible persons in carrying out soil and water conservation measures and protecting or restoring the environment.

A "Record of Decision-Wisconsin Farmers Fund Program which creates the Wisconsin Animal Water Pollution Grant Program: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is available upon request from the Conservation and Environmental Protection Division, ASCS. Requests may be sent to the address listed above.

Determination

Therefore, it is hereby determined in accordance with section 126(b) of the Internal Revenue Code of 1954, as amended, and 7 CFR Part 14, that all cost-share payments made after February 1, 1985, for conservation practices under the Wisconsin Animal Waste Water Pollution Grant Program (Wis. Stat. Ann. §§ 92.15, 92.16) are for soil and water conservation and protecting or restoring the environment.

Signed at Washington, DC, on August 21, 1986.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 86-19282 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Pacific Crest National Scenic Trail Advisory Council Southern California Sub-Committee; Meeting

The Southern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council will meet at 9:30 a.m. on October 23, 1986 at the Angeles National Forest Headquarters, 701 North Santa Anita, Arcadia, California.

The subcommittee will discuss and develop recommendations for the Advisory Council and Secretary of Agriculture on broad questions of policy, programs, and procedures affecting the Southern California portion of the Pacific Crest Trail. Specifically, it will discuss the remaining rights-of-ways needed to be acquired and Forest land and resource management plans.

The meeting will be open to the public. Persons who wish additional information should contact Dick Benjamin, Assistant Regional Forester for Recreation, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California, (415) 556-6983.

Dated: August 18, 1986.

Zane G. Smith, Jr.,

Chairman.

[FR Doc. 86-19211 Filed 8-25-86; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 12:00 noon and adjourn at 3:00 p.m. on September 16, 1986 at the Sheraton Riverfront, Seaboard Room, 200 Coosa Street, Montgomery, Alabama. The purpose of the meeting is to release the SAC report, *Police/Community Relations in Montgomery, Alabama.*

Persons desiring additional information, or planning a presentation to the Committee, should contact Commitee Chairperson, Rodney Max or Bobby Doctor, Director of the Southern Regional Office at (404)221-4391, (TDD 404/221-4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at lease five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-19279 Filed 8-25-86; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 9:30 p.m. on September 16, 1986 at the State Office of Education Building, 250 East 500 South, Salt Lake City, Utah. The purpose of the meeting is to review and approve a briefing memorandum on pay equity for men and women in Utah.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Wilfred Bocage or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-211, (TDD (303) 844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at

least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-19280 Filed 8-25-86; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 1:00 p.m. on September 13, 1986 at the Holiday Inn, 300 West "F" Street, Casper, Wyoming. The purpose of the meeting is to review and approve a briefing memorandum on current civil rights issues in Wyoming.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Donald Tolin or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-2211, (TDD (303) 844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 21, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-19281 Filed 8-25-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

AGENCY: Bureau of the Census
TITLE: Survey of Pollution Abatement Cost and Expenditures
FORM NUMBER: Agency—MA-200; OMB-0607-0176
TYPE OF REQUEST: Revision of a currently approved collection
BURDEN: 20,800 respondents; 35,000 reporting hours
NEEDS AND USERS: This survey is the only source of comprehensive data on pollution abatement capital expenditures, operating costs and cost recovered and used to determine what effect pollution spending has on U.S. economy, to forecast growth, to measure productivity determinants and assist in the calculation of the gross national product.
AFFECTED PUBLIC: Businesses or other for-profit institutions
FREQUENCY: Annually
RESPONDENT'S OBLIGATION: Mandatory
OMB DESK OFFICER: Timothy Sprehe 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1986.

Linda Engelmeier,

Acting Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-19250 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44U.S.C. Chapter 35).

AGENCY: Bureau of the Census
TITLE: 1987 New York City Housing and Vacancy Survey
FORM NUMBER: Agency—H-100, H-100(L), H-108, H-100A OMB—NA
TYPE OF REQUEST: New collection
BURDEN: 19,800 respondents; 4,650 reporting hours
NEEDS AND USES: This survey is being conducted for the City of New York to determine the vacancy rate of rental housing units and to measure the quality of housing in the city.
AFFECTED PUBLIC: Individuals or households
FREQUENCY: One time
RESPONDENT'S OBLIGATION: Voluntary
OMB DESK OFFICER: Timothy Sprehe, 395-4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michaels, (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 19, 1986.

Linda Engelmeier,

Acting Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86-19251 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[C-201-012]

Carbon Black From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 18, 1986, the Department of Commerce published the preliminary results of its administrative review of the contervailing duty order on carbon black from Mexico. The review covers the period April 8, 1983 through September 30, 1983 and eleven programs.

We gave interested parties an opportunity to comment on the preliminary results. After review of the comments received, the Department has determined the total bounty or grant during the period of review to be 3.18 percent *ad valorem*.

EFFECTIVE DATE: August 26, 1986.

FOR FURTHER INFORMATION CONTACT: David Layton or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On June 27, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 29564) a countervailing duty order on

carbon black from Mexico. We began this review under our old regulations. On September 16, 1985, after the promulgation of our new regulations, the petitioner, the Cabot Corporation, requested in accordance with § 355.10 of the Commerce Regulations that we complete the administrative review of this order. We published the new initiation on November 27, 1985 (50 FR 48825) and the preliminary results of the review on April 18, 1986 (51 FR 13269). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican carbon black. Such merchandise is currently classifiable under item 473.0400 of the Tariff Schedules of the United States Annotated. The review covers the period April 8, 1983 through September 30, 1983 and eleven programs: (1) FOMEX; (2) FONEI; (3) CEPROFI; (4) NDP preferential discounts; (5) preferential pricing of natural gas and carbon black feedstock; (6) accelerated and immediate depreciation allowances; (7) state tax incentives; (8) Article 94 of the Banking Law; (9) FOGAIN; (10) import duty reductions and exemptions; and (11) CEDI.

In the preliminary results of this review, we inadvertently excluded the benefits resulting from three FOMEX export loans received during the period of review. After including the benefits arising from those loans, we determine that the total FOMEX benefit for the period of review is 0.52 percent *ad valorem.*

Additionally, as described in our response to Comment 7, we now find a benefit from preferentially-priced carbon black feedstock ("CBFS") of 1.90 percent *ad valorem.* We continue to maintain that no. 6 fuel oil is a generally-available similar or related product to CBFS. Moreover, we have continued to measure the benefit conferred on Mexican carbon black producers by constructing a benchmark price for CBFS in Mexico through reference to the differences in the cost of producing those related products. We have used the difference between U.S. Gulf Coast prices as the best information available in establishing our benchmark price for CBFS in Mexico. The differences in prices between no. 6 fuel oil and CBFS serve as a surrogate for differences in the costs of producing those two products. We have not used the U.S. price of CBFS as the measure of what the price of CBFS should be in Mexico.

Analysis of Comments Received

We invited interested parties to comment on our preliminary results. At the request of the Cabot Corporation, we held a public hearing on June 12, 1986.

We are in the process of reviewing all comments on the Preferentiality Appendix attached to our preliminary results. We will withhold our responses to any comment relating to that appendix in this review pending completion of our overall analysis of the comments on the appendix.

Comment 1. The exporters, Hules Mexicanos, S.A., and Negromex, S.A., contend that sales of CBFS by PEMEX do not constitute the provision of goods or services, by government action or rquirement to a specific enterprise or industry. Those CBFS sales, therefore, are not countervailable under the general availability (specificity) doctrine. The exporters define general availability as follows:*"No countervailable subsidy exists if a directly or indirectly provided government benefit is available on equal terms to all within its jurisdiction who may wish to avail themselves of it."* Accordingly, they conclude that the Department's position, that ". . . there are too few users of CBFS for us to find that it is provided on a generally-available basis . . . ," is erroneous.

The exporters argue that there is no evidence that feedstock used as CBFS in Mexico is a special product manufactured and processed to meet the rquirements of a specific industry. There are, in fact, a number of potential users of CBFS besides producers of carbon black, including producers of needle coke for the electrode industry, creosote for wood preservation, and petroleum pitch for the aluminum industry. It is only because of the poor quality of Mexican CBFS (associated with the infant stage of the industry) that Mexican CBFS is currently limited to one commercial use. The only limitations on the sale of CBFS in Mexico are due to the inherent nature of the product and the level of technological development rather than any deliberate government action or policy by the Mexican government to limit the availability of CBFS to carbon black producers. There is, therefore, no basis for the Department to create any exeption to its established doctrine of general availability.

Cabot, on the other hand, argues that: (1) The Court of International Trade has held that the Department's general availability test is contrary to law; and (2) even if that were not the case, the Department under its own standards must determine that a benefit is generally available in fact as well as in name.

Department's Position. We believe that the test is not contrary to law but agree with Cabot that, in applying the specificity test for domestic subsidies, we must be concerned with both nominal and *de facto* availability. Although CBFS is theoretically available to all industries in Mexico, there is in fact only one industrial use at present and only two actual users. Therefore, we reaffirm our position in the preliminary results that there are too few users of CBFS for us to find that it is provided on a generally-available basis.

Comment 2. Cabot contends that the Department incorrectly applied its proposed methodology in the preliminary results by selecting no. 6 fuel oil as a similar or related product to CBFS. According to Cabot, no. 6 fuel oil is chemically different from CBFS; it has a wholly different purpose; and it is produced in an entirely different manner. There may be a general price correlation between the two products insofar as they are both derived from crude oil, but there is no reason to believe that prices for the two products are related in any direct way. Furthermore, the demand for no. 6 fuel oil, used by utility companies and cement makers, is unaffected by the price of CBFS. By the same token, the demand for CBFS is unaffected by the price of no. 6 fuel oil. Therefore, according to Cabot, there is no real relationship between these products and, consequently, no justification for selecting no. 6 fuel oil, and not another petroleum product, as a similar or related product to CBFS.

Department's Position. We disagree. We continue to maintain, for the reasons set forth in our preliminary results, that no. 6 fuel oil is a similar or related product to CBFS. The differences in chemical composition and the ultimate use of CBFS and no. 6 fuel oil do not prohibit us from comparing these products. We have measured preference by comparing prices, and it is well accepted in the petroleum industry that the price of no. 6 fuel oil is directly related to the price of CBFS.

Comment 3. Cabot does not believe that the Department's methodology, used in the preliminary results for determining if CBFS is preferentially priced, accurately reflects the amount of the subsidy. If the Department employes the same method in its final results, it should compare the Mexican prices of a number of related petrochemical and refined products to those in a free market and, from this information,

calculate a weighted-average ratio of prices. If the price of any particular Mexican product falls much below the ratio in the free market, there is an indication that the Mexican government priced that product in a preferential manner. Cabot, having undertaken such an analysis, states that it is clear that the Mexican domestic prices for CBFS and no. 6 fuel oil are very much lower, in relative terms, than prices in the Mexican market for almost all other similar or related petroleum products. The prices of both no. 6 fuel oil and CBFS, therefore, are set at artificially low levels by the Mexican government. This indicates that no. 6 fuel oil is not the proper benchmark since its price is out of line with other petrochemical and refined products.

Department's Position. We disagree. We find Cabot's proffered choice of products inappropriate for use in comparing price ratios. The petitioner's selections are heavily weighted toward petrochemical products, *i.e.*, products involving more advanced stages of petroleum product processing than no. 6 fuel oil and CBFS. The cost factors and pricing considerations for Cabot's selected list of petrochemical products are quite different from those of the basic refinery products at issues in this review. We have applied the petitioner's test to a more appropriate group of products, other industrial fuels, and found that the prices of no. 6 fuel oil is in line with the prices of those other industrial fuels.

Comment 4. Cabot contends that, under the Department's current methodology, the most appropriate similar product for price comparison with CBFS is crude oil, since crude oil is the raw material that eventually results in CBFS.

Department's Position. Since PEMEX does not sell crude oil in the Mexican market, we have no basis for making this comparison.

Comment 5. The exporters argue that the Department's methodology for determining the extent to which CBFS is provided at a preferential price is incorrect insofar as it uses external cross-border price comparisons. Such an approach is contrary both to the fundamental intent of U.S. law and the GATT. Thus, the Department erred in comparing the difference in prices between CBFS and no. 6 fuel oil in the U.S. market with the difference in prices between the same two products in Mexico. Such a methodology could potentially harm Mexican carbon black producers if price differences in the U.S. market between the two products should change during future reviews, a development over which the Mexican government could have absolutely no control. Activities beyond the control of the Mexican government are not countervailable.

Department's Position. We did not use cross-border price comparisons to determine whether CBFS is preferentially priced not did we use the U.S. Gulf Coast price of no. 6 fuel oil or CBFS as a benchmark of what CBFS should sell for in Mexico. Rather, we compared the price differential between two Mexican products with the price differential between two U.S. products on the grounds that the price differential in a non-controlled market is a reasonable estimate of the difference in the cost of producing those two products in Mexico.

We have continued to rely on the comparison of price relationships in the Mexican market and a non-controlled market as the best information available in estimating a benchmark price for CBFS in Mexico.

Comment 6. The exporters contend that the Department's cross-border comparisons necessitate the conclusion that the purpose or intent of the countervailing duty law is to correct for differences between prices in different markets, regardless of the reasons for their existence. According to the exporters, the purpose however of the countervailing duty law is not to equalize world prices or to countervail against the natural comparative advantage that certain producers in certain countries may enjoy vis-a-vis their competitors in other countries. The purpose of the countervailing duty law is to offset the effects in the United States of unfair benefits bestowed by a foreign government upon certain segments of its economy at the expense or exclusion of other segments.

Department's Position. As explained in the response to Comment 5, we have not made a cross-border comparison. We have made an adjustment to reflect the differences in cost between two related products.

Comment 7. Cabot contends that the Department erred by using the average price differentials between Mexican and U.S. Gulf Coast prices for the complete review period instead of comparing the differentials on a quarterly basis. At certain times during the review period, the Mexican differential was substantially lower than the U.S. Gulf Coast differential, indicating that a subsidy existed. That the Mexican differental may have been higher than the U.S. Gulf Coast differential at others times during the review period is irrelevant because such a comparison merely indicates that no subsidy existed at those particular times. By comparing the average differentials for the review period, the Department is in effect offsetting the subsidies that exist in part of the review period with the absence of subsidies in another part of the review period. Such an allowance is clearly contrary to law and contrary to the definition of the term "offset" provided in section 771(6)(C) of the Tariff Act. As support for this argument, the petitioner points to the Department's policy regarding preferential financing. The Department does not offset preferential loans with other loans obtained at or above the commercial benchmark rate. Rather, it ignores such loans and merely countervails the preferential ones.

Department's Position. We agree. We have now compared the quarterly differentials between the two products in Mexico against the average benchmark differential for the review period. Based on this comparison, we have found a preferential price for CBFS in one quarter of the review period. We have prorated the benefit from that quarter over the review period and now find a benefit of 1.90 percent *ad valorem* due to the pricing of CBFS.

Comment 8. Cabot contends that there is no evidence in the Department's verification report that the Department tried to determine if the exporters received any Article 94 loans during the period of review.

Department's Position. The Department investigated the Article 94 loan program during each step of this administrative review. We requested information in our questionnaire regarding each company's use of Article 94 loans, and we verified the Mexican response to our questionnaire regarding this program at both the government and company levels.

Article 94 loans are short-term loans. We examined the short-term loans outstanding for each firm during the period of review. We found that the only short-term government loans outstanding for either company during the period of review were FOMEX loans, a FONEP loan, and a one-year FONEI bridge-loan. As we stated in our verification report, we found no evidence to indicate the use of other short-term government loan programs by either company during the period of review, *i.e.*, we looked for Article 94 loans and found none.

Comment 9. Cabot contends that the Department's policy and the countervailing duty law require a comparison of effective commercial interest rates to effective FOMEX preferential rates in order to determine accurately the amount of the FOMEX subsidy bestowed on Mexican

producers of carbon black. In the preliminary results, the Department stated that it used nominal rather than effective commercial rates because of the lack of information on effective FOMEX interest rates in this case. Cabot argues that the Department is required to investigate the actual terms under which preferential financing is provided to a foreign producer. Otherwise, it cannot fulfill its statutory duty to calculate and countervail the full amount of the subsidy.

The Mexican exporters argue that Cabot's comments regarding FOMEX loans are not relevant to the facts of this case because the Department only looks at effective commercial interest rates for pre-export FOMEX loans, which are peso-denominated, and neither exporter used pre-export FOMEX loans during the review period.

Department's Position. We agree with Cabot that a comparison of effective preferential interest rates to effective commercial interest rates is the most appropriate measure of the benefit from preferential financing programs. The Department has investigated in other Mexican cases the actual terms under which the Mexican government provides both peso-denominated and dollar-denominated preferential financing. However, the information we have collected is insufficient to determine the effective cost of either commercial or preferential loans. Because it appears at this time that certain financial charges that we have found on commercial loans are just as likely to be levied on government preferential loans, thereby nullifying any difference between the effective rates, we do not now believe that the best information available is the assumption of high effective rates for commercial loans and low effective rates for preferential loans. Rather, we believe that, in the absence of more conclusive information on effective interest rates, the best information is a comparison of nominal interest rates.

Final Results of the Review

After consideration of the comments received, we determine the total bounty or grant during the period of review to be 3.18 percent *ad valorem*.

The Department will instruct the Customs Service to assess countervailing duties of 3.18 percent of the f.o.b. invoice price on all shipments of Mexican carbon black exported on or after April 8, 1983 and on or before September 30, 1983.

Due to the increase in the FOMEX interest rate described in the preliminary results, the total estimated bounty or grant for future entries is 3.08 percent *ad valorem*. Therefore, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 3.08 percent of the f.o.b. invoice price on all shipments of Mexican carbon black entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: August 20, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-19270 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

SUMMARY: The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on January 10, 1986 in accordance with the Export Administration Act.

Time and Place:

September 16, 1986, 9:30 a.m., the Herbert C. Hoover Building, Room 6802, 14th Street and Constitution Avenue, NW., Washington, DC.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Introduction of public attendees.
3. Introduction of invited guests.
4. Goals of Sub-Committees: Technical Regulations, Foreign Availability, Policy & Procedures.
5. Status of Foreign Availability Submissions.
6. Public Rule-Making.
7. ECCN 1565: Plotters–Review of the language. Recommendations from our TAC regarding "accuracy" parameters.
8. Section 379: Tech Data–What do we want to control and how?
9. 1" Video Tape and Video Recorders–Parameters for Decontrol.
10. Discussion: The Future Direction of Video Recording and the Development of International Standards.
11. Tutorial Presentation: Coated Magnetic Material (Webs, Cookies, Donuts, Pancakes) and Suitability of Export Control.
12. New Business.

Executive Session

13. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public Participation

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.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close meetings or portions of meetings of the committee to the public on January 10, 1986, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: 202–377–4217. For further information or copies of the minutes call 202–377–2583.

Dated: August 20, 1986.

Margaret A. Cornejo,

Director Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 19248 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DT-M

[Docket Numbers 1617-01, 1618-01]

Export Privileges; Datalec, Ltd., Bryan V. Williamson, Respondents

Order

On May 15, 1986, the Administrative Law Judge entered an Order in the above matter, which was referred to me pursuant to section 13(c) of the Export Administration Act of 1979, 50 U.S.C. app. 2401–2420 (1982), as amended by the Export Administration Act Amendments of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.8(a) for final action.

On June 16, 1986, I affirmed the Order of the Administrative Law Judge, but concurrently remanded for additional review the determination of whether Mr. Martin Coyle should be included as a related person. By Order of July 30, 1986, the Administrative Law Judge modified his May 15 Order deleting therefrom all reference to said Martin Coyle. I affirm that Order of the Administrative Law

Judge. This constitutes the final agency action in the case.

Dated: August 18, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-19249 Filed 8-25-86; 8:45am]

BILLING CODE 3510-01-M

Medical Research Foundation of Oregon, Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-140. Applicant: Medical Research Foundation of Oregon, Beaverton, OR 97006. Instrument: Schleimpflug Camera with ultraviolet attachments. Manufacturer: Topcon Deutschland GmbH, West Germany. Intended Use: See notice at 51 FR 9500.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument measures fluorescence and opacity of a human lens using slit-image photography and densitometric image analysis. The National Institutes of Health advises in its memorandum dated July 24, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19271 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-146. Applicant: National Bureau of Standards, Gaithersburg, MD 20899. Instrument: Mass Spectrometer System, Model 261 and Accessories. Manufacturer: Finnigan-MAT, West Germany. Intended Use: See Notice at 51 FR 10647.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) A guaranteed external precision of 0.002% for strontium isotope analysis and 0.03% for uranium; and (2) Simultaneous and independent calibration of seven collectors accurate to 2 parts in 100,000. These capabilities are pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19272 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

The Solomon R. Guggenheim Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M.. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-201. Applicant: The Solomon R. Guggenheim Foundation, New York, NY 10279. Instrument: Light Microscope with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 19242.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a high numerical aperture, planapochromatic lens for maximum resolution, polarizing filters, quartz-wedge compensation, upright mechanical state, 100 W multipurpose illuminator and attachments for photographic equipment. The National Bureau of Standards advises in its memorandum dated July 24, 1986 that (1) these features are pertient to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19273 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DS-M

SUNY, Optometric Center of New York; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-137. Applicant: SUNY, Optometric Center of New York, New York, NY 10010. Instrument: CRT Display Unit and GRSYS-2 Microprocessor Grating Generator with special interface hardware. Manufacturer: Joyce Electronics Ltd., United Kingdom. Intended use: See notice at 51 FR 9500.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high luminance (mean of 500 candelas per square meter) and raster rotation through 360 degrees. The National Institutes of Health advises in its memorandum dated July 24, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value

to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-19274 Filed 8-25-86; 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 September 17, 1986, 9:00 a.m. Herbert C. Hoover Building, Room B-841, 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. Opening remarks by the Chairperson.
2. Review and approval of the minutes of July 22, 1986, meeting.
3. Presentation of papers or comments by the public.
4. Discussion and recommendations for key telephone systems related to ECCN 1567.
5. Report on the discussion at the Electronic Instrumentation Technical Advisory Committee meeting of August 11, 1986, on ECCN 1531.
6. Discussion and recommendations on Motorola's proposal for modifications to ECCN 1531.
7. Discussion and recommendations for changes to ECCN 1526 related to fiber optic cable sales to the People's Republic of China.
8. Subcommittee concerns and reports.

Executive Session

9. 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, call Betty Ferrell at (202) 377-4959.

Dated: August 20, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-19276 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DT-M

Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Switching Subcommittee of the Telecommunications Equipment Technical Advisory Committe will be held September 18, 1986, 9:00 a.m. Herbert C. Hoover Building, Room B-841, 14th Street and Constitution Avenue NW., Washington, DC. The Switching Subcommittee was formed to study computer controlled switching equipment with the goal of making recommendations to the Office of Technololgy & Policy Analysis relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda:

1. Opening remarks by the Chairperson.
2. Presentation of papers or comments by the public.
3. Industry recommendations for revisions to ECCN 1567. The objectives of these revisions is to provide more precise definition of terms, more precise wording to eliminate ambiguities as to the commodities described, and to eliminate overlaps with other ECCN's.

Specific recommendations on these issues and on the procedure for revision are requested.

Executive Session

4. 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 Comitttee 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. 552(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 pubic 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, call Betty Ferrell at (202) 377-4959.

Dated: August 20, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86-19277 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modification; Susan H. Shane

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 397 issued to Ms. Susan H. Shane, Biology-Applied Sciences Bldg., University of California, Santa Cruz, California 95064, on December 16, 1982 (47 FR 57083) as modified July 19, 1985 (50 CFR 29467) is further modified as follows:

Section B.5 is modified by substituting the following:

5. "This Permit is valid with respect to the authorized taking until December 31, 1987."

This modification became effective August 19, 1986.

The permit as modified and documentation pertaining to the modification are available for review in the following offices:

Protected Species Division, National Marine Fisheries Service, 1825 Connecticut Avenue, Room 805, NW., Washington, DC and;

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: August 19, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-19286 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations with the Government of India on Category 642

August 21, 1986.

On July 31, 1986, the Government of the United States requested consultations with the Government of India with respect to Category 642 (women's, girls' and infants' skirts and culottes of man-made fibers). This request was made on the basis of the bilateral agreement of December 21, 1982, as amended, between the Governments of the Untied States and India relating to trade in cotton, wool and man-made fiber textiles and textile products. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise that, pending agreement on a mutually satisfactory solution concerning this category, the Government of the United States has decided to control imports during the ninety-day consultation period which began on July 31, 1986 and extends through October 28, 1986 at a level of 49,314 dozen. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may establish a prorated specific limit on 71,336 dozen for Category 642 for the entry and withdrawal from warehouse for consumption of textile products, produced or manufactured in India and exported during the period beginning on October 29, 1986 and extending through December 31, 1986.

In the letter published below, the chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit imports of man-made fiber textile products in Category 642, produced or manufactured in India and exported during the ninety-day period which began on July 31, 1986 and extends through October 28, 1986 in excess of the established limit. In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 642 under the agreement with India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the categoy, is invited to submit such comments or information in ten copies to Mr. William H., Houston III, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20203. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Category 642—Man-Made Fiber Skirts

India

July 1986.

Summary and Conclusions

U.S. imports of Category 642 from India were 157 thousand dozen during year-ending May 1986, a 75 percent increase over the year-ending May 1985 level. India is the fourth largest supplier of Category 642 accounting for 7 percent of total imports during the latest twelve month period. During the first five months of 1986, U.S. imports of Category 642 from India totaled 84 thousand dozen compared to 32 thousand dozen a year earlier.

The sharp and substantial increase of low-valued Category 642 imports from India is disrupting the U.S. market for man-made fiber skirts.

U.S. Production and Market Share

U.S. production of man-made fiber skirts declined by 10 percent in 1983 from 6.9 million dozen in 1982 to 6.2 million dozen in 1983. This downward trend continued into 1984 as production dropped an additional 4 percent to 6.0 million dozen. Production data for 1985 are not currently available, however, industry sources estimate another decline in 1985. The U.S. producers' share of the man-made fiber skirt market fell from 92 percent in 1982 to 82 percent in 1984.

U.S. Imports and Import Penetration

U.S. imports of Category 642 increased 121 percent between 1982 and 1984, rising from 592 thousand dozen to 1.3 million dozen. Imports continued to grow in 1985, rising 17 percent to 1.5 million dozen. During the first five months of 1986, Category 642 imports totaled 1.2 million dozen compared with 537 thousand dozen in 1985, a 114 percent increase. The import to production ratio rose from 9 percent in 1982 to 22 percent in 1984.

Domestic vs Import Values

Approximately 73 percent of Category 642 imports from India during the first five months of 1986 entered under TSUSA No. 384.9445—women's man-made fiber skirts, not knit, not ornamented. These garments entered at landed, duty-paid values below U.S. producers' prices for comparable skirts.

August 21, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC, 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile

Agreement of December 21, 1982, as amended and extended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 27, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 642, produced or manufactured in India and exported during the ninety-day period which began on July 31, 1986 and extends through October 28, 1986, in excess of 49,314 dozen.[1]

Textile products in Category 642 which have been exported to the United States prior to July 31, 1986 shall not be subject to the ninety-day limit established in this directive.

Textile products in Category 642 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-19275 Filed 8-25-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Contract Market Proposals; New York Futures Exchange; Russell 3,000 Index, Russell 2,000 Index, Russell 1,000 Index

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contracts.

SUMMARY: The New York Futures Exchange ("NYFE") has applied for designation as contract markets in the Russell 3,000 Index, Russell 2,000 Index, and Russell 1,000 Index. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before October 27, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the NYFE Russell 3,000 Index, Russell 2,000 Index, and Russell 1,000 Index futures contracts.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission 2033 K Street NW., Washington, DC 20581, (202) 254-7227.

Copies of the terms and conditions of the proposed NYFE futures contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the NYFE in support of the applications for contract market designations may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contracts, or with respect to other materials submitted by the NYFE in support of their applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, by October 27, 1986.

Issued in Washington, DC on August 21, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86-19252 Filed 8-25-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 15, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Airbase Performance will meet at Headquarters, Ninth Air Force, Shaw AFB SC, and at various airbases in the European Theater during the period September 12-21.

The purpose of these meetings is to receive briefings on and to observe factors affecting airbase development, performance, and survivability, threats to airbases, basing posture, and logistics resupply to deployed forces.

These meetings will involve discussions of classified defense 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) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-19189 Filed 8-25-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Wednesday and Thursday, September 17-18, 1986.

Times of Meeting: 0800-1700 hours.

Places: U.S. Army Research and Development Center, Dover, New Jersey.

AGENDA: The Army Science Board AHSG on the U.S. Army Research and Development Center Effectiveness Review will meet for information briefings and a kickoff session. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any

[1] The limit has not been adjusted to account for any imports exported after July 30, 1986.

portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–19235 Filed 8–25–86; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 17–25 September 1986.

Times of Meeting: 0800–1700 hours.

Places: Alaska.

AGENDA: An Army Science Board Ad Hoc Subgroup will travel to Alaska to review/study technology initiatives. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–19234 Filed 8–25–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Privacy Act of 1974; New Record System

AGENCY: Department of the Navy, DOD.

ACTION: Notice of a new record system subject to the Privacy Act.

SUMMARY: The Department of the Navy is adding a new record system to its existing inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATE: This proposed action will be effective without further notice on or before September 25, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mrs. Gwen Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000, telephone: 202–697–1459, autovon: 227–1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974 have been published in the Federal Register as follows:

FR Doc 86–8485 (51 FR 12908) April 16, 1986
FR Doc 86–10763 (51 FR 18086) May 16, 1986 (Compilation)
FR Doc 86–12448 (51 FR 19884) June 3, 1986.

A new system report, as required by 5 U.S.C. 552a(o) of the Privacy Act was submitted on July 29, 1986, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Linda M. Lawson,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

August 20, 1986.

NO4385–2

SYSTEM NAME:

Hotline Program Case Files.

SYSTEM LOCATION:

Department of the Navy shore activities. The official mailing addresses are in the Navy's Address Directory in the appendix to the Navy Department's systems notices appearing in the Federal Register.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing hotline complaints. Also individuals alleged or suspected of administrative misconduct, including, but not limited to, fraud, waste, or inefficiency.

CATEGORIES OF RECORDS IN THE SYSTEM:

All records resulting from an inquiry into a hotline complaint such as the name of the examining officials assigned to the case, the hotline control number, date of complaint, date investigation completed, the allegations, whether or not the case was referred to Naval Security and Investigative Command, the investigators' findings, disposition of the case, and background information regarding the investigation itself such as the scope of the investigation, relevant facts discovered, information obtained from witnesses, and specific source documents reviewed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 6011, 10 U.S.C. 987, and implementing instructions.

PURPOSE(S):

For the Commanding Officer and/or his designated auditors, inspectors, or investigators to conduct and coordinate official hotline investigations. To compile statistical information to disseminate to other components within the Department of Defense engaged in the Hotline Program. To provide prompt, responsive and impartial actions and improve efficiency in investigating hotline complaints. To provide management with a source to identify potential problems and weaknesses. To provide a record of complaint disposition. Hotline complaints appearing to involve major criminal wrongdoing will be referred immediately to the Naval Security and Investigative Command.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation apply to this system.

POLICIES AND PRACTICE FOR STORING, RETRIEVING/ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, log books, magnetic tapes/disks.

RETRIEVABILITY:

By hotline case number, complainant, subject of the complaint and individual accused.

SAFEGUARDS:

Access is limited to local hotline staff, and, as delegated by the Commanding Officer or Officer-in-Charge, and the Executive Officer, on a need-to-know basis. Paper records are stored in locked cabinets. Automated records may be controlled by limiting physical access to CRT data entry terminals or use of passwords. Access to central computer mainframe, other peripheral equipment and tape and disc storage is strictly controlled. Work areas are sight-controlled during normal working hours. Building access is controlled and doors are locked during non-duty hours.

RETENTION AND DISPOSAL:

Files are maintained at the local command for a minimum of two years after final action is taken. Thereafter, files are stored with the nearest Federal Records Center. Electronic data are erased, over-printed or destroyed, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Sea Systems Command, Washington, DC 20362–5101.

NOTIFICATION PROCEDURE:

Written requests may be addressed to the appropriate Naval activity concerned (official mailing addresses are listed in the Navy's Address Directory in the appendix to the Navy Department's systems notices).

RECORD ACCESS PROCEDURES:

The agency's rules for access to records may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals, investigations, judicial and administrative reports, and complainants.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Portions of this system may be exempt under 5 U.S.C. 552a(k) (1), (2), (5), (6) and (7), as applicable. For additional information, contact the system manager. An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553 and has been published in SECNAV INSTRUCTION 5211.5 and the Code of Federal Regulations at 32 CFR Part 701.

[FR Doc. 86-19208 Filed 8-25-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Center for Research in Vocational Education Advisory Committee Meeting

AGENCY: National Center for Research in Vocational Education Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Center for Research in Vocational Education Advisory Committee. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: September 15, 1986.

ADDRESS: The National Center for Research in Vocational Education, Ohio State University, 1960 Kenny Road, Columbus, Ohio 43210.

FOR FURTHER INFORMATION CONTACT: Dr. Howard F. Hjelm, Director, Office of Vocational and Adult Education, Division of Innovation and Development, 300 7th Street, SW., Rm. 519, Reporters Building, Washington, DC 20202-5516, (202) 732-2350.

SUPPLEMENTARY INFORMATION: The National Center for Research in Vocational Education Advisory Committee is established under section 404 of the Carl D. Perkins Vocational Education Act of 1984 (Pub. L. 98-524). The Committee is established to advise the Secretary and the National Center's Director with respect to policy issues in the administration of the National Center and in the selection and conduct of major research and demonstration projects and activities of the National Center. Meetings held at the request of the Secretary are conducted in accordance with the Federal Advisory Committee Act (FACA).

The meeting of the Committee is governed by FACA and is open to the public on Septebmer 15, 1986 from 1:00 p.m. to 4:00 p.m. the proposed agenda includes:

1:00-1:30—A National Strategy for Vocational Education Program Improvement
1:30-2:15—The National Network of Curriculum Coordination in Vocational and Technical Education
2:15-2:45—The Center on Education and Employment
2:45-3:15—Recompetition of the National Center for Research in Vocational Education
3:15-3:45—Update on the Administration's Fiscal Year 1987 Budget Request
3:45-4:00—Other items

This meeting will be held in conjunction with a regular meeting of the Committee to advise the Center Director.

Records are kept of all Committee proceedings and are available for public inspection in the Program Improvement Systems Branch, 300 7th Street, SW., Rm. 519, Reporters Building, Washington, DC 20202-5516, (202) 732-2367.

Joyce L. Winterton,

Acting Assistant Secretary for Vocational and Adult Education.

[FR Doc. 86-19190 Filed 8-25-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management; Toll-Free Telephone Information Service

On June 17 and June 27, 1983, the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Energy (DOE), respectively, signed a Procedural Agreement (48 FR 38701, 8-25-83) which outlines the procedures which DOE and NRC will observe in their interactions on the characterization of sites for a geologic repository under the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425, 96 Stat. 2201).

The Procedural Agreement specifies that schedules for technical meetings between DOE and NRC will be made publicly available by DOE in a timely manner with members of the public invited to attend.

To provide members of the public with timely information pertaining to the time, location, and agenda for all such public meetings, DOE established a toll-free telephone information service. The purpose of this notice is to announce a change in the telephone numbers for this service as follows:

For calls originating in all states (now including Maryland), 800-368-2235.

For calls originating in the District of Columbia, 479-0487.

For additional information about the toll-free telephone information service, contact: Charles Head, Office of Civilian Radioactive Waste Management, U.S. Department of Energy, RW-24, Washington, DC, 20585.

Issued in Washington, DC August 19, 1986.

Ben C. Rusche,

Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 86-19219 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86-47-NG]

Natural Gas Imports, Brymore Gas Marketing, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 1, 1986, of an application from Brymore Gas Marketing, Inc., (BGMI), for blanket authorization to import Canadian natural gas for short-term sales in the domestic spot market or to act as an agent for such sales. Authorization is requested to import up to 200 Bcf of Canadian natural gas for a two-year term beginning on the date of first delivery of the import. BGMI proposes to purchase natural gas from various reliable Canadian suppliers and producer associations and arrange for delivery of the gas to the United States' purchasers or have the purchaser arrange for transportation. BGMI

intends to utilize existing pipeline facilities for the transportation of the volumes imported. BGMI proposes to submit quarterly reports giving details of individual transactions within 30 days following each calendar quarter.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than September 25, 1986.

FOR FURTHER INFORMATION CONTACT:

Chuck Boehl, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6050

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 pm e.s.t., September 25, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of BGMI's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 am and 4:30 pm, Monday through Friday, except holidays.

Issued in Washington, DC, August 19, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–19218 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket Nos. 86–39–NG; 86–40–NG]

Enron Gas Marketing, Inc.; Applications To Export and Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of applications for blanket authorization to export and import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 10, 1986, of two applications from Enron Gas Marketing, Inc. (EGM). A joint notice is being issued to avoid confusion and to emphasize the fact that the applications are separate and are not alternatives to each other. Both applications request blanket authorizations to export to Canada on an interruptible, best-efforts basis, 60,000 Mcf per day (120,000 total Mcf/d) of natural gas produced in the State of Montana, and to import, in exchange, an equivalent volume of natural gas from Canada. The exported gas would be supplied by Tricentrol Holdings, Inc. (THI), a Montana producer, and the imported volumes would be sold on a short-term or spot market basis to U.S. purchasers. Under both applications the export point is near Willow Creek, Saskatchewan, and the import point near Emerson, Manitoba.

In ERA Docket No. 86–40–NG the authorization requested is pursuant to a spot market agreement between EGM and THI, and would begin when EGM's affiliate pipeline system, Northern Natural Gas Company (Northern), opens its pipeline for transportation under Federal Energy Regulatory Commission (FERC) Order No. 436 and all regulatory approvals are granted. The authorization would remain in effect until the sale of Northern's Montana pipeline facilities to THI.

In ERA Docket No. 86–39–NG the authorization requested is pursuant to a sales and repurchase agreement between EGM and THI, and would begin when Northern opens its pipeline for transportation under FERC Order No. 436 and all regulatory approvals are granted. In this docket EGM asks that the authorization run until October 31, 1992, or until notice by THI to EGM of termination of the sales and repurchase agreement between them.

The applications are filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments should be filed in the specific docket no later than 4:30 p.m., on September 25, 1986.

FOR FURTHER INFORMATION CONTACT:

Lot Cooke, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA–076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–8116

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–6667.

SUPPLEMENTARY INFORMATION: EGM has requested expedited treatment of its applications, including dispensing with the procedure of providing an opportunity for additional comments. EGM states that prompt approval will serve the public interest by allowing producers from the State of Montana the opportunity to bring competitively priced domestic natural gas supplies to United States' consumers. No decision will be made on EGM's expedited procedures request until the ERA has reviewed all comments and material received in response to this notice.

The decisions on these applications to import natural gas will be made consistent with the DOE's import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose either or both of these applications should address their responses to the specific docket and should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that these arrangements are competitive. Parties opposing the arrangements bear the burden of overcoming this assertion.

The decisions on the applications to export natural gas will be made consistent with the Secretary of Energy's Delegation Order to the Administrator of the ERA (49 FR 6690, February 22, 1984), under which the domestic need for the gas to be exported is the primary consideration in determining whether it is in the public interest. Parties that may oppose these applications should comment in their responses on the issue of the domestic need for the gas as set forth in the Delegation Order with the knowledge that the applicants intend to import equivalent volumes of any authorized exports.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to either or both proceedings and to have written comments considered as the basis for any decision on the applications must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to either application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed to the specific dockets with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076–A, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. e.s.t., September 25, 1986.

The Administrator intends to develop a decisional record on these applications through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, final opinions and orders may be issued based on the official records, including the applications and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

Copies of EGM's applications are available for inspection and copying in the Natural Gas Division Docket Room, GA–076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except holidays.

Issued in Washington, DC, on August 19, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–19222 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–45; OFP Case No. 65041–9321–20, 21–24]

Powerplant and Industrial fuel use; O'Brien Energy Systems, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order Granting to O'Brien Energy Systems, Inc. (O'Brien) an Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice that it has granted to O'Brien Energy Systems, Inc. (O'Brien) a permanent cogeneration exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"). The exemption granted permits the use of oil or natural gas as the primary energy source for its proposed Hartford, Connecticut cogeneration facility.

The facility for which O'Brien is requesting a permanent exemption is to be comprised of two combustion generators having the capability of burning natural gas or #2 oil. The facility will also contain two waste heat recovery boilers and extraction/condensing steam turbines. The steam turbines will accept high pressure steam from the boilers and deliver low pressure steam and/or generate additional electricity. The system will normally operate with two gas turbines running during all on-peak hours and one running during all off-peak hours.

The facility's average output will be 54,630 kw, an equivalent of 440 MM BTU/hr. The facility is expected to operate its two combustion turbine generators at base load for

approximately 4,134 hours per year. The facility's capacity factor is expected to be 95% and its utilization factor will be 70%.

The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATES: The order shall take effect on September 25, 1986.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–093, Washington, DC 20585, Telephone (202)252–4708

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–113, 1000 Independence Avenue SW., Washington, DC 20585, Telephone (202)252–6749.

SUPPLEMENTARY INFORMATION:

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including O'Brien's certification to ERA, in accordance with 10 CFR 503.37(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

3. Prior to operation, all applicable environmental approvals will be secured.

The last certification is required under 10 CFR 503.13(b). In further compliance with that section, O'Brien submitted and certified as accurate the information required by the environmental checklist in § 503.13(b), as amended (51 FR 18866, May 22, 1986).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 501.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the **Federal Register** on June 24, 1986 (50 FR 39755), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on August 8, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental checklist, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined the O'Brien Energy System, Inc. has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to the O'Brien Energy System, Inc., to permit the use of oil or natural gas as the primary energy source for its proposed cogeneration facility.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on August 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–19220 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Notice is hereby given of the following meeting:

Name: Solid Earth Sciences Panel of the Energy Research Advisory Board

Date and Time: September 15 and 16, 1986—9:00 a.m.–5:00 p.m.

Place: Solar Energy Research Institute (SERI), Conference Room, 1617 Cole Boulevard, Golden, CO 80401, (303) 231–7114

Contact: William L. Woodard, Department of Energy, Office of Energy Research (ER–6), 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 252–5767.

Purpose of the Parent Board. To advise the Department of Energy (DOE) on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Purpose of the Panel. The purpose of the Panel is to review the research and development programs of the Department of Energy involving the solid earth sciences, including such topics as basic research in continental structure, modeling enhanced oil recovery, and underground migration of chemicals. The Panel will also review the arrangements for coordination between industry, universities, and Federal agencies.

Tentative Agenda:

September 15, 1986

- Preparation of Panel Report
- Research Programs at SERI
- Public Comment (10 minute rule)

Tentative Agenda

September 16, 1986

- Preparation of Panel Report
- Research Programs at SERI
- Public Comment (10 minute rule)

Public Participation. The meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes of the Meeting. The minutes of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on August 19, 1986.

Charles Cathey,

Deputy Director, Science and Technology Affairs Staff, Office of Energy Research.

[FR Doc. 86–19221 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER86-645-000 et al.]

Electric Rate and Corporate Regulation Filings; Boston Edison Co. et al.

August 20, 1986.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Company

[Docket No. ER86-645-000]

Take notice that on August 8, 1986, Boston Edison Company (Boston Edison) of Boston, Massachusetts, tendered for filing proposed rate schedule supplements to 13 of its contracts for the sale of unit power from its Pilgrim No. 1 Nuclear Unit. The purpose of this filing is to implement the recovery of decommissioning charges from the affected purchasers. The affected purchasers, their rate schedule numbers, and the percentage of each purchaser's Pilgrim 1 entitlement are:

Light department	Rate schedule No.	Entitlement (percent)
Boylston	77	.07463
Holyoke	79	.89552
Westfield	81	.22388
Hudson	83	.37313
Littleton	85	.14925
Marblehead	87	.14925
North Attleboro	89	.14925
Peabody	91	.22388
Shrewsbury	93	.37313
Templeton	95	.04478
Wakefield	97	.14925
West Boylston	99	.07463
Middleborough	102	.10448
Total		2.98506

The Company has proposed to implement the charges in two steps with the Step A charge to take effect on October 8, 1986 and the Step B charge on October 9, 1986. The aggregate monthly charge for the 13 purchasers is $12,433 under Step A and $18,168 under Step B. Boston Edison states that it had served copies of the filing upon each of the affected purchasers and the Massachusetts Department of Public Utilities.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Vermont Public Service Corporation

[Docket No. ER86-542-000]

Take notice that on August 12, 1986, Central Vermont Public Service Corporation ("the Company") tendered for filing Exhibit No. 3, part of the original filing concerning increased charges pursuant to Central Vermont Public Service Corporation Rate Schedule FERC No. 121.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Interstate Power Company

[Docket No. ER86-654-000]

Take notice that on August 13, 1986, Interstate Power Company (the Company) tendered for filing a set of revised exhibits to the Agreement for Intergrated Transmission Area between Central Iowa Power Cooperative and Interstate Power Company (FERC No. 125, Supplements 6, 13, 14 and 15).

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Power & Light Company, assumed business name of PacificCorp

[Docket No. ER86-652-000]

Take Notice that on August 11, 1986 Pacific Power & Light Company (Pacific), an assumed business name of PacificCorp, tendered for filing, in accordance with section 35 of the Commission's Regulations, the following:

(1) Wholesale Power Purchase Agreement dated June 16, 1986, between Pacific and Montana-Dakota Utilities Company (Montana-Dakota), superseding a prior agreement designated as Service Agreement No. 2 to Pacific's FERC Electric Tariff, Original Volume No. 4 (Tariff);

(2) Notice of Cancellation of Service Agreement No. 3 of the Tariff, which, Pacific states, will be terminated as a result of notice from the Town of Torrington; and

(3) Third Revised Sheet Nos. 5, 6, 8 and 9 superseding Second Revised Sheets 5, 6, 8 and 9 respectively, of the Tariff.

Pacific requests waiver of Commission's notice requirements to permit the Montana-Dakota agreement to become effective on August 23, 1986, and the termination of Service Agreement No. 3 (Town of Torrington) on August 25, 1986, which Pacific claims are the dates of commencement and termination of service, respectively.

Copies of the filing were served upon all parties hereto and the Wyoming Public Service Commission.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Sierra Pacific Power Company

[Docket No. ER86-655-000]

Take notice that on August 13, 1986, Sierra Pacific Power Company ("Sierra") tendered for filing a "Transmission Services Agreement" between Sierra and Beowawe Geothermal Power Company ("Beowawe") executed August 6, 1986. This agreement provides for electric power transportation service to be rendered by Sierra to Beowawe.

Sierra states that it does not presently render any jurisdictional electric power service to Beowawe and therefore that the Agreement constitutes an initial rate schedule pursuant to § 35.12 of the Commission's regulations.

Sierra proposes an effective date of August 6, 1986 for its wheeling obligations under the Agreement.

Comment date: September 3, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19187 Filed 8-25-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. GP86-36-000 GP86-37-000]

Chevron U.S.A. Inc.; Petition to Reopen and Vacate Final Well Category Determination and Withdraw Application for Determination

August 21, 1986.

On July 17, 1986, Chevron U.S.A. Inc. (Chevron) as a successor to Gulf Oil Corporation and Warren Petroleum Company, filed with the Federal Energy Regulatory Commission, pursuant to section 275.205 of the Commission's regulations, a petition to reopen and vacate final well category determinations made for the J.B. Tubb (Tr. A) No. 29, J.B. Tubb (Tr. B) No. 15, J.B. Tubb "B" (Tr. B) No. 43, J.V. Terrill "A" No. 11, Sand Hills Field, Crane County, Texas. Chevron requests that the Commission grant its petition to reopen the well category determination proceedings as to the above mentioned

wells, vacate their designations as NGPA section 108 stripper wells, and permit Chevron to withdraw the underlying applications.

On July 12, 1984, Chevron filed a well category determination application before the Texas Railroad Commission (Texas) seeking a determination that the J.B. Tubb (Tr. A) No. 29, J.B. Tubb (Tr. B) No. 43 and J.V. Terrill No. 11 wells qualified for stripper well status. These filings were followed on July 16, 1984, by a request by Chevron to grant stripper well status to the J.B. Tubb (Tr. B) No. 15 well. Subsequently, Texas determined that the wells qualified for stripper well status. The well determinations became final forty-five days after the Commission received notice of Texas' action.

Chevron states that the subject wells all produced in excess of the 60 Mcf per day during the 90-day qualifying period necessary for a well to be classified as a stripper well. Chevron discovered that the applications for the three J.B. Tubb wells under Docket No. GP86-36-000 were filed based on gas production from one producing zone instead of total well production. The discovery of the excess production for the J.V. Terrill well covered by GP86-37-000 was made during an internal audit by Warren Petroleum Company.

Chevron had filed refund reports and statements of concurrence from El Paso Natural Gas Company, which purchases gas from the four wells. El Paso acknowledges that it received appropriate refunds of principle and interest due resulting from Chevron's requested withdrawal of the applications and reopening and vacating of the section 108 determination.

Any person desiring to be heard or to make any protest to Chevron's petition, should file, within 30 days after this notice is published in the **Federal Register**, a motion to intervene or a protest under Rules 214 or 211 of the Commission's Rules of Practice and Procedure. Filings should be made with the Federal Energy Regultory Commission, 825 North Capitol Street, NE., Washington, DC 20426. All protests filed will be considered but will not make the protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19253 Filed 8-25-86; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. CI75-547-000, CI86-565-000]

Forest Oil Corp.; Amendment of Application for Abandonment of Service; Withdrawal of Application for Blanket Certificate of Public Convenience and Necessity, and Pre-Granted Abandonment; and Request for Expedited Consideration.

August 21, 1986

Take notice that on August 18, 1986, Forest Oil Corporation ("Applicant" or "Forest"), 1500 Colorado National Building, 950 Seventeenth Street, Denver, Colorado, 80202 filed in the captioned proceeding an amendment to Applicant's Application for abandonment of service authority filed in Docket No. CI75-547-000 withdrawing Applicant's request for limited-term authorization of abandonment and requesting permanent abandonment of said service; and a withdrawal of Applicant's application in Docket No. CI86-565-000 for a limited-term blanket certificate authorization to make sales for resale in interstate commerce with pre-granted authorization to abandon such sales, all as more fully set forth in the filing, which is on file with the Commission and open to public inspection.

Applicant states that it is amending its original application in response to Columbia Gas Transmission Corporation's (Columbia) request that the Commission deny Applicant's request for a limited-term blanket certificate authorization to make sales for resale in interstate commerce and blanket pre-granted abandonment of such sales. Applicant's filing withdraws those requests.

Applicant further states that it is amending its original application in response to Columbia's objection to Applicant's request for limited-term abandonment instead of permanent abandonment of the service authorized in Docket No. CI75-547-000. Applicant's filing requests amendment of its original application to request permanent abandonment of this service.

Applicant requests expedited consideration of its application pursuant to Docket No. RM85-1 and Section 2.77 and Rules 801 and 802 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should, on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-19254 Filed 8-25-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $27,571 (plus accrued interest) obtained as a result of a Consent Order which the DOE entered into with Arkansas Valley Petroleum of Tulsa, Oklahoma (Case No. HEF-0029). The fund will be available to customers who purchased motor gasoline from Arkansas Vallye during the consent order period.

DATE AND ADDRESS: Applications for refund of a portion of the consent order must be filed no later than November 24, 1986 and should be addressed to: Arkansas Valley Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. HEF-0029.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585 (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order relates to a consent order entered into by Arkansas Valley Petroleum (Arkansas Valley) of Tulsa, Oklahoma

which settled possible pricing and allocation violations with respect to the firm's sales of motor gasoline during the period March 1, 1979 through October 31, 1979. Under the terms of the consent order, $27,571 has been remitted by Arkansas Valley and is being held in an interest-earning escrow account pending determination of its proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established refund procedures and solicited comments from interested parties concerning proper disposition of the Arkansas Valley consent order funds. The Proposed Decision and Order discussing the distribution of the funds remitted by the consent order firm was issued on June 2, 1986. 51 FR 21408 (June 12, 1986).

As the Decision indicates, Applications for Refund from the Arkansas Valley consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of the Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased motor gasoline from Arkansas Valley during the consent order period. The specific information required in an Application for Refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: August 19, 1986.

Richard W. Dugan,

Acting Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: Arkansas Valley Petroleum
Date of Filing: October 13, 1983
Case Number: HEF-0029

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Arkansas Valley Petroleum (Arkansas Valley) of Tulsa, Oklahoma.

I. Background

Arkansas Valley is a "reseller-retailer" of "motor gasoline," as these terms were defined in 10 CFR 212.31. An ERA audit of Arkansas Valley's operations during the period March 1, 1979 through October 31, 1979 (the audit period) revealed possible violations of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between Arkansas Valley and the DOE regarding sales of motor gasoline during the the audit period (hereinafter referred to as the consent order period), the firm entered into a Consent Order with the DOE on September 1, 1981. Under the terms of the Consent Order, the firm agreed to remit $27,571 to the DOE for deposit in an interest-bearing escrow account pending distribution by the DOE. The Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, the Consent Order states that Arkansas Valley does not admit that it committed any such violations.

On June 2, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order fund. 51 FR 21408 (June 12, 1986). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of Arkansas Valley's pricing practices during the consent order period. A copy of the PD&O was published in the **Federal Register** on June 12, 1986, and comments were solicited regarding the proposed refund procedures. We have received no comments regarding those procedures.

II. Jurisdiction and Authority

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82,553 (1982); *Office of Enforcement,* 9 DOE ¶ 82,508 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have concluded that a Subpart V proceeding is an appropriate mechanism for distributing the Arkansas Valley consent order fund. We therefore propose to grant the ERA's petition and assume jurisdiciton over distribution of the fund.

III. Refund Procedures

Since we have not received any adverse comments regarding our proposed refund procedures, we have determined that those procedures should be adopted.

The distribution of refunds will take place in two stages. In the first stage, refund monies will be refunded to customers who purchased Arkansas Valley motor gasoline during the consent order period and who demonstrate that they were injured by Arkansas Valley's pricing practices. Such purchasers must file claims and document their purchases in order to be eligible for a portion of the consent order fund.

After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See generally Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*). However, we will not discuss the second stage refund procedures in this Decision and Order.

A. Showing of Injury

Claimants who resold petroleum products purchased from Arkansas Valley must demonstrate that they did not pass on to their customers the price increases implemented by Arkansas Valley. Accordingly, in order to qualify for a refund, resellers (including retailers) must show that during the consent order period market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.,* 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.,* 10 DOE ¶ 85,009 (1982). In addition, a reseller will be required to show that it had "banks" of unrecovered increased product costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its prices.[1] As

[1] Some of the motor gasoline sales covered by the Consent Order occurred subsequent to the amendment of the retailer price rule that eliminated the bank requirement for retailers. *See* 10 CFR 212.93(a)(2), 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly retailers will not be required to submit bank information concerning any purchases of motor gasoline they made after July 15, 1979.

we noted in the PD&O, however, the maintenance of banks will not, however, automatically establish injury. *See, e.g., Tenneco Oil Co./Chevron U.S.A.* 10 DOE ¶ 85,014 (1982).

The presumptions described below were proposed in the PD&O and are being adopted here to enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available. *See* 10 CFR 205.282(e).

1. Applicants Claiming a Refund of $5,000 or Less

In the present case, we will adopt a presumption of injury which has been used in many previous special refund cases. We will presume that reseller applicants who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of motor gasoline from Arkansas Valley. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove the existence of banks of unrecovered costs or to show that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past, we have adopted a small claims procedure to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We will adopt such a procedure in this case. Therefore, any applicant claiming a refund of $5,000 or less need not make a detailed showing of injury in order to be eligible to receive a refund.[2]

2. Spot Purchasers

We further adopt our proposal that resellers who made spot purchases from Arkansas Valley be ineligible to receive a refund, even a refund at or below the threshold level, unless they can make a showing that rebuts the presumption that they were not injured. As we have previously noted, a spot purchaser tends to have considerable discretion in where and when to make purchases and would therefore not have made spot purchases of Arkansas Valley motor gasoline at increased prices unless it was able to pass through the full amount of the alleged overcharges to its own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured as a result of the spot purchase(s). *See Saber Energy, Inc./U.S. Oil Co.*, 14 DOE ¶ 85,246 (1986).

3. End-users

We will not require end-users or ultimate consumers whose businesses are unrelated to the petroleum industry to make a detailed showing of injury. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *Id.* We have therefore concluded that end-users of Arkansas Valley motor gasoline need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges. On the other hand, refund applicants whose business operations were subject to the DOE. regulationy program and who purchased Arkansas Valley motor gasoline for consumption as fuel will not be considered end-users for the purposes of the showing of injury. *See Seminole Refining, Inc.*, 12 DOE ¶ 85,188 (1985).

B. Calculation of Refund Amounts

We will use a volumetric method to divide the consent order fund among applicants who demonstrate that they are eligible to receive refunds. This method presumes that the alleged overcharges were spread equally over all the gallons of the consent order product(s) sold by a consent order firm. *See, e.g., Vickers.* To determine the per gallon volumetric factor, the consent order amount will be divided by the total volume of covered products which the firm sold during the consent order period. Based upon information submitted by Arkansas Valley regarding their total volume of motor gasoline sold during the consent order period, we have determined this volumetric factor to be $0.0032. Refunds will be calculated by multiplying the volumetric factor by the total amount of motor gasoline purchased from Arkansas Valley by the applicant during the consent order period. The interest that has accrued on the money in the escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

We also adopt our proposal to establish a minimum refund amount of $15 for first stage claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 at 85,225 (1982).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Arkansas Valley consent order fund. Accordingly, we shall not accept Applications for Refund from eligible customers who purchased Arkansas Valley gasoline during the consent order period. There is no official application form. Applications for Refund should be written or typed on business letterhead or personal stationery. The following information should be included in all Applications for Refund:

1. The name of the consent order firm: Arkansas Valley Petroleum, the case number: HEF–0029, and the applicant's name should be prominently displayed on the first page.

2. The name, position title, and telephone number of a person who may be contacted by us for additional information concerning the Application.

3. The manner in which the applicant used the Arkansas Valley motor gasoline, i.e., whether it was a reseller or end-user.

4. The volume of Arkansas Valley motor gasoline that the applicant purchased in each month of the period of time for which it is claiming it was injured by the alleged overcharges.

5. If the applicant is a reseller who wishes to claim a refund in excess of $5,000, it should also:

(a) State whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations from the month in which purchases were first made until the termination of banking regulations (July 15, 1979 for retailers; April 30, 1980 for resellers and retailer-resellers).

(b) Submit evidence to establish that it did not pass through the alleged overcharges to its customers. For example, a firm may compare the prices it paid for Arkansas

[2] As in prior refund cases, resellers whose calculated refund exceeds the threshold amount may elect to apply for a refund of $5,000 without being required to make a detailed demonstration of injury.

Valley motor gasoline with the prices paid for that product by its competitors to show that price increases to recover alleged overcharges were infeasible.

6. A statement of whether the applicant was in any way affiliated with Arkansas Valley. If so, the applicant should state the nature of the affiliation.

7. A statement of whether there has been any change in ownership of the entity that purchased the motor gasoline from Arkansas Valley since the end of the consent order period. If so, the name and address of the current (or former) owner should be provided.

8. A statement of whether the applicant is or has been involved as a party in any DOE or private section 210 enforcement actions. If these actions have been terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

9. The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief.

Applications for Refund must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its Application contains confidential information must so indicate on the first page of its Application and submit two additional copies of its Application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

All Applications should be sent to: Office of Hearings, and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Arkansas Valley Petroleum Company pursuant to the Consent Order executed on September 1, 1981 may now be filed.

(2) All Applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: August 19, 1986.

Richard W. Dugan,

For Director, Office of Hearings and Appeals.

[FR Doc. 86–19224 Filed 8–25–86; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of July 18 Through July 26, 1986

During the Week of July 18 through July 26, 1986, the appeal and the applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

August 15, 1986.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 18 through July 26, 1986]

Date	Name and location of applicant	Case No.	Type of submission
June 21, 1986	Highway Oil Company, Inc., Topeka, KS	KRZ–0035	Interlocutory. If granted: Additional information submitted by Highway Oil Company in connection with its Statement of Objections to the Proposed Remedial Order issued to the firm (Case No. HRO–0123) would be accepted as part of the record of the enforcement proceeding.
July 23, 1986	Research Fuels, Inc., Dallas, TX	KEX–0018	Supplemental order. If granted: The Office of Hearing and Appeals would resolve all of the underlying controversies presented in Research Fuels, Inc. (Case No. HCX–0100) which was remanded by the United States District Court for the Northern District of Texas.
July 25, 1986	Ellsworth & Lassow, Inc., Manchester, CT	KEE–0045	Exception to the reporting requirements. If granted: Ellsworth & Lassow, Inc., would not be required to file EIA–782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report".
Do	John D. Morris, Portland, OR	KFA–0046	Appeal of an information request denial. If granted: The June 20, 1986 Freedom of Information Request Denial issued by the Office of Personnel Management would be rescinded, and John D. Morris would receive access to information pertaining to persons hired by the Bonneville Power Administration since May 1954 for the position of Power System Electrician.

REFUND APPLICATIONS RECEIVED

[Week of July 18 to July 25, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
01/04/86	Gulf/R&W Oil Products	RF40–3222
07/14/86	Coline/Rhode Island	RQ2–317
07/14/86	National Helium/Rhode Island	RQ3–318
07/18/86	Howell; Quintana/Ultramar Petroleum	RF245–9
07/18/86	King/United Oil Co	RF256–1
07/21/86	U.S.A./Kerr McGee Corp	RF252–6
07/21/86	Howell; Quintana/Day & Zimmerman	RF245–10
07/21/86	Howell; Quintana/Odessa L.P.G. Transport	RF245–11
07/21/86	Howell; Quintana/Kerr-McGee Corp	RF245–12
07/21/86	Martin/Ashland Oil Co	RF240–21

REFUND APPLICATIONS RECEIVED—Continued

[Week of July 18 to July 25, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
07/21/86	Pride/Odessa L.P.G. Transport Inc	RF235-17
07/21/86	Gulf/Wyrick's Gulf Station	RF40-3218
07/21/86	Gulf/Moreno's Gulf Station	RF40-3219
07/21/86	Gulf/Kirkland Gulf Station	RF40-3220
07/21/86	Gulf/Georgia Power Co	RF40-3216
07/21/86	Gulf/Vaughn's Gulf Station	RF40-3217
07/21/86	National Helium/Idaho	RQ3-316
07/22/86	Hicks/W. E. Stoll Coal & Gas Co	RF237-9
07/23/86	King/D&D Oil Co	RF256-2
07/22/86	Gulf/Chatham County Georgia	RF40-3221
07/23/86	Union Texas/Ergon Oil Purchasing	RF104-12
07/23/86	Pride/Western Marketing, Inc	RF235-18
07/24/86	E. B. Lynn/Rome DiLorenzo	RF246-7
07/24/86	MAPCO/Chumbley's LP Gas	RF108-16
07/24/86	Gulf/Hoffman Oil Co., Inc	RF40-3223
07/25/86	Napco/Gulf States Oil & Refining	RF108-17
07/25/86	Conoco/Eveleth Oil Co. Inc	RF220-385
07/25/86	Conoco/Itasca Oil Co	RF220-386
07/21/86 through 07/25/86	Mobil Refund Applications	RF225-8968 through RF225-9162
07/21/86 through 07/25/86	Marathon Refund Applications	RF250-570 through RF250-722

[FR Doc. 86-19929 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of July 11 Through July 18, 1986

During the Week of July 11 through July 18, 1986, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

August 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 11 through July 18, 1986]

Date	Name and location of applicant	Case No.	Type of submission
July 14, 1986	Richard L. Brewer, Albuquerque, NM	KFA-0044	Appeal of an information request denial. If granted: The June 14, 1986, Freedom of Information Request Denial issued by the Albuquerque Operations Office would be rescinded and Richard L. Brewer would receive access to information relating to Mr. Brewer's security clearance.
Do	Supreme Oil Co., Inc., New Albany, IN	KEE-0058	Exception to the reporting requirements. If granted: Supreme Oil Co., Inc. would no longer be required to file form EIA-782B "Reseller/Retailer's Monthly Petroleum Product Sales Report."
July 15, 1986	Panhandle/Western Petroleum Company, Washington, DC.	RR15-1	Request for modification/rescission in the Panhandle Eastern Refund Proceeding. If granted: The July 20, 1983, Decision and Order (Case No. RF15-3) issued to Western Petroleum Company would be modified regarding the firm's application for refund submitted in the Panhandle Eastern Pipeline refund proceeding.
July 16, 1986	Natural Resources Defense Council, Washington, DC	KFA-0045	Appeal of an information request denial. If granted: The June 13, 1986, Freedom of Information Request Denial issued by the Office of Procurement Operations would be rescinded and the Natural Resources Defense Council would receive access to certain information contained in proposals submitted in response to the Program Opportunity Notice for the Clean Coal Technology Program.
July 17, 1986	Pennzoil Company, Washington, DC	KCF-0047	Supplemental order. If granted: The Office of Hearings and Appeals would implement new refund procedures pursuant to 10 CFR Part 105, Subpart V, in connection with the June 30, 1986, U.S. District Court Eastern District of Michigan's Order regarding Pennzoil Company.
July 18, 1986	Belridge/North Carolina and Amoco/North Carolina, Raleigh, NC.	RM8-33 and RM21-34	Amoco refund proceedings. If granted: The February 6, 1985, Decision and Order (Case Nos. RQ8-144 and RQ21-145) issued to North Carolina would be modified regarding the State's application for refund submitted in the Belridge and Amoco refund proceedings.

Date received	Name of refund proceeding/name of refund applicant	Case No.
7/11/86	E.B. Lynn/Richard E. Werley	RF246-6
7/11/86	Gulf/Fike's Gulf	RF40-3206
7/11/86	Gulf/Max's Gulf	RF40-3207
7/11/86	Gulf/Whitener Enterprises, Inc	RF40-3208
7/11/86	Gulf/Newman's Gulf	RF40-3209
7/11/86	Gulf/Anderson & Watkins, Inc	RF40-3210
7/11/86	Gulf/Florida Power Corp	RF40-3205
7/15/86	Gulf/Leakesville Gulf	RF40-3213

Date received	Name of refund proceeding/name of refund applicant	Case No.
7/15/86	Amoco/Public Service Electric & Gas	RF21-12621
7/17/86	Gulf/J.B. Dewar, Inc	RF40-3215
7/17/86	Gulf/Three Bros. Gulf	RF40-3214
7/17/86	GCO/Getty Oil	RF254-2
7/17/86	Beacon/Coast Oil Company	RF238-65
7/17/86	Armour/Central Oregon Oil Company	RF167-8
7/14/86	Amoco/New Orleans Public, Service, Inc	RF21-12620
7/14/86	Gulf/New Orleans Public, Service, Inc	RF40-3211
7/14/86	Gulf/Greyhound Lines, Inc	RF40-3212
7/14/86	Howell Quintana/The Coastal Corp	RF245-8
7/14/86	Earth/Malone Oil Co	RF239-16
7/16/86	Aminoil/Toledo Edison Co	RF139-155
5/27/86	OKC/Missouri Self Serve	RF13-44
7/16/86	U.S.A./J.B. Dewar	RF252-5
7/14/86	Elm City/Defense Logistics Agency	RF255-1
7/16/86	U.S.A./Watkins Oil Co	RF252-4
7/14/86 through 7/18/86	Mobil Refund Applications	RF225-8919 through RF225-8967
7/14/86 through 7/18/86	Marathon Refund Applications	RF250-327 through RF250-569

[FR Doc. 86-19230 Filed 8-25-86; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order; Period of July 21 Through August 1, 1986

During the period of July 21 through August 1, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 pm and 5:00 pm except federal holidays.

August 8, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Ekrut Oil Company, Valley Mills, Texas; KEE-0054 Reporting Requirements

Ekrut Oil Company filed an Application for Exception from the reporting requirements of Form EIA-782B. The exception request, if granted, would excuse Ekrut Oil Company from filing Form EIA-782B, "Resellers'/Retailers' Monthly Petroleum Sales Report." On July 31, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-19231 Filed 8-25-86; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $8,300,000, obtained as a result of a Consent Order which the DOE entered into with Crown Central Petroleum Corporation, a reseller-retailer of petroleum products located in Baltimore, Maryland. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should conspicuously display a reference to case number KEF-0044.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $8,300,000 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with Crown Central Petroleum Corporation (Crown Central). The funds were provided to the DOE by Crown Central to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period January 1, 1973 through January 28, 1981.

The OHA proposes that the consent order funds be divided into two pools: one for crude oil and one for refined petroleum products. For the 7.8 percent of the consent order funds to be allocated to crude oil, the OHA tentatively proposes to distribute that money according to the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. *See* 51 FR 27899 (August 4, 1986). With regard to the balance of the consent order funds allocated to refined petroleum products,

the OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that the consent order funds should be distributed to firms and individuals that purchased Crown Central refined petroleum products during the consent order period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of Crown Central refined petroleum products and, in the case of large refund applicants, demonstrate that it was injured by Crown Central's pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order. Applications for Refund *should not be filed at this time.* Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: August 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

August 15, 1986.

Name of Firm: Crown Central Petroleum Corporation.

Date of Filing: June 30, 1986.

Case Number: KEF–0044.

On June 30, 1986, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Crown Central Petroleum Corporation (Crown Central). *See* 10 CFR Part 205, Subpart V. On March 4, 1986, the DOE and Crown Central entered into a Consent Order in which Crown Central agreed to refund $8,300,000 in settlement of certain issues regarding the firm's compliance with the federal petroleum price and allocation regulations during the period January 1, 1973 through January 28, 1981 (consent order period). In accordance with the ERA's request, this proposed decision contains OHA's plan for distributing these funds to qualified refund applicants.

I. Background

During the audit period, Crown Central was engaged in the production, importation, sale and refining of crude oil, the sale of residual fuel oil, motor gasoline, middle distillates, propane and other refined petroleum products and the extraction and fractionalization of natural gas liquids and natural gas liquid products. Thus during the audit period, Crown was subject to the Mandatory Petroleum Price and Allocation Regulations in 6 CFR Part 150 and 10 CFR Parts 210, 211 and 212. The ERA conducted audits of Crown Central's operations during the consent order period. These audits resulted in several enforcement proceedings being initiated against the firm for alleged violations. The parties settled the issues raised in the enforcement proceedings in a Consent Order which became final on April 29, 1986. 51 FR 15,959 (April 29, 1986) Under the terms of the Consent Order, Crown Central remitted $8,300,000 to the DOE in settlement of all pending civil and administrative claims, including those raised by the audits of the firm, that occurred between January 1, 1973 and January 27, 1981.[1] The funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution.

II. Proposed Refund Procedures

In previous refund proceedings involving major integrated refiners who have entered into global consent orders with the DOE the alleged violations have been divided up into two pools: one for crude oil and one for refined products. *See, e.g., Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*). According to information set forth in the **Federal Register** Notice announcing the proposed Crown Central Consent Order, 51 Fed. Reg. 8532 (March 12, 1986), approximately 7.8 percent of the aggregate amount of the alleged violations settled by the Consent Order concerns Crown Central's production and sales of crude oil. Therefore 7.8 percent of the principal contained in the Crown Central escrow account, or $647,400, will be set aside as a pool of crude oil funds. *See, Conoco, Inc.,* 13 DOE ¶ 85,316 (1985). The remaining 92.2 percent of the Crown Central funds, or $7,652,600, will be available for distribution to claimants who demonstrate that they were injured by Crown Central's alleged violations in sales of refined petroleum products.

A. Crude Oil

As we indicated above, $647,400 of Crown Central's settlement amount is attributable to Crown Central's crude oil overcharges. That sum will be placed in an escrow account and will be distributed according to the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. *See* 51 FR 27,899 (August 4, 1986).

B. Refined Products

The remainder of the Crown Central settlement fund, $7,652,600, will be distributed pursuant to the same two stage-refund process that we have utilized in numerous previous proceedings. *See Atlantic Richfield Company,* 14 DOE ¶ 90,062 (1986) (Proposed Decision); *Marathon Petroleum Company,* 14 DOE ¶ 90,060 (1986) (*Marathon*). In the first stage, purchasers of Crown Central refined petroleum products will be afforded an opportunity to submit refund applications. Past experience indicates that the potential claimants will fall into the following categories: (1) End-users, *i.e.,* consumers who used Crown Central refined products; and (2) Refiners, resellers or retailers who resold Crown Central refined products.

In establishing the procedures which will govern the first stage of the Crown Central Special Refund Proceeding, we will adopt certain presumptions which will permit claimants to participate in the refund process without incurring inordinate expense and enable OHA to consider and process refund applications in the most efficient manner possible.[2] *See Marathon, supra.* First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of refined petroleum products made by Crown Central during the consent order period and that

[1] Section 501 of the Crown Central Consent Order resolves all pending and potential civil and administrative claims by the DOE against Crown Central, with certain enumerated exceptions regarding the Entitlements Program and reporting requirements. *See* Consent Order section 501(a) through (c).

[2] The Subpart V regulations specifically authorize the use of presumptions in special refund proceedings. *See* 10 CFR Part 205, Subpart V.

refunds should therefore be made on a pro-rata or volumetric basis. In order to implement this presumption, we will calculate a volumetric figure which will be the per gallon refund amount. This figure is equal to the amount of available consent order funds divided by the number of gallons of refined petroleum products that Crown Central sold during the consent order period. Based on Crown Central's figures, the firm sold 6,785,983,790 gallons of refined petroleum products during the consent order period. Since the consent order amount that will be allocated to the pool of refined products is $7,652,600, the volumetric amount is $.0011 per gallon ($7,652,600/6,785,983,790 = $.0011). Thus a claimant will be eligible to receive a refund equal to the number of gallons of covered product purchased from Crown Central times the volumetric figure of $.0011, plus a proportionate share of interest. However, we also recognize that some claimants may have been disproportionately overcharged. Therefore, any purchaser may file a refund application with supporting evidence based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Marathon, supra; Sid Richardson Carbon and Gasoline Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

C. Specific Refund Application Requirements

We intend to adopt a number of presumptions and findings concerning injury. These presumptions and findings will excuse certain categories of refund applicants from proving that they were injured by Crown Central's alleged overcharges, thus simplifying the refund process for those applicants.

For end-users and ultimate consumers whose business used petroleum purchased from Crown Central to produce a non-petroleum product, we will adopt a finding that they were injured by Crown Central's alleged refined product overcharges. Since the selling prices of non-petroleum products were not subject to the federal petroleum price regulations, an analysis of the impact of the alleged overcharges on the final prices of these goods and services would be beyond the scope of this special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). End-users of Crown Central products need only document that they were ultimate consumers of a specific amount of Crown Central products, *viz.*, show monthly purchases from Crown Central, to make a sufficient showing that they were injured by the alleged overcharges.

We also will not require firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement to demonstrate injury as a result of alleged overcharges on refined products. Although such firms, *e.g.*, public utilities and agricultural cooperatives, generally would have passed overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note, however, that a cooperative's sales of Crown Central products to non-members will be treated in the same manner as sales by other resellers.

We will establish a rebuttable presumption that claimants who made only spot purchases from Crown Central were not injured. Spot purchasers tend to have considerable discretion in where and when to make purchases and generally would not have made spot market purchases from Crown Central at increased prices unless they were able to pass through the full amount of the selling price to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Therefore, a firm which made only spot purchases from Crown Central will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishing the extent to which it was injured as a result of its spot purchases from Crown Central.

In addition to the volumetric presumption, we will also employ a presumption with regard to injury for resellers and retailers of Crown Central's refined petroleum products. *See, e.g., Marathon supra; Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,224–25 (1982). First, for small claimants, we will adopt a small claims presumption. In previous refund proceedings we noted that it is often costly and time-consuming for a small claimant to gather and submit the factual information required for a showing of injury as a result of the overcharges by the consent order firm. *See Petroleum Heat and Power Co.*, 14 DOE ¶ 90,069 (1986). We therefore streamlined the refund process for small claims to ensure that potential claimants would not be denied an opportunity to receive a refund. We determined that claimants who were requesting a refund of $5,000 or less would not be required to submit any evidence of injury beyond establishing the volumes of refined petroleum products purchased during the consent order period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984). We propose adoption of that presumption in this proceeding.

For resellers and retailers seeking refunds greater than $5,000 but less than $50,000 excluding interest, we will require a more detailed showing of injury. In previous cases involving consent order funds remitted by a large integrated company we performed a detailed economic analysis to determine the months during the consent order period in which resellers or retailers were injured by the firm's alleged overcharges. The percentage of time in which there was injury generally ranged between 20 and 45 percent. However, in *Marathon, supra*, we did not perform an in-depth economic analysis. Rather, we adopted the mean percentage injury of several previous refund proceedings. That amount, 35 percent, became the level of injury for the medium range refund claimants. *See Marathon* at 90,128. Like Marathon, Crown Central is a regional firm.[3] Therefore for the reasons stated in *Marathon, supra*, we will adopt that percentage level of injury. Accordingly, any medium-range claimant may elect to receive a refund based on 35 percent of its total allocable or volumetric share. In order to receive a refund based on this 35 percent presumption, an applicant will only be required to substantiate the volume of refined products it purchased from Crown Central. *See, Marathon, supra* at 88,511.[4] However, any medium-range claimant may elect not to receive a refund based on this presumption and may, instead, prove the extent of its injury using the criteria set forth below for large refund claimants. As with any of the proposals set forth in this proceeding, we would welcome comments and data regarding this level of injury.

A large refund applicant, one whose total claims, if granted, would result in a refund of $50,000 or more excluding interest, will be required to provide more detailed showing of injury. In order to show that it did not pass along the alleged overcharges to its customers,

[3] Crown Central marketed its refined petroleum products in only 12 eastern states.

[4] However, using the volumetric figure of .0011 per gallon and the 35 percent medium range presumption, an applicant that purchased more than 4,545,455 gallons of Crown Central product would receive a refund of less than $5,000. Such a claimant may elect to limit his claim to $5,000 under the small claims threshold.

the firm will be required to demonstrate that it maintained a bank of unrecovered product costs beginning with the first month of the period for which a refund is claimed through the date on which that product was decontrolled. In addition, a claimant must specifically show that market conditions would not permit it to pass through those increased costs. *See Panhandle Eastern Pipeline Co./I.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 at 88,265 (1983). For periods in which the DOE regulations did not require retailers or resellers to compute cost banks, a retailer or reseller will only be required to show that market conditions prevented it from recovering increased costs. Such a showing might be made through a demonstration of lowered profit margins, decreased market share, or depressed sales volume during the period of purchases from Crown Central. *API, supra.*[5]

We also recognize that we may receive claims alleging Crown Central allocation violations. Such claims would be based on Crown Central's alleged failure to furnish petroleum products that it was obliged to supply to the claimant under the DOE allocation regulations. *See* 10 CFR Part 211. We will evaluate refund applications based on allocation claims by referring to standards such as those set forth in *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984), and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984).

D. General Refund Application Requirements

In addition to the specific requirements outlined above, all applications for refund must be in writing and signed by the applicant. An application must make reference to the Crown Central Petroleum Corporation Special Refund Proceeding (Case No. KEF-0044). Each applicant must submit a monthly purchase schedule for Crown Central refined petroleum products during the period in which the relevant product was controlled. If an applicant purchased Crown Central refined petroleum products from a reseller, it must establish its basis for belief that the products originated with Crown Central and identify the reseller from whom the product was purchased.

Applications for Refund *should not be filed at this time.* Detailed procedures for filing Applications for Refund will be provided in a final Decision and Order. Before distributing any portion of the consent order fund, we intend to solicit comments on the proposed refund procedures and to publicize the distribution process, in order to provide an opportunity for an affected party to file a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the **Federal Register.**

E. Distribution of the Remainder of the Consent Order Funds Attributable to Crown Central's Refined Product Sales

In the event that money remains after all first stage claims have been disposed of, undistributed funds attributable to Crown Central's alleged refined product violations may be distributed in a number of different ways in the second stage of the refund proceeding. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Crown Central's alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Crown Central Petroleum Corporation pursuant to the Consent Order made final on April 29, 1986, will be distributed in accordance with the foregoing Decision.

[FR Doc. 86-19223 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

[5] We noted in Marathon that if a large refund claimant was unable to prove injury we would still consider a request for refund at the presumption percentage level of injury for medium-range claimants.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $1,101,123.19, plus interest, obtained as a result of two consent orders and one letter of agreement which the DOE entered into with Gull Industries, Inc. of Seattle, Washington (Case Nos. HEF-0084, HEF-0085, HEF-0086). The funds will be available to customers who purchased refined petroleum products from Gull during the applicable consent order periods.

DATE: Date and address: Applications for refund of a portion of the consent order fund must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to: Gull Industries, Inc. Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20595. A separate application must be filed for each of the consent order funds. All applications should conspicuously display a reference to the applicable case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order relates to two consent orders and one letter of agreement (the consent orders) entered into by the Department of Energy and Gull Industries, Inc. of Seattle, Washington. The consent orders settled possible pricing violations with respect to Gull's sales of motor gasoline and middle distillates during the consent order periods. The case numbers, consent order periods, and consent order amounts are set forth below:

Case No.	Consent order period	Escrow amount
HEF-0084	May 3, 1975—June 30, 1977, February 1, 1974—September 30, 1974.	$52,342.00
HEF-0085	August 19, 1973—June 9, 1977.	873,880.54
HEF-0086	November 1, 1973—May 2, 1975.	174,900.65

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order fund. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on January 16, 1986. 51 FR 3410 (January 27, 1986).

As the Decision and Order indicates, applications for refund from the consent order funds may now be filed. A separate application must be filed for each of the consent order funds. Applications must be postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Applications will be accepted from customers who purchased refined petroleum products from Gull during the relevant consent order periods. The specific information required in each application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: August 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy Special Refund Procedures

August 4, 1986.

Name of Firm: Gull Industries, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0084,HEF-0085,HEF-0086.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) of the DOE on October 13, 1983. The petition requests that the OHA formulate and implement special procedures for the distribution of funds received pursuant to three consent orders entered into by the DOE and Gull Industries, Inc. (Gull) of Seattle, Washington.

This Decision contains the procedures which the OHA has formulated to distribute the three Gull Settlement funds. Claimants should take note of the requirements which are applicable to their particular circumstances for each of the three special refund proceedings. *See* section III(B-(F). The specific background and filing requirements for each consent order fund are set forth in section IV(A)-(C). The Appendices to this Decision set forth the names of and potential refund amounts for eligible Gull customers in each of the three consent order proceedings. Claimants should consult these Appendices before completing the suggested refund application forms appened to this Decision.

I. Background

Gull sells motor gasoline and middle distillates in the States of Idaho, Oregon and Washington. It sells those products to other petroleum marketers (resellers), in bulk sales to end-users, and to retail stations which were either Gull-owned and operated by commission agents (commission accounts) or Gull-owned but leased to independent operators ("consignment" accounts).[1] Gull was therefore a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31. ERA audits of the firm's operations revealed possible violations of the Mandatory Petroleum Price Regulations. In order to settle all claims and disputes between Gull and the DOE regarding the firm's compliance with the DOE price regulations during the audit periods involved, the firm entered into three consent orders with the DOE. The consent orders were signed on April 7, 1978 (Case No. HEF-0086), September 1, 1981 (Case No. HEF-0084), and January 15, 1982 (Case No. HEF-0085). The consent orders refer to the ERA's allegations of overcharges, but that no formal findings of violations were made. Additionally, the consent orders state that Gull does not admit that it committed any such violations. The case numbers and applicable consent order information are set forth below:

Case numbers	Consent order penods [1]	Consent order amounts [2]
April 7, 1978 Consent Order:		
HEF-0086	Nov. 1, 1973-May 2, 1975.	[3] $174,900.65
September 1, 1981 Consent Order:		
HEF-0084	Feb. 1, 1974-Sep. 30, 1974.	52,342
	May 3, 1975-Jun. 30, 1977.	
January 15, 1982 Consent Order:		
HEF-0085	Aug. 19, 1973-Jun. 9, 1977.	[4] 873,880.54

[1] The consent order periods for middle distillates in HEF-0084 and HEF-0085 terminated with the decontrol of those products on June 30, 1976.

[2] These amounts represent the portions of the Gull consent order funds subject to the ERA's October 13, 1983 Subpart V Petition.

[3] In executing the April 7, 1978 consent order, Gull agreed to refund:

(i) $198,092.28 to the marketplace through price rollbacks at its commission account stations;

(ii) $169,121.67 to its wholesale accounts, i.e., reseller and bulk purchase end-user customers; and

(iii) $165,942.12 to its consignment accounts, i.e., independent operators who leased Gull-owned stations.

As of August 31, 1978, Gull had completed its rollback obligation at its commission account stations (category (i) above). According to the terms of the consent order, Gull was to refund directly any alleged overcharges of $1,000 or less to its wholesale accounts (category (ii) above), except for one of those customers, Seattle Ready Mix, who was to receive $2,868.53. In order to accomplish refunds to its other wholesale accounts and to its consignment accounts (category (iii) above), Gull was required to deposit the remainder of its refund obligation in an interest bearing escrow account. From this account, Gull paid refunds, subject to DOE approval, to its consignment accounts and its wholesale accounts that had not received direct refunds. Gull was also permitted to offset its consignment account refund obligations by price reductions, as approved by the DOE. Consent Order ¶ 7. By April 10, 1981, Gull had completed its refund obligations to all but 26 of its customers (12 wholesale accounts and 14 consignment accounts). The refund amounts attributable to these customers were deposited with the DOE. The consent order amount in Case No. HEF-0086 represents $100,859.42 in residual funds which were not distributed to consignment accounts and $74,041.23 which was deposited with DOE as part of Gull's restitution for alleged violations in wholesale sales.

[4] Case No. HEF-0085 actually pertains to a letter of agreement (hereinafter referred to in this Decision as a consent order) between the DOE and Gull. The consent order involves Gull's sales of Texaco Inc. (Texaco) petroleum products during the period August 19, 1973 through June 9, 1977, and sets forth the terms for distribution by Gull of funds it received from Texaco pursuant to a consent order executed by the DOE and Texaco on April 25, 1978. The letter of agreement required that Texaco's refund to Gull totalling $3,087,770.72, plus interest, be distributed in the following manner:

(i) $156,180.31, plus interest, to be refunded by Gull directly to identified customers to whom it had passed through Texaco overcharges,

(ii) $2,100,694.26, plus interest, to be retained by Gull, to compensate it for Texaco overcharges that Gull did not pass through to its customers, and

(iii) $830,896.15, plus interest, to be paid to the DOE for disbursement to Gull customers unidentified in the audit.

See January 15, 1982 Letter of Agreement ¶ 5a-c.

The consent order amount in this case represents the $830,896.15 principal and $42,984.39 interest which accrued prior to Gull's payment to the DOE.

On January 16, 1986, OHA issued a Proposed Decision and Order setting forth a tentative plan for the distribution of the three Gull escrow accounts. 51 FR 3410 (January 27, 1986). We stated in the Proposed Decision that the basic purpose of a special refund proceeding is to make restitution for injuries which were incurred as the result of alleged or adjudicated violations of the DOE regulations. In order to effectuate restitution in this proceeding, we proposed to establish three separate first-stage claims procedures whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of the alleged overcharges settled by one or more of the consent orders. In addition to publishing the Proposed Decision in the **Federal Register**, we sent copies of the proposed procedures to over 250 Gulf customers whose names and addresses were listed in the EPA audit files. We have received written comments from two of these customers and from various States.[2] The comments we have received from the Gull customers generally concern the eligibility for refunds of (a) commission accounts, and (b) firms not specifically named in the Appendices to the Proposed Decision. We will specifically

[1] The term consignment accounts, as used by Gull, does not refer to the type of operations the DOE has traditionally called "consignees" in other situations. *See, e.g.*, Ruling 1975-8, 2 Fed. Energy Guidelines ¶ 16,048; *See also Texas Oil Marketers Association*, 7 DOE ¶ 81,066 at 82,702 (1980); *Gulf Oil Corp./C.F. Canter Oil Co.*, 13 DOE ¶ 85,388 (1986). In its business operations, Gull used the term "commission" accounts to refer to those entities that we have traditionally called "consignees."

[2] Comments were filed on behalf of the States of Washington, Arkansas, Delaware, Louisiana, North Dakota, Rhode Island, Iowa, Utah, and West Virginia. These States assert that state governments are the proper recipients of second stage refunds. However, the purpose of this Proposed Decision and Order is limited to establishing the procedures to be used in filed and processsing claims in the first stage of the refund proceeding. The formulation of plans for the distribution of any remaining funds will necessarily depend on the size of the remaining escrow accounts. It would therefore be premature for us to consider the issues raised by the States at this time. Moreover, with the exception of the State of Washington, it is not clear that any of the commenting States has a direct interest in this proceeding which involves Gull's sales in Washington, Idaho and Oregon.

address these comments in the appropriate sections below.

II. Jurisdiction and Authority

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to utilize the Subpart V process to distribute such funds where appropriate. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement,* 9 DOE ¶ 82, 553 (1982); *Office of Enforcement,* 9 DOE ¶ 82, 508 (1981); *Office of Enforcement,* 8 DOE ¶ 82, 597 (1981). As we stated in the Proposed Decision, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Gull consent order funds. We will therefore grant the ERA's petition and assume jurisdiction over the funds.

III. General Refund Procedures

We have determined that the procedures proposed for two of the three special refund proceedings (Case Nos. HEF–0086 and HEF–0085) should be adopted as final. With regard to the proceeding involving the September 1, 1981 consent order (Case No. HEF–0084), we have concluded that adjustments to our proposed methodology should be made in order to more equitably distribute the consent order fund. The distribution of all refunds will take place in two stages. In the first stage, refund monies will be refunded to those customers who purchased Gull motor gasoline or middle distillates during the applicable consent order periods and who demonstrate that they were injured by the alleged overcharges. Claimants in each of the three proceedings will fall into one of two general categories: (i) Resellers and retailers (hereinafter collectively referred to as resellers) who resold Gull petroleum products or (ii) individuals or firms that consumed Gull petroleum products for their own use (end-users). Such purchases must meet the specific requirements set forth in the applicable section governing each consent order. For a general overview of eligibility and potential refund amounts, claimants should refer to Appendices A and B. After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See Office of Special Counsel,* 10 DOE ¶ 85,048 (1982) (*Amoco*). As we indicated earlier, however, we will not discuss second-stage refund procedures in this Decision and Order.

A. Showing of Injury

As in prior refund proceedings, we will require claimants who were resellers of refined petroleum products purchased from Gull to demonstrate that during the applicable consent order period they would have maintained their prices for the petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that, at the time it purchased the product from Gull, market conditions would not permit it to increase its prices to pass through to its customers the additional costs associated with the alleged overcharges. *See OKC Corp./Hornet Oil Co.,* 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.,* 10 DOE ¶ 85,009 (1982). In addition, the reseller applicant is generally required to show that it had a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover the increased costs associated with the alleged overchanges by increasing its own prices. The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.C., Inc., 10 DOE ¶ 85,014 (1982).*

B. Small Claims Presumption

In each of these proceedings, we will adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Gull petroleum products. Such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g., Marion Corp.,* 12 DOE ¶ 85,014 (1984) (*Marion*). Therefore, any reseller whose claim in any of the Gull special refund proceedings is $5,000 or less, or who chooses to limit its claim in any of the proceedings to $5,000, does not need to make a detailed showing of injury in order to be eligible to receive a refund in that proceeding.

C. End-users

As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges covered by the consent orders. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the consent order period, and were not required to keep records which justified selling price increases by reference to cost increases. *See, e.g., Marion; Thornton Oil Corp.,* 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of these special refund proceedings. *See Office of Enforcement,* 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.,* 12 DOE ¶ 85,069 at 88,209 (1984) and cases cited therein. Therefore end-users of Gull petroleum products do not need to make a detailed showing that they were injured by the alleged overcharges.

D. Spot Purchasers

We are also adopting a rebuttable presumption that resellers which made only spot purchases of Gull petroleum products have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of Gull's product at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. *See Vickers,* 8 DOE at 85,396–97. Accordingly, a firm which made only spot purchases from Gull will not receive a refund, even one at or below the small claims threshold level, unless it presents evidence which rebuts the spot purchaser presumption and establishes the extent to which it was injured as a result of its spot purchase(s).[3]

E. Commission Accounts

In the Proposed Decision, we proposed that Gull's commission accounts be ineligible to receive refunds. This proposal was based on our experience in previous cases where we have adopted the rebuttable

[3] The Gull audit files specifically state that two reseller customers, Winston Oil Company and Drain Oil were spot purchasers. Under our procedures, these firms are ineligible to receive a refund unless they rebut the spot purchaser presumption.

presumption that commission agents which sold a consent order firm's products were not injured as a result of their contractual arrangement. *See, e.g., Amoco* at 88,200. In the *Amoco* Decision, we pointed out that commission agents generally "established their prices at a set, per gallon commission fee that was added to Amoco's wholesale price. That type of arrangement insured that a [commission account] did not absorb any alleged overcharges." *Id. See also Tenneco Oil Co./Kellermyer Inc.*, 10 DOE ¶85,092 (1983). In numerous previous cases, we have adopted a presumption that commission accounts of this type generally did not experience injury as a result of their purchases from their supplier. In those cases we have stated, however, that such accounts would be permitted to rebut the presumption by establishing that their sales volumes, and their corresponding commission revenues, declined due to the alleged uncompetitiveness of their supplier's prices. *Amoco* at 88,200; *Aztex Energy Co.*, 12 DOE ¶85,116 at 88,358–59 n.2 (1984); *cf. Gulf Oil Co./C.R. Hill Oil Co.*, Case No. RF40–1004 (September 11, 1985) (Proposed Decision) (generalized arguments to rebut presumption rejected).

We will adopt the same presumption in the Gull refund proceedings.[4] However, the comments we have received regarding this issue require further discussion of the applicability of the presumption in this proceeding. Those comments have confirmed our belief that a number of Gull's commission accounts were at one time independent consignment accounts. *See* Gull Proposed Decision at n.6. As we indicated in the Proposed Decision, the presumption of no injury will not apply to any commission agent with regard to its purchases of Gull products during any period in which it was an independent consignment or wholesale account.

A number of firms who were identified as commission accounts during the audit period have commented that they were involuntarily forced by Gull to give up their consignment status, and that this special refund proceeding should be used to address their contractual grievances. While we recognize that these firms may have legitimate grievances against Gull, we reject this argument because it is irrelevant to this proceeding. The alleged violations and affected customers covered by the consent orders were clearly defined in those documents. The April 7, 1978 consent order itemized the alleged regulatory violations and included attachments which set forth the names of Gull customers and the amounts by which they were allegedly overcharged. *See* n.4, *supra*, and section IV.A *infra*. *See also* Proposed Decision, Appendices A & B. The September 1, 1981 consent order covered "specified transactions" and the accompanying audit files specifically identified the customers' names and alleged overcharge amounts. *See* December 9, 1980 Computer Printout entitled "Gull Industries Overcharges and Interest/Texaco Refund." In the case of the January 15, 1982 consent order concerning Gull's alleged passthrough of Texaco's overcharges, the consent order specifically provided for refunds to be made to Gull customers to whom Gull had passed through the Texaco overcharges. *See* n.5. As we have already stated, commission accounts did not actually purchase the Gull product and therefore could not have been overcharged. Since the first two consent orders set forth specific alleged overcharge amounts for specified customers, and the third consent order covered alleged overcharges to customers which *purchased* Gull products, it is clear that the type of private contractual grievance claim advanced by the commission accounts falls outside the scope of the consent orders.

F. $15 Minimum

We will also establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶82,541 (1982); *see also* 10 CFR 205.286(b).

IV. Specific Refund Procedures

A. Case No. HRF–0086 (April 7, 1978 Consent Order)

We have not received any specific comments on our proposed distribution plan concerning the April 7, 1978 consent order and we will therefore adopt it. The April 7 consent order covers Gull's sales of motor gasoline and middle distillates during the period November 1, 1973 through May 2, 1975. According to the consent order, the alleged overcharges occurred in specified transactions during the consent order period. Consent Order ¶¶3, 4 and 5.[5] The ERA audit files contain very specific data concerning the customers and alleged overcharges involved in the transactions covered by the April 7, 1978 consent order. We therefore find it is appropriate to use the ERA audit files to determine the manner in which refunds should be distributed. *See Marion.* In relying on the information in the ERA files, we note that the ERA audit of the Gull transactions covered by the April 7, 1978 consent order had been substantially completed, that a Notice of Probable Violation had been drafted but not issued, and that the allegedly overcharged parties and amounts were clearly identified in the appendices attached to the consent order and the subsequent records kept to monitor Gull's progress in issuing refunds.

The April 7, 1978 consent order fund will therefore be distributed to the Gull consignment and wholesale account customers who have not already received their designated refund amount.[6] In order to allocate the consent order fund in a manner which will correspond to the injuries experienced, we will use the information provided in the April 7, 1978 consent order and the reports which Gull prepared in accordance with paragraph 12 of the consent order. These reports show for each customer the alleged overcharge amount plus interest, the amounts refunded by Gull prior to the consent order, and amounts refunded during the period from the signing of the consent order until Gull's remittance of funds to the DOE. The ERA used these reports to monitor Gull's refunds to identified customers. In the absence of any later documentation of additional payments or price rollbacks by Gull to its consignment and wholesale account customers, we presume that the balances remaining as stated in the ERA audit files are accurate. We will therefore use these records to determine the firms' potential refunds. *See Harris Enterprises, Inc.*, 13 DOE ¶85,179 (1985). The potential refunds for the specified firms are set forth in Column 1 of Appendix A of this Decision and Order.

[4] Gull's commission account customers are listed in Appendix C to this Decision and Order.

[5] The alleged overcharges resulted from, *inter alia*, Gull's erroneous base period and maximum lawful selling price computations based on the firm's failure to take into account certain May 15, 1973 transactions and to place spot purchasers into the appropriate class of purchaser.

[6] As indicated earlier, the ERA audit files reveal that, pursuant to the 1978 consent order, Gull completed refunds to retail customers at all of its commission account stations and to a portion of its wholesale and consignment accounts. *See* n.4. The wholesale and consignment accounts with remaining refund balances should receive further restitution for Gull's alleged overcharges.

In addition to the specified refund, successful claimants will be entitled to a proportionate share of the interest which has accrued since the funds were remitted to the DOE.

B. Case No. HEF–0084 (September 1, 1981 Consent Order)

The September 1, 1981 consent order covers Gull's sales of motor gasoline and middle distillates during the period May 3, 1975 through June 30, 1977 and alleged credit card violations between February 1, 1974 and September 30, 1974. According to the refund methodology set forth in the Proposed Decision, eligibility for the September 1, 1981 consent order fund would be determined by giving each firm listed in the April 7, 1978, consent order a pro rata share of the September 1, 1981 consent order fund. This proposal was based upon our belief that, because the audit underlying the September 1, 1981 consent order was the continuation of the audit underlying the April 7, 1978 consent order, it covered similar alleged violations in transactions with roughly the same customer population. *See* January 16, 1986 Proposed Decision and Order at 10–11. Upon our review of the comments received regarding this consent order and our further review of the Gull audit files, we have determined that there is a more appropriate and equitable method of distributing this consent order fund. In this regard, we now recognize that the proposed methodology would not effectuate the restitutionary purposes of this proceeding since certain allegedly overcharged firms who began purchasing Gull petroleum products after May 2, 1975 (the termination date of the April 7, 1978 consent order) would not be eligible for refunds, and firms that purchased before May 2, 1975 but did not purchase after that date would be eligible. This would be an inappropriate and unfair result. Upon further review of the relevant audit files, we find that specific wholesale and consignment accounts were identified by the ERA as being allegedly overcharged by Gull during the consent order period. The audit files also show the amounts by which each customer was allegedly overcharged. Since we are relying on the accuracy and validity of audit files in Case No. HEF–0086 and HEF–0085, we believe it is appropriate to do so in the present case also. We will therefore use the applicable audit files in determining refund eligibility and amounts. The potential refunds for the identified firms who are eligible in this proceeding are set forth in Column 2 of Appendix A of this Decision and Order. A successful applicant will also receive a pro rata share of the interest which has accrued on the fund since its remittance to the DOE.

C. Case No. HEF–0085 (January 15, 1982 Consent Order)

We did not receive any comments opposing the proposed refund methodology in this case and we will therefore adopt it as final. The January 15, 1982 consent order covers all Gull sales of Texaco motor gasoline and middle distillates during the period August 19, 1973 through June 9, 1977. This consent order fund will be distributed to Gull customers who have not already received a direct refund from Gull pursuant to the January 15, 1982 consent order and who satisfactorily demonstrate that they were injured by Gull's passthrough of Texaco's alleged overcharges. *See* n.5. The consent order indicates that the ERA reviewed Gull's records to determine the extent of Gull's passthrough of Texaco's alleged overcharges to certain customers. The consent order specified 41 firms and the amounts which should be directly refunded by Gull to its customers from its Texaco consent order fund. The audit records indicate that these identified firms all received their refunds. These firms are therefore ineligible for refunds from the consent order escrow account. The eligible claimants will therefore be Gull customers who did not receive a refund from Gull in connection with Texaco's alleged overcharges.[7] Column 3 of Appendix A indicates whether a firm is eligible for a refund in Case No. HEF–0085.

In order to calculate refunds for eligible claimants in this proceeding we will adopt a volumetric refund presumption. The volumetric presumption assumes that the alleged Texaco overcharges were spread equally over all gallons of Texaco petroleum products marketed by Gull. The volumetric refund amount in this case will be calculated by dividing the amount deposited in the consent order escrow account by the total gallonage of Texaco covered products sold by Gull to its wholesale and consignment accounts during the January 15, 1982 consent order period (excluding gallons for which refunds were made by Gull). Based upon the information available to us, the volumetric refund amount will be $0.007470 per gallon, exclusive of interest ($873,880.54 consent order fund divided by 116,990,880 gallons of Texaco motor gasoline and middle distillates resold by Gull during the consent order period). Any Gull customer (including a firm not listed in Appendix A) who has not already received a refund from Gull for the Texaco overcharges may file a refund application based on the total gallons of motor gasoline and middle distillates it purchased during the August 19, 1973 through June 9, 1977 consent order period.[8]

In order to assist claimants in filing a refund application in this proceeding, we have set forth in Appendix B the partial purchase amounts (and the periods in which those purchases were made) which we located in the audit files. An eligible applicant may rely on these volume figures for the period of time involved in lieu of submitting monthly purchase schedules. These partial figures only represent purchases made during the period May 1975 through June 1977, or 26 months of the 45 month consent order period. An eligible applicant should consult its own records to determine the amount of Texaco product purchased from Gull during the period August 19, 1973 through April 30, 1975. If an applicant requests a refund for volumes purchased during the period prior to May 1975, it must include a monthly breakdown showing gallon amounts purchased.[9] A successful applicant will receive a refund equal to the total number of gallons of Texaco products it purchased from Gull during the consent order period times the volumetric refund amount, plus a proportionate share of the accrued interest.[10]

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[7] Texaco also made direct refunds totalling $1,777,810.40 to Gull customers. These refunds have no bearing on the current proceeding, and a firm may apply for a Gull refund regardless of whether it received a direct refund from Texaco.

[8] Claimants will not be eligible for refunds with respect to middle distillate purchases after June 30, 1976, the date that product was decontrolled.

[9] If an applicant is unable to determine precise volume amounts for the prior period, it may submit estimates. In order for estimates to be considered, however, an applicant must provide an explanation as to how the estimates were derived. For example, an applicant may use the figures provided as a basis for extrapolating its August 1973 through April 1975 purchase volumes.

[10] Since a consent order is necessarily the result of compromise, the volumetric refund amount derived from a consent order settlement is also a compromise. The volumetric refund amount does not purport to calculate the exact amount that a customer may have been overcharged. Rather it is a method by which we can estimate the portion of the consent order fund that should be allocated to a given purchaser. We recognize that the impact on an individual purchaser could have been greater than the applicable volumetric refund amount, and any purchaser may file a refund application based on a claim that it incurred a disproportionate share of the injury associated with Texaco's alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984); *Sid Richardson Carbon & Gasoline Co. and Richardson Products Co./ Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984) and cases cited therein.

V. Application for Refund Procedures

We have determined that the procedures described in this Decision and Order are the most equitable and efficacious means of distributing the three consent order funds. Accordingly, we shall now accept applications for refund from customers who purchased Gull motor gasoline or middle distillates during the relevant consent order periods.[11] All potential applicants should review the Appendices of this Decision to determine in which proceeding(s) they are eligible to apply for a refund. Suggested application forms are attached to this Decision and Order. While these forms need not be used, all of the items in them must be included in a refund claim in order for it to be processed. Each claimant must submit a separate refund application for each of the consent order funds from which it is claiming a refund. All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E-234, 1000 Independence Avenue SW., Washington, DC. Any applicant that believes its application contains confidential information must so indicate on the first page of its application and submit two additional copies from which the confidential material has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

It Is Therefore Order That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Gull Industries, Inc. pursuant to the consent orders executed on April 7, 1978 and September 1, 1981 and the Letter of Agreement signed on January 15, 1982 may now be filed.

(2) All Applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: August 4, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[11] Appendix D lists the eligible applicants whom we are unable to locate due to outdated addresses. We have requested Gull's assistance in locating these potential claimants.

Appendix A.—Consignment and Wholesale Accounts

[Eligibility]

Firm	HEF-0086 principal	HEF-0084 principal	HEF-0085 eligible
A-1 Oil	$0.00	$0.00	Yes
Acme	.00	53.00	Yes
Addison, F.	0.00	709.90	No
Allen, Lon	0.00	5,658.00	Yes
Autotronic [1]	0.00	3.04	Yes
B&B Service (T. Jarvis) [1]	0.00	11.41	No
Beaverton (C. Redmond) [1]	0.00	13.51	No
Bob's Gull (B. Grinder)	7,417.26	88.75	Yes
Bolser Tire Service	4,263.18	0.00	Yes
C.K. Company (G. DeChenne)	0.00	0.00	No
Champion of Washington	0.00	0.00	Yes
Christensen Oil	0.00	0.00	No
Chuck's Oil	0.00	0.00	No
Circle S Dist. (R. Snyder) [1]	0.00	1.10	Yes
Coronato, Mario (Auburn Gull)	9,211.02	0.00	No
D&D Discount (D. Roady)	11,150.79	0.00	Yes
D&D Distributing	0.00	0.00	Yes
Denny's Gull	1,459.53	2,181.08	No
Denny's Heating Oil	0.00	0.00	No
Denny's HO [1]	0.00	6.60	No
Digas Oil	0.00	106.65	Yes
Distler, J. (Independent Oil)	130.90	1,606.24	No
Drain Oil [2]	0.00	0.00	No
Don's Truck Stop (D. Ratliff)	12,175.14	225.37	No
Dvorak Oil	0.00	701.57	Yes
Eigell, Robert	6,515.82	0.00	Yes
Eugene Heating Oil [1]	0.00	14.81	No
Farley, Herbert	0.00	0.00	Yes
Farwest Cab	0.00	0.00	Yes
Ferguson	0.00	0.00	Yes
Flores, William	0.00	297.96	Yes
4 Corners Gull (M. Wilson)	0.00	707.02	No
Flying J	0.00	3,173.67	No
Franko Oil	0.00	204.48	Yes
Gas-A-Matic	0.00	21.39	Yes
Glenn's Gull (G. Mentzel) [1]	0.00	1.78	No
Golden Gate	0.00	6,138.16	No
Gor-Mart	0.00	0.00	Yes
Goshen T/S (R. Russell/Newton)	0.00	2,055.29	No
Grand Gull (J. Slifman)	0.00	0.00	No
Gunner, Don (D & D Gull)	0.00	0.00	No
Harper	0.00	0.00	Yes
H&E Enterprises	0.00	0.00	Yes
Hanson, Thomas	0.00	1,867.95	No
Hill, Charles	0.00	0.00	Yes
Huling Brothers	0.00	41.12	No
Jack's Auto Parts	1,608.36	0.00	No
Jerry's Gull (G. Way) [1]	0.00	1.73	No
Joe's Gas Stop	0.00	0.00	Yes
Johanson, Ron [1]	0.00	13.36	No
John's Carousel	0.00	0.00	Yes
Leathers Oil	0.00	1,489.42	Yes
Leisle, Aaron	0.00	867.55	No
Lost Creek (C. Liles)	0.00	15,414.51	No

Appendix A.—Consignment and Wholesale Accounts—Continued

[Eligibility]

Firm	HEF-0086 principal	HEF-0084 principal	HEF-0085 eligible
Martin, Stanley & Marge	12,078.53	27.77	No
Maxwell Oil [3]	1,387.70	0.00	Yes
McCall Oil & Chemical	0.00	1,924.85	No
Mennis Oil Co	0.00	0.00	Yes
Mercer, D.E.	0.00	0.00	No
Milk Barn (Millett)	0.00	0.00	Yes
Midway Service (B. Jones)	348.89	18.82	Yes
Mills, Arthur	7,521.44	0.00	No
Mustang Oil	0.00	337.33	No
Newlun, Al	2,925.30	0.00	Yes
New Way Fuel (Aaberg)	6,666.32	3,438.78	No
Nicholls' Cash System	0.00	0.00	Yes
Northwest Co	0.00	0.00	Yes
OK Cash	0.00	0.00	Yes
Pacific Petroleum	0.00	0.00	Yes
Paramount Oil	1,382.95	0.00	Yes
Perovich, William [1]	552.33	13.14	Yes
Pittman, Harold	0.00	0.00	Yes
Powerine	0.00	0.00	Yes
Port Angeles Pulp Workers	0.00	0.00	Yes
Prine Oil	0.00	0.00	Yes
Quick Service [2]	0.00	1.47	Yes
Reid, Claire (Bestway)	0.00	0.00	Yes
Reinhard Distributing	2,058.25	0.00	Yes
Robben Oil	0.00	0.00	No
Ronco Oil	0.00	82.42	Yes
Rusich, Ivan	0.00	0.00	No
Salem #1/Russell #2 (H. Russell)	0.00	113.77	Yes
Salem #2/Boedecker	0.00	0.00	No
Salem #2/Flynn	0.00	0.00	Yes
Salem #2/Keith Carlson	0.00	0.00	Yes
Salem #2/Mackens	0.00	0.00	Yes
Salem #2/Russell #1	0.00	0.00	No
Seattle Ready Mix	0.00	318.90	Yes
Seiflein, Richard	4,872.08	0.00	No
Shane, Richard [1]	5,057.94	1.20	Yes
Shourd, William [1]	0.00	4.24	No
Smith, Ed	0.00	0.00	Yes
Smith Brothers	0.00	0.00	Yes
Smith, R.H	0.00	0.00	Yes
Spear Oil	0.00	0.00	Yes
Spurlock, Lou	0.00	572.34	No
Stanley, Everett	3,280.93	0.00	Yes
Star Oil [1]	3,015.57	1.05	Yes
Stark/Boedecker	0.00	0.00	No
Stark/Russell #1 (H. Russell)	0.00	0.00	Yes
Swanstrom, Howard	0.00	0.00	No
Taylor, John	0.00	1,566.57	No
Thrifty Gas	0.00	0.00	Yes
Thunderbird	0.00	0.00	Yes
Time Oil	0.00	0.00	No
Tire Center	0.00	0.00	Yes
Tru-El	0.00	0.00	Yes
Truax, Eugene	3,175.62	0.00	Yes
Traux, Portland	0.00	0.00	Yes
Trunkey Oil	4,864.90	0.00	No
USA Petroleum	0.00	0.00	Yes
Valley Coop	0.00	0.00	Yes
Voss, Mike	0.00	43.27	No
Vitt, Edmund	0.00	102.57	Yes
Wagnon Trucking	0.00	0.00	Yes
Wambough, Fred	0.00	67.68	Yes
Westcott, Steve	10,930.46	0.00	No
Western Oil Sales	0.00	0.00	Yes
Winston Oil Co [1,3]	0.00	6.44	Yes
Yaden, Cliff	1,309.35	22.91	Yes
Totals	174,900.65	52,342.00	

[1] These firms fall below the minimum $15.00 for granting a refund in at least one of the special refund proceedings. Although these applicants are ineligible to apply for the refund which is below $15.00, they may still apply for a refund in another case if they are eligible. *See* section III.F.

[2] These firms are listed in the Consent Order as spot purchasers.

[3] Maxwell is currently in default in the amount of $9,943.39 plus interest in its obligations pursuant to a settlement agreement it entered into with the DOE. *See Maxwell Oil Co.*, Case No. HEF-0125 (dismissed by letter July 3, 1985). In the event Maxwell files a refund application, the fact that it is in arrears to the DOE will be taken into consideration in determining whether to disburse any refund.

APPENDIX B.—HEF-0085—CONSIGNMENT AND WHOLESALE ACCOUNTS

[Texaco gallons purchased during period May 1975–June 1977 as set forth in audit files [1]]

Firm	Volume of motor gasoline purchased during following period	Period in which volumes were purchased	volume of middle distillates purchased during following period	Period in which volumes were purchased
A-1 Oil	4,999	1/76-3/76	824,781	1/76-6/76
Acme	70,350	5/75-6/75	0	n/a
Allen, Lon	1,217,074	5/75-6/77	0	n/a
Autotronic	7,934,366	10/75-2/77	0	n/a
Bob's Gull (B. Grinder)	123,579	5/75-2/76	6,544	5/75-2/76
Bolser Tire Service	27,075	5/75-6/76	0	n/a
Champion of Washington	9,200	7/75	0	n/a
Circle S Dist. (R. Snyder)	108,900	5/75-12/75	0	n/a
D&D Discount (D. Roady)	595,185	5/75-2/77	0	n/a
D&D Distributing	38,305	5/77	0	n/a
Digas Oil	2,860,453	5/75-5/77	0	n/a
Dvorak Oil	180,751	5/75-7/75	62,512	4/75-6/76
Eigell, Robert	249,706	5/75-9/75	0	n/a
Farley, Herbert	0	n/a	1,755	3/76-6/76
Farwest Cab	539,200	9/75-5/76	0	n/a
Ferguson	89,420	6/75-7/76	0	n/a
Flores, William	357,371	5/75-11/75	0	n/a
Franko Oil	2,912,935	5/75-6/76	8,000	5/75
Gas-A-Matic	223,303	6/75-8/75	0	n/a
Gor-Mart	315,300	5/75-7/75	0	n/a
Harper	106,850	5/75-12/75	0	n/a
H&E Enterprises	1,063,264	5/75-6/77	0	n/a
Hill, Charles	1,338,114	5/75-6/77	0	n/a
Joe's Gas Stop	279,750	6/75-3/76	93,408	9/75-6/76
John's Carousel	438,965	7/75-12/76	0	n/a
Leathers Oil	1,908,595	5/75-9/76	0	n/a
Martin, Stanley & Marge	514,320	5/75-9/76	0	n/a
Maxwell Oil	872,079	6/75-1/76	291,619	5/75-1/76
Mennis Oil Co.	8,250	5/75-6/75	294,911	5/75-6/76
Midway Service (B. Jones)	500	3/77	0	n/a
Milk Barn (Millett)	407,200	5/75-4/77	0	n/a
Newlun, Al	111,980	6/75-8/75	0	n/a
Nicholls' Cash System	121,952	6/75-9/75	0	n/a
Northwest Co.	0	n/a	45,600	3/76-6/76
OK Cash	51,204	12/75-3/76	669,542	4/75-6/76
Pacific Petroleum	18,400	6/75	0	n/a
Paramount Oil	8,300	5/75-8/75	636,200	5/75-6/76
Perovich, William	47,755	5/75-6/75	123,090	5/75-6/76
Pittman, Harold	129,249	5/75-10/75	0	n/a
Port Angeles Pulp Workers	64,500	5/75-8/75	0	n/a
Powerine	442,671	9/75-10/75	0	n/a
Prine Oil	8,401	5/75-8/75	0	n/a
Quick Service	36,453	8/75	0	n/a
Reid, Claire (Bestway)	66,625	5/75-6/76	1,058,933	5/75-6/76
Reinhard Distributing	0	n/a	1,208,651	5/75-6/76
Ronco Oil	71,959	5/75-8/75	233,172	5/75-10/75
Salem No. 1/Russell No. 2 (H. Russell)	2,597,356	5/75-6/77	0	n/a
Salem No. 2/Flynn	123,190	2/77-6/77	0	n/a
Salem No. 2/Keith Carlson	205,639	11/76-2/77	0	n/a
Salem No. 2/Mackens	35,520	6/77	0	n/a
Seattle Ready Mix	12,000	5/75-6/75	11,500	5/75
Shane, Richard	159,733	5/75-9/75	600	5/75-7/75
Smith, Ed	629,910	8/75-8/76	17,400	6/75-11/75
Smith Brothers	0	n/a	46,600	5/75-12/75
Smith, R.H.	52,200	6/75-6/76	132,400	5/75-2/76
Speal Oil	0	n/a	375,000	5/75-6/76
Stanley, Everett	106,331	5/75-10/75	0	n/a
Stark/Rusell No. 1 (H. Russell)	973,567	5/75-1/76	0	n/a
Star Oil	950	6/75	81,200	5/75-10/75
Thrifty Gas	1,406,420	5/75-5/77	51,760	4/75-6/76
Thunderbird	184,000	12/75-9/76	0	n/a
Tire Center	8,900	6/75-7/75	0	n/a
Truax, Eugene	68,377	6/75-8/75	0	n/a
Truax, Portland	57,450	6/75-9/75	0	n/a
Tru-El	0	n/a	8,200	5/75
USA Petroleum	5,084,650	9/75-5/77	0	n/a
Valley Coop	0	n/a	30,277	5/75-7/75
Vitt, Edmund	20,250	10/75-12/75	0	n/a
Wagnon Trucking	0	n/a	54,610	5/75-10/75
Wambough, Fred	27,450	6/75-3/76	0	n/a
Western Oil Sales	0	n/a	21,272	5/75-3/76
Winston Oil Co.	5,901	5/75-9/75	150,206	4/75-3/76
Yaden, Cliff	1,264,958	5/75-3/76	532,811	5/75-3/76

[1] The Gull/Texaco consent order period covers August 19, 1973 through June 30, 1976 for middle distillates and August 19, 1973 through June 9, 1977 for motor gasoline. The gallonage figures provided above represent the purchase volumes set forth in the ERA audit files for each eligible applicant during the period May 1, 1975 through June 9, 1977. An applicant who purchased Gull petroleum products during the period August 19, 1973 through April 30, 1975 must submit monthly purchase schedules showing those earlier volumes. In the alternative, an applicant may submit estimated volumes, provided it explains the basis for the estimated figures.

Appendix C.—Commission Accounts

Elbert Adams
Robert Adams
Robert Akers
Gerald Andersen
Russell Appleyard
Jay Arlen
Bastian
Baums
Beaweja
Gary Becker
William Bentley
Terry Berg
Clyde Bingham
Gale Bishop
Richard Boedecker [1]
M. Brainard
Phil Browder
Chetan Chopra
Dineish Chhabra
Henry Child
Troy Church
Ken Compton
Gary DeChenne
Mario Coronato [1]
Delbert Cox
Bill Cummins
Martin Diesberg
John Distler
Rose Draper
Oscar Eady
Viola Edison
Arthur Ellis
Marlin Erickson
Carl Estes
Herbert Farley [1]
Robet Fite
Flores
Fox & Bell
Ralph Gabbard
Ken Geist
Chet Goad
Ray Halverson
R. Hammon
Victor Harris
Melvin Hayes
David Haught
James Haven
Robert Hofferber
Don Hofstra
Gerald Holland
Holt
Dave Hopkins
Fred Hosking
Howland
Jerry Huddleston
Tsai Hsu
Robert Jenkins
William Jensen
Ronald Johanson [1]
David Johnson
Hayes Johnson
Bert Jolley
James Kelly
Kortman
LaFrance
John Lane
Jerry Langham
Marvin Larson
Ki Moon Lee
Loren Lindstrand
Norm MacDonald
Charles Mackens [1]
Steve Maglione
Mansur
Fred Meyer
Larry Meyers
Arthur Mills [1]
Moorman
Bill McCally
Richard Neff
Al Newlun [1]
Charles Northrop
Oster
Richard Oughton
Tom Papineau
Frank Papasedero
Lloyd Paxton
William Perovich [1]
Carlton Pingrey
Darwin Reynolds
William Roberts
Ivan Rusich
James Russell
Richard Seiflein [1]
Anton Selzler
Shamblin
Richard Shane [1]
Maurice Smith
Dick Snyder
Lou Spurlock [1]
William Streukens
Dan Sweeney
Don Taylor
John Taylor [1]
Don Thomas
Wayne Thomas
Betty Thompson
Robert Utermarck
Mike Vess [1]
Robert Vessey
Doug Ward
Tryphonia Wade
Mark Waldren
Warnke
Ralph Webb
Ken Weiss
Steve Wescott [1]
Don Wesley
Duane Wesley
Wichai Wichienwidhtaya
Allan Widell
Burton Williams

Appendix D.—Eligible Applicants Whose Addresses are Outdated

Mrs. Bert Jolley, 4032 115th NE, Seattle, WA 98125

Bob Grinder, Bob's Gull, Rte. 4, Box 522, Eugene, OR 97405

Dennis Senn, Denny's Gull & Heating Oil, 1817 W. 6th, Eugene, OR 97402

Mrs. C.V. "Buck" Newton, Goshen Truck Stop, 1635 E. Adams Street, Cottage Grove, OR 97424

Dvorak Oil Company, 1428 No. Wenatchee, Wenatchee, WA 98801

Stanley & Marge Martin, P.O. Box 33, Tonasket, WA 98855

Cletus E. Redmond, P.O. Box 5179, Beaverton, OR 97006

Charles Hills, 2502 Broadway, Everett, WA 98201

[1] The ERA records indicate that these firms also operated as consignment or wholesale accounts during some portions of the Gull consent order periods. Therefore, in some instances, commission accounts appear in appendix A as eligible applicants.

Port Angeles Pulp Workers Co-op, 333 East 1st Street, Port Angeles, WA 98362
William R. Flores, Gull U-Saves Sales, Box 488, Omak, WA 98841
Nicholl's Cash System, 3945 Franklin Blvd, Eugene, OR 97403
Tom Jarvis–B & B Service, 2147½ Main Street, Springfield, OR 97477
John Morley, Lost Creek Arco/Lowell Oil Co., 84591 Pheasant Lane, Pleasant Hill, OR 97401
Mario Coronato, 27257 42nd Avenue South, Kent, WA 98031
Arthur Mills, 10 Front Street South, Issaquah, WA 98027
Tire Center #2, 315 Coburg Road, Eugene, OR 97401
Albert Newlun, 2617 N. Atlantic, Spokane, WA 99205
Thomas Hanson, Hillyer Oil Company, 943 Summit, Medford, OR 97501
Denny's Keylock, 1817 West Sixth, Eugene, OR 97401
Autotronic Systems, Inc., 4550 Post Oak Place Drive, Houston, TX 77027
Herbert Kettler & Elden Markham, H & E Enterprises, Box 173, Moscow, ID 83843
Craig Hansen, Western Auto, Redmond, OR 97756
Northwestern Petroleum, P.O. Box 976, Tacoma, WA 98401
AWI Sand & Gravel, Inc., Seattle Ready Mix Concrete Company, 5701 First Avenue South Seattle, WA 98108

DOE USE ONLY

Suggested Format for Application for Refund in Gull Industries, Inc.—HEF–0086

Consent Order Date: April 7, 1978.
Consent Order Period: November 1, 1973–May 2, 1975.
(You must file a separate application for each consent order fund)

1. Are you listed in Appendix A of the Decision and Order as an eligible applicant in Case No. HEF–0086? Yes ____ No ____.
If no, do not file this application form.
2. Name of Applicant during refund period:

Address during refund period:

3. To whom should refund check be made out?

Address to which check should be sent:

4. Contact Person:

Telephone: (_____) _____
5. How would you characterize your petroleum operations? (circle one)
a. Wholesaler
b. Independent Retailer
c. Commission Agent
d. End-user
6. Principal refund amount requested (from Appendix A): $ _____
If you are requesting a refund of over $5,000, attach information on banks of unrecovered costs as well as the required injury showing (see Decision for injury requirements).
7. During what period did you purchase Gull petroleum products? _____ through _____
8. Did your account status switch from consignment to commission during the above period? Yes ____ No ____
If yes, what was the date you became a commission account?

9. Were you a spot purchaser? Yes ____ No ____
If yes, see Decision for injury showing requirements.
10. Has there been a change of ownership of your firm since the time you purchased Gull petroleum products? Yes ____ No ____
If yes, you must either submit a statement signed by the current or former owner stating that he or she does not intend to file a refund application or supply his or her name and address and the reasons why you should receive the refund.
11. Have you ever been involved as a party in any DOE enforcement or private Section 210 actions? Yes ____ No ____
If yes, you should submit the copy of any final order which was issued in that matter, or if it is ongoing attach an explanation describing the action and its current status.
12. Have you authorized anyone to file a refund application on your behalf in the Gull refund proceedings? Yes ____ No ____
If yes, attach an explanation.
13. I swear (or affirm) that the information contained in this application and any attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understood that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Signature of Applicant

Date

Title

Completed applications should be mailed in duplicate to: Gull Industries Refund Proceeding (HEF–0086), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

DOE USE ONLY

Suggested Format for Application for Refund in Gull Industries, Inc.—HEF–0084

Consent Order Date: September 1, 1981.
Consent Order Period: May 3, 1975–June 30, 1977 and February 1, 1974–September 30, 1974.
(You must file a separate application for each consent order fund)

1. Are you listed in Appendix A of the Decision and Order as an eligible applicant in Case No. HEF–0084? Yes ____ No ____.
If no, do not file this application form.
2. Name of Applicant during refund period:

Address during refund period:

3. To whom should refund check be made out?

Address to which check should be sent:

4. Contact Person:

Telephone: (_____) _____
5. How would you characterize your petroleum operations? (circle one)
a. Wholesaler
b. Independent Retailer
c. Commission Agent
d. End-user
6. Principal refund amount requested (from Appendix A): $ _____
If you are requesting a refund of over $5,000, attach information on banks of unrecovered costs as well as the required injury showing (see Decision for injury requirements).
7. During what period did you purchase Gull petroleum products? _____ through _____
8. Did your account status switch from consignment to commission during the above period? Yes ____ No ____
If yes, what was the date you became a commission account?

9. Were you a spot purchaser? Yes ____ No ____
If yes, see Decision for injury showing requirements.
10. Has there been a change of ownership of your firm since the time you purchased Gull petroleum products? Yes ____ No ____
If yes, you must either submit a statement signed by the current or former owner stating that he or she does not intend to file a refund application or supply his or her name and address and the reasons why you should receive the refund.
11. Have you ever been involved as a party in any DOE enforcement or private Section 210 actions? Yes ____ No ____
If yes, you should submit the copy of any final order which was issued in that matter, or if it is ongoing attach an explanation describing the action and its current status.
12. Have you authorized anyone to file a refund application on your behalf in the Gull refund proceedings? Yes ____ No ____
If yes, attach an explanation.
13. I swear (or affirm) that the information contained in this application and any attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understood that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Signature of Applicant

Date

Title

Completed applications should be mailed in duplicate to: Gull Industries Refund Proceeding (HEF–0084), Office of Hearings and Appeals, Department of Energy, 1000

Independence Avenue, SW., Washington, DC 20585.

DOE USE ONLY

Suggested Format for Application for Refund in Gull Industries, Inc.—HEF–0085

Consent Order Date: January 15, 1982
Consent Order Period: August 19, 1973–June 9, 1977)
(You must file a separate application for each consent order fund)

1. Are you listed in Appendix A of the Decision and Order as an eligible applicant in Case No. HEF–0085? Yes ____ No ____
If you are listed as *ineligible,* do not file this application form.

2. Name of Applicant during refund period:

Address during refund period:

3. To whom should refund check be made out?

Address to which check should be sent:

4. Contact Person:

Telephone: (____) ____

5. How would you characterize your petroleum operations? (circle one)
a. Wholesaler
b. Independent Retailer
c. Commission Agent
d. End-user

6. Total gallons of motor gasoline and middle distillates purchased during consent order period (a + b from page 6 of application): ____ gals.
a. Total gallons of Gull motor gasoline and middle distillates purchased between August 19, 1973 and April 30, 1975: (attach purchase schedule or explanation of estimates) ____ gals.
b. Total gallons of Gull motor gasoline and middle distillates purchased between May 1, 1975 and June 9, 1977 (through June 30, 1976 for middle distillates): (see Appendix B) ____ gals.
c. If you are requesting a refund of over $5,000, attach information on banks of unrecovered costs as well as the required injury showing (see Decision for injury requirements).

7. During what period did you purchase Gull petroleum products? ____ through ____

8. Did your account status switch from consignment to commission during the above period? Yes ____ No ____
If yes, what was the date you became a commission account?

9. Were you a spot purchaser? Yes ____ No ____
If yes, see Decision for injury showing requirements.

10. Has there been a change of ownership of your firm since the time you purchased Gull petroleum products? Yes ____ No ____
If yes, you must either submit a statement signed by the current or former owner stating that he or she does not intend to file a refund application or supply his or her name and address and the reasons why you should receive the refund.

11. Have you ever been involved as a party in any DOE enforcement or private section 210 actions? Yes ____ No ____
If yes, you should submit the copy of any final order which was issued in that matter, or if it is ongoing attach an explanation describing the action and its current status.

12. Have you authorized anyone to file a refund application on your behalf in the Gull refund proceedings? Yes ____ No ____
If yes, attach an explanation.

13. I swear (or affirm) that the information contained in this application and any attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Signature of Applicant

Date

Title

Completed applications should be mailed in duplicate to: Gull Industries Refund Proceeding (HEF–0085), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

[FR Doc. 86–19225 Filed 8–25–86; 8:45 am]
BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $21,818.84 and $67,623.34 obtained as a result of consent orders which the DOE entered into with Ramos Oil Company, Inc. (Ramos) and Farstad Oil Company (Farstad), both reseller-retailers of refined petroleum products. Ramos is located in West Sacramento, California; Farstad is located in Minot, North Dakota. The monies are being held in separate escrow accounts following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

Date and address: Applications for refund of a portion of the Ramos or Farstad consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register.** All applications should refer either to Case Number HEF–0159 (for Ramos) or HEF–0567 (for Farstad) and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to consent orders that the DOE entered into with Ramos Oil Company, Inc. (Ramos) and Farstad Oil Company (Farstad). The Ramos consent order settled all claims and disputes between Ramos and the DOE regarding the firm's compliance with the Mandatory Petroleum Price and Allocation Regulations with respect to its sales of covered products during the period, August 20, 1973, through January 27, 1981. The Farstad consent order settled all claims and disputes between Farstad and the DOE regarding the manner in which the firm applied the Mandatory Petroleum Price Regulations with respect to its sales of motor gasoline and No. 1 and No. 2 diesel fuel (covered products) between November 1, 1973, and April 30, 1974. Proposed Decisions and Orders tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Ramos and Farstad consent order funds were issued on May 20, 1986. 51 FR 19400 (May 29, 1986); 51 FR 19397 (May 29, 1986).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of two escrow accounts funded by Ramos and Farstad pursuant to their respective consent orders. The DOE has decided to accept Applications for Refund from firms and individuals that purchased covered products sold by Ramos or Farstad during the appropriate consent order periods. Eligible applicants include indirect customers as well as first purchasers. In order to receive a refund, a claimant will be required to submit a schedule of its monthly purchases of Ramos or Farstad covered products and to demonstrate that it was injured by firm's pricing practices. An indirect purchaser must also submit the name of its immediate supplier and indicate why it believes the products were originally sold by Ramos or Farstad.

As the accompanying Decision and Order indicates, Applications for Refund may now be filed by customers that purchased Ramos covered products during the period, August 20, 1973, through January 27, 1981, or Farstad covered products between November 1, 1973, and April 30, 1974. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the Federal Register. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: August 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

August 7, 1986.

Names of firms: Ramos Oil Company, Inc.; Farstad Oil Company.

Dated of filing: October 13, 1983—March 6, 1985.

Case Nos. HEF–0159; HEF–0567.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. On October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Ramos Oil Company, Inc. (Ramos). ERA also filed a similar petition on March 6, 1985, in connection with a consent order entered into with Farstad Oil (Farstad). This Decision and Order contains the procedures which OHA has formulated to distribute the funds received pursuant to those consent orders.

I. Background

Each of these firms is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31. Ramos is located in West Sacramento, California; Farstad is located in Minot, North Dakota. An ERA audit for each firm's records revealed possible violations of DOE regulations. Subsequently, each firm entered into a consent order with DOE. The consent orders refer to ERA's allegations of regulatory violations but note that there were no findings that infractions occurred. In addition, each consent order states that the subject firm does not admit that it committed any such violations. A brief discussion of other pertinent matters covered by each consent order follows.

The Ramos consent order, executed on May 19, 1983, settled all claims and disputes between Ramos and the DOE regarding the firm's compliance with the Mandatory Petroleum Price and Allocation Regulations during the period, August 20, 1973, through January 27, 1981. The consent order pertains to all of Ramos' sales of covered products during that period.[1] Under the terms of the consent order, Ramos was required, in three annual installments, to deposit a total of $19,000, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. Ramos made its final payment on May 30, 1985.[2]

In the Farstad case, the ERA audit alleged that between November 1, 1973, and April 30, 1974, Farstad committed possible pricing violations in its sales of motor gasoline and No. 1 and No. 2 diesel fuel (covered products). The Farstad consent order, executed on September 1, 1981, settled all claims and disputes between Farstad and the DOE regarding the firm's sales of covered products during the period encompassed by the audit. Under the terms of the consent order, Farstad agreed to refund $78,636.17, plus interest, as follows: Checks totaling $27,472.56, plus interest, were to be directly issued to Farstad's end-user customers; for restitution to its wholesale customers, Farstad was required to deposit $51,163.61, plus interest, into an interest-bearing escrow account for ultimate distribution by the DOE. To discharge the latter obligation, on February 14, 1984, Farstad remitted $67,623.34 to the DOE. In addition to the $66,981.67 paid as settlement for the alleged wholesale overcharges, Farstad also remitted an additional $641.67 which was to have gone to end-user customers which Farstad could not locate.[3]

[1] The covered products which Ramos sold included motor gasoline, No. 2 diesel fuel, and lubricants.

[2] Ramos paid $21,818.84, including installment interest, into the escrow account. This amount represents the principal which will form the basis for refund calculations. As of June 30, 1986, the total value of the Ramos escrow account was $25,230.25.

[3] The end users that received direct refunds, all of which are affilliated with the United States Government, are not eligible to apply for refunds in this proceeding. However, applications will be accepted from end users that did not receive direct refunds from Farstad. All of these latter customers are either individuals or non-U.S. Government entities.

As of June 30, 1986, the total value of the Farstad account was $82,785.01.

II. Jurisdiction and Authority to Fashion Refund Procedures

The general guidelines which OHA may use to formulate and implement a plan to distribute funds received as the result of an enforcement proceeding are set forth in 10 CFR Part 205, Subpart V. The Subpart V procedures may be used in situations where the DOE is unable either to readily identify those persons who might have been injured by any regulatory violations or to ascertain the amount of such injuries. For a more detailed discussion of Subpart V and the authority to fashion refund procedures, *see Office of Enforcement,* 9 DOE ¶ 82,508 (1981); and *Office of Enforcement,* 8 DOE ¶ 82,597 (1981).

OHA issued Proposed Decisions and Orders (PD&Os) in the Ramos and Farstad proceedings on May 20, 1986. 51 FR 19400 (May 29, 1986); 51 FR 19397 (May 29, 1986). The PD&Os set forth tentative plans for the distribution of refunds to parties that make reasonable showings of injury as a result of the alleged regulatory violations in the firms' sales of covered products during the respective consent order periods. The PD&Os stated that the basic purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations.

In order to give notice to all potentially affected parties, copies of the Proposed Decisions were published in the **Federal Register** and comments regarding the proposed refund procedures were solicited. In addition, copies of the PD&Os were sent to various petroleum dealers associations. Comments were submitted in both proceedings on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah, and West Virginia concerning the distribution of any funds remaining after refunds have been made to injured parties. The purpose of this Decision is to establish procedures for filing and processing claims in the first stage of the Ramos and Farstad refund proceedings. Any procedures pertaining to the disposition of any monies remaining after this first stage will necessarily depend on the sizes of the funds. *See Office of Enforcement,* 9 DOE at 85,055. Therefore, it would be premature for us to address the issues raised by the states' comments at this time. Since no comments were received concerning the first-stage procedures in either case, they will be adopted as proposed.

III. Refunds to Identifiable Purchasers

In the first stage of the Ramos and Farstad refund proceedings, we will distribute the funds in the escrow accounts to claimants that demonstrate that they were injured by the alleged overcharges.[4] In order to be eligible to receive a refund, a claimant will have to file an application and, with the three exceptions discussed below, show the extent to which injury resulted from the alleged overcharges. To the extent that any individual or firm can establish injury, it will be eligible for a share of the monies in the appropriate consent order fund.[5]

In these cases we will adopt two rebuttable presumptions as well as two findings regarding injury. These presumptions and findings have been used in many previous special refund cases. First, we will presume that purchasers of Ramos or Farstad covered products that are claiming small refunds ($5,000 or less, exclusive of accrued interest) were injured by the alleged overcharges. In the absence of compelling material, we will also presume that spot purchasers were not injured. In addition, we find that end-users or ultimate consumers of Ramos or Farstad covered products whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges. Finally, we will not require a detailed demonstration of injury from regulated utilities or agricultural cooperatives that purchased Ramos or Farstad covered products and passed the alleged overcharges associated with those products through to their end-user members. Prior OHA decisions provide detailed explanations of the bases of these presumptions and findings. *E.g., Peterson Petroleum, Inc.*, 13 DOE ¶ 85,191 at 88,508–10 (1985). The rationale for their use was also fully explained in the PD&Os. 51 FR 19397 at 19398–99 (May 29, 1986); 51 FR 19400 at 19401–02 (May 29, 1986). These presumptions and findings will permit claimants to apply for refunds without incurring disproportionate expenses and will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a claimant might make such a showing, it is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, and (ii) that market conditions did not permit it to pass on the increased costs to its customers in the form of higher prices.[6]

A modification of the standard injury requirement is necessary in the Ramos proceeding because for a portion of the 7½-year Ramos consent order period, retailers and resellers of motor gasoline were not required to compute MLSPs with reference to May 15, 1973 selling prices and increased costs. *See* 10 CFR 212.93; 45 FR 29546 (1980). Instead, effective July 16, 1979, for retailers and May 1, 1980, for resellers, these firms were required to calculate their MLSPs by adding a specified profit margin to their cost of product. Unrecouped increased product costs could no longer be banked for later recovery. *Id.* Since, as of those dates, retailers and resellers of motor gasoline were not required to maintain or compute cost banks, any requirement that these claimants make demonstrations of injury based on unrecovered banks is unnecessary for portions of the consent order period. Therefore, in this proceeding, retailers and resellers claiming refunds greater than $5,000 need not supply bank documentation for the periods after July 16, 1979, and May 1, 1980, respectively.[7] However, retailers and resellers will be required for the entire consent order period to show that market conditions prevented them from recovering those increased product costs, *e.g.*, through a demonstration of reduced profit margins, decreased market shares, depressed sales volumes or competitive disadvantages.[8]

A. Calculation of Refund Amounts

In both the Ramos and Farstad proceedings we will use a volumetric method to determine the refunds of eligible applicants. This method presumes that the alleged overcharges in each case were spread equally over all the gallons of products covered by the respective consent orders. Under the volumetric method, a claimant will be eligible to receive a refund equal to the number of gallons of Ramos or Farstad covered products that it purchased during the consent order period times the appropriate volumetric factor. The volumetric factor, which is the average per gallon refund, equals $0.000213 in the Ramos case and $0.007551 in the Farstad proceeding.[9] In addition, successful claimants will receive a proportionate share of the interest which has accrued on the appropriate escrow account.

We recognize that a particular purchaser could have incurred a disproportionate share of the alleged overcharges. Any purchaser which can make such a showing may file a refund application based on such a claim.

As in previous cases, only claims for at least $15 will be processed. We have found through our experience in prior refund cases that the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims in either of the two proceedings exceed the funds available in the particular escrow account, all refunds in that proceeding will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

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[4] The ERA audit file and record in the Ramos proceeding does not include any information pertaining to alleged allocation violations. Nevertheless, the Ramos consent order resolves all disputes between Ramos and the DOE concerning the firm's compliance with both the Mandatory Petroleum Price and Allocation Regulations and the Ramos escrow funds may appropriately be used to make restitution for injury related to Ramos' allocation practices. The consideration of such claims will entail the same procedures that have been used in prior Subpart V proceedings involving alleged allocation violations. *See* Power Pak Co., Inc., 14 DOE ¶ 85,001 (1986).

[5] The Appendix to this Decision and Order contains the names of some customers that may have purchased petroleum products from Farstad during the consent order period. We will accept information regarding the present locations of these purchasers for a period of 90 days following publication of this Decision and Order.

[6] This injury requirement reflects the nature of the petroleum price regulations in effect beginning on November 1, 1973, and ending on July 16, 1979 for retailers, and on May 1, 1980 for resellers. Under the original rules, a reseller or retailer was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 15, 1973, with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that those costs could be recoupled in a later month, if possible. *See* 10 CFR 212.93; 45 FR 29546 (1980).

[7] The cost bank requirement has been relaxed in other instances involving the change in the pricing regulations for motor gasoline. *See* Tenneco Oil Company/United Fuels Corporation, 10 DOE ¶ 85,005 at 88,017 n.1 (1982).

[8] Resellers or retailers that claim a refund in excess of $5,000 but which do not attempt to establish that they did not pass through the price increases will be eligible for a refund of up to $5,000 without being required to submit evidence of injury beyond purchase volumes. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982).

[9] The Ramos volumetric factor is computed by dividing the $21,818.84 received from Ramos by the 102,402,443 gallons of covered products estimated to have sold by the firm between August 20, 1973, and January 27, 1981.

The Farstad volumetric factor is computed by dividing the $67,623.34 received from Farstad by the 8,956,072 gallons of covered products sold by the firm during the period, November 1, 1973, through April 30, 1974, to its customers that did not receive direct refunds.

IV. Applications for Refund

Through the procedures described above, we will be able to distribute the Ramos and Farstad consent order funds as equitably and efficiently as possible. Accordingly, we will now accept Applications for Refund from individuals and firms that purchased Ramos covered products during the period, August 20, 1973, through January 27, 1981, or Farstad covered products between November 1, 1973, and April 30, 1974. Eligible applicants include subsequent repurchasers as well as first purchasers.

There is no specific application form which must be used. In order to receive a refund, each claimant must submit the following information:

(1) A schedule, broken down by product, of its monthly purchases of Ramos or Farstad covered products during the approrpiate consent order period along with any relevant information necessary to support its claim in accordance with the presumptions and findings outlined above.[10] If the applicant was an indirect purchaser it must also submit the name of its immediate supplier and indicate why it believes the products were originally sold by Ramos or Farstad;

(2) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying the proceeding in which it is claiming a refund;

(3) Whether there has been a change in ownership of the firm since the consent order period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(4) Whether the applicant is or has been involved as a party in any DOE enforcement proceedings or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d); and

(5) The name and telephone number of a person who may be contracted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register.** A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to the appropriate case number (HEF–0159 for Ramos and HEF–0567 for Farstad) and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to Department of Energy by Ramos Oil Company, Inc. pursuant to the Consent Order executed on May 19, 1983, may now be filed.

(2) Applications for Refund from the funds remitted to Department of Energy by Farstad Oil Company pursuant to the Consent Order executed on September 1, 1981, may now be filed.

(3) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: August 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix.—Farstad Oil Company

First Purchasers

Ahmann's Service
William Albrecht
American Grain & Cattle
Thomas Anderson
Armours Oil Co.
Lynn Arneson
Arrowhead Tesero
Art's Body Shop
Austads
B&B Friendly Service
Bair's Truck Stop
Bell Communications
Ken Benson
Big Steer Restaurant
Bigwood Oil Co.
Bill's Husky
John Blake
Bottineau Oil Co.
Brown's Service
Jery Buettner
Burlington Texaco
Campus Texaco
Lloyd Charron
City Shop
T.W. Cockrell
Cole Petroleum
Columbus Oil Co.
Coop Oil Association
D & E Oil
Phil Dahle
Dale's Cash Supply
Dale's Truck Stop
Dave's Oil Co.
Andy Dejarlais
Denius Oil Co.
Dickinson Husky
John Dickman
Don Moe Dodge
Dunseith Public Schools
Economy Fuel
Emerald Moggard
Errco Service
Farmers Elevator
Farmers Grain and Oil
Farmers Union Oil Co.
Fish Garbage Service
Floyd Frieze Exxon
Floyd's Interstate
Garden Valley Exxon
Norman Glenz
Goulding Mobil
Green Oil Co.
Gary Gross
Peter A. Gross
Gustafson Oil Co.
Gwinner Oil Co.
Haas Mobil
Marlin Hankinson
Heringer Oil Co.
Hershey-Patterson
Norris Heskin
Highway Corners Texaco
Husky Truck Co.
Hutton Oil Co.
I–94 Oasis Skelly
I–94 Truck Oasis
Ihringer Oil Co.
Independent Farmers Oil
Interstate Oil Co.
Industrial Builders
Bob Irwin
Jakes' Auto Glass
Jamestown Truck Plaza
Johnson Chevrolet
Fred Johnson
Irver Johnson
Jones Oil Co.
Kal's Texao
Leonard Kassner
Joan King
Elmer Knutson
Krafi's grocery
Clarence Kringlee
Lake Region Coop Oil
Lane Sheet Metal
Laraway Bulk Station
Larry's Auto
Ernest Livingston
Lockrem Oil Co.
Stan Lozensky
Don Lund
Roger Lund
Ken Lystad
Maddock Oil Co.
Major Brands
Jules Mathis
Maxbass Oil Co.
Mayer Truck
Merv's Errco Service
Guy Metzdorf
Midland Coop
Midland Diesel
Midwest Service
City of Minot
Minot Salvage
Minot Sand and Gravel
Mohler Oil Co.
Morty Oil Co.
Mouse River Oil
Mutchler Grain Co.
Muus Lumber
Myles Myhre
Lowell Ness
New Rockford Fessenden Co-op
Nifta Enterprises
Nolan Surge Service
Erwin Norenberg
North Dakota State Highway Department
North Hill Texaco
Northwest Grain and Salvage
Northwest Spraying
Nortonville Oil Co.
O'Day Equipment
Ohio Brass Co.
Oskey Brothers
Ostby Service
Ottoshine
Overby Oil Co.
Palroies Brothers
Parker and Parker
Payne Brothers
Peavy Co.
Perry's Grocery
Perry's Texaco
Pioneer Construciton
Prime Petroleum
Rabbit Marketing
Ralph Hatford Texaco
Refrigerator Equipment
Jim Reinharts
Rensch Garage
Rick's Skelly
Riverside Texaco
Robo Wash
Rolla Oil Co.
Roughrider Truck Stop
Ron Ruther
Ruthville Texaco
Schaan Oil Co.
Paul Schoty
Merle Schumocher
Shunk's Oil Co.
Jim Soltis
Soo Line Railroad
Sornsin Construction
Southdale Texaco
Speedway Service
Speedy's Tire Center
Roy Stenson
Jim Storud
Struckness Construction
Surry Grocery
Surry Skelly
Carl Swartout
Rube Swenson
Taste Rite Packing
Taylor Oil Co.
Ted's Garage
Tesoro Oil
Texaco Co., New Rockford
Thomas Enterprises
Thomas, Inc.
Tocley Texaco
Roy Tripp
Turtle Mountain Oil
Twin City Barge & Towing
United Parcel Service
Joe Volk
Larry Vannett
Ward County
Westlie Skelly Truck Stop
Jerry Wolfe
Wood River Oil and Refining
Conrad Zeigler
Alec Zorn

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[10] Although the price of motor gasoline was controlled until January 27, 1981, No. 2 diesel fuel and lubricants were deregulated on July 1, 1976, and September 1, 1976, respectively. In compiling its schedule of monthly purchases, a claimant in the Ramos proceeding should not include purchases of deregulated products.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding a $15,907,465.76 settlement fund to members of the public. This money is being held in escrow following the settlement of an enforcement proceeding involving Howard Oil Company of Maspeth, New York (Case No. KEF–0008).

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to Howard Oil Company Settlement Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to Case No. KEF–0008.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set forth below. The Proposed Decision relates to a Settlement Agreement entered into by Howard Oil Company of Maspeth, New York and the DOE which settled possible regulatory violations in the firm's sales of middle distillates and residual fuel oil during the settlement period, August 1973 through January 27, 1981.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the escrow account funded by Howard Oil pursuant to the settlement agreement. The DOE has tentatively established procedures under which purchasers of Howard Oil middle distillates and residual fuel oil during the settlement period may file claims for refunds. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 and 5:00 pm, Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: August 12, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

August 12, 1986.

Name of Firm: Howard Oil Company, Inc.

Date of Filing: October 28, 1985.

Case Number: KEF–0008.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) of the DOE may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. The ERA filed a petition on October 28, 1985, requesting that the OHA implement a proceeding to distribute funds received pursuant to a Settlement Agreement entered into by the DOE and Howard Oil Company, Inc. of Maspeth, New York (Howard).[1]

I. Background

Howard was a "reseller-retailer" of middle distillates and residual fuel oils as those terms were defined in 10 CFR 212.31, and was therefore subject to the Mandatory Petroleum Price Regulations. As a result of an ERA audit, the ERA alleged that Howard violated the price regulations in sales of middle distillates and residual fuel oil during 1973 and 1974 and also failed to pass through a refund made by Sun Oil Company (Sun) to Howard in 1974. On April 9, 1985, Howard entered into a Settlement Agreement with the DOE in a proceeding in the United States District Court for the Eastern District of New York. *DOE* v. *Howard Oil Co.*, Civ. No. 78–C–2002 (E.D.N.Y. Apr. 9, 1985). This agreement settled all disputes and claims between Howard and the DOE regarding the firm's compliance with the price regulations in sales of petroleum products during the period from August 1973 through January 27, 1981. Specifically, Howard agreed to remit $15.4 million to the DOE for deposit in an interest bearing escrow account. Of that amount, $3 million was stated to be in settlement of the alleged overcharges by Howard in sales of middle distillates and residual fuel oil during 1973 and 1974; $4.5 million settled allegations regarding Howard's failure to pass through the refund received from Sun in 1974;[2] and $7.9 million was accrued interest on both Howard's alleged overcharges and the Sun refund through October 31, 1984.[3]

II. Jurisdiciton

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is the DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82.597 (1981) (hereinafter cited as *Vickers*). After reviewing the record in the present case, we have concluded that a Subpart V proceeding is an appropriate mechanism for distributing

[1] Other parties to the Settlement Agreement were York Oil Trading and Transport Company (York Oil); South Pacific Oil Company Limited (Sopac); Howard Ross, a principal stockholder and officer of Howard, York Oil and Sopac; H. Peter Ross, a principal stockholder and officer of York Oil and Howard; and Theodore Ross, a principal stockholder and officer of York Oil and Howard.

[2] On February 8, 1974, the Federal Energy Office (FEO), one of the DOE's predecessors, issued an Order directing Sun to refund $6,047,160 to Howard for overcharges in Sun's November and December 1973 sales of No. 2 oils and kerosene. Sun complied with this Order on March 11, 1974. The Order also directed that Howard, in turn, pass on this refund directly to its customers. Instead, Howard attempted to implement the refund by means of a rollback of prices to its customers of No. 2 oils. In its audit, the ERA determined that Howard's rollbacks did not compensate the firm's classes of purchaser of No. 2 oils in the same proportionate amounts by which the Sun overcharges had been passed through to them by Howard. Furthermore, the ERA alleged that Howard failed to pass through $251,484 of the Sun refund attributable to kerosene sales when it sold the Sun kerosene in November 1974.

[3] The total amount which Howard remitted to the DOE was $16,007,465.76. This included $100,000 which was forwarded to the Treasury of the United States for civil penalties connected to this case, and additional interest of $407,465.76, which accrued between the date of the settlement and the date payment was made. The actual consent order amount which is the subject of this proceeding is thus $15,907,465.76.

the Howard settlement. We therefore propose to grant the ERA's petition and assume jurisdiciton over distribution of the fund.

III. Proposed Refund Procedures

A. Refund Claimants

Insofar as possible, the settlement fund should be distributed to those customers of Howard who were injured either by the alleged overcharges or by Howard's alleged failure to pass through the Sun refund. Since the Settlement Agreement allocates the refund monies to alleged violations during specific periods of time, we propose to limit eligibility to firms who purchased product that was sold by Howard during those periods, *See* Part IIB, *infra*. We expect that claimants will fall into one of the following general categories: (i) Resellers and retailers (hereinafter collectively referred to as resellers) who resold Howard middle distillates and residual fuel oil, (ii) individuals or firms that consumed Howard petroleum products for their own use (end-users), or (iii) public utilities. The product purchased by these claimants will have been purchased from Howard, or from other firms in the chain of distribution leading back to Howard. In this case, the ERA audit files identified certain customers who may have been injured by Howard's allegedly wrongful actions. These parties are listed in the Appendices to this Decision and Order. In our view, these identified customers are only some of the parties who were adversely affected, at least initially, by Howard's alleged overcharges or failure to distribute the Sun refund. We therefore propose to accept refund applications from the customers identified in the Appendices and any other parties who can demonstrate that they were injured by the firm's pricing practices.

1. Showing of Injury

As in prior refund proceedings, we propose to require claimants who were resellers of refined petroleum products purchased from Howard to demonstrate that during the settlement period they would have maintained their prices for the petroleum products at the same level had the alleged overcharges not occurred. While there are a variety of ways to make this showing, a reseller should generally demonstrate that, at the time it purchased the product from Howard, market conditions would not permit it to increase its prices to pass through to its customers the additional costs associated with the alleged overcharges.[4] *See OKC Corp./Hornet Oil Co.*, 12 DOE ¶ 85,168 (1985); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982). In addition, the reseller is generally required to show that it had a "bank" of unrecovered costs in order to demonstrate that it did not recover the increased costs associated with the alleged overcharges by increasing its own prices. The maintenance of a bank does not, however, automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

2. Small Claims Presumption

We further propose to adopt a small claims presumption of injury which has been used in many previous special refund cases. We recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of Howard petroleum products. For example, such firms may have limited accounting and data-retrieval capabilities and therefore may be unable to produce the records necessary to prove the existence of banks of unrecovered costs, or that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing a refund application do not exceed the benefits. *See, e.g, Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We propose to adopt such a procedure in this case. Therefore, we propose that any reseller claiming a refund of $5,000 or less need only document its purchase volumes rather than make a detailed showing of injury in order to be eligible to receive a refund.[5]

3. End-Users

As in many other refund proceedings, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges covered by the Howard settlement. Unlike regulated firms in the petroleum industry, members of this group were generally not subject to price controls during the audit period, and were not required to keep records which justified selling price increases by reference to cost increases. *See, e.g., Marion; Thornton Oil Corp.*, 12 DOE ¶ 85,112 (1984). For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984) and cases cited therein. We therefore propose that end-users of Howard petroleum products need only document their purchase volumes to make a sufficient showing that they were injured by the alleged overcharges.

4. Regulated Firms

We further propose that firms whose prices for goods and services are regulated by a government agency, e.g., public utilities, not be required to make a detailed demonstration of injury in this case. Although these firms generally passed overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass through any refund received to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate regulatory body of their receipt of the refund money. *See Dorchester Gas Corp.*, 14 DOE ¶ 85,240 at 88,451 (1986).

5. Spot Purchasers

We also propose to adopt a rebuttable presumption that resellers which made only spot purchases of Howard petroleum products have suffered no injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and therefore would not have made spot purchases of Howard's product at increased prices unless they were able to pass through the full amount of the alleged overcharges to their own customers. *See Vickers*, 8 DOE at 85,396–97. Accordingly, any reseller claimant who was a spot purchaser must submit evidence to rebut the spot purchaser presumption and establish the extent to which it was injured by the spot purchase(s).

6. $15 Minimum

We also propose to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the

[4] These alleged violations would have been committed by either Howard or by Sun and passed through by Howard.

[5] As in prior special refund proceedings, reseller applicants whose purchase volume might qualify them for a larger refund may choose to limit their claims to $5,000, in lieu of making a detailed showing of injury.

cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See Uban Oil Co.*, 9 DOE ¶ 82,541 (1982); *see also* 10 CFR § 205.286(b).

B. Calculation of Refund Amounts

We must further determine the proper method for dividing the settlement fund among successful applicants. The Settlement Agreement explicitly states that $3 million (plus interest) is intended as restitution for alleged overcharges by Howard during 1973 and 1974, and that $4.5 million (plus interest) is intended as restitution for Howard's failure to pass through to its customers Sun's 1974 refund for overcharges in sales of No. 2 oil and kerosene to Howard in November and December 1973.[6] Since the settlement comprises restitution for two very different types of allegation, we propose to establish separate refund pools based on these allegations. Specifically, we will establish one refund pool for Howard's middle distillate and residual fuel oil customers during the period from August 19, 1973, when the price regulations went into effect, through December 31, 1974, and a second pool for the customers to whom Howard failed to pass through the Sun Oil refund to which they were entitled in sales of middle distillates. *See Gull Industries, Inc.*, 6 Fed. Energy Guidelines ¶ 90,058 (1986) (Proposed Decision). The former pool totals $7,776,743.71 consisting of $3 million plus $4,776,743.71 interest which accrued on the alleged overcharges prior to payment to the DOE. The latter pool totals $8,130,722.05 consisting of $4.5 million plus $3,630,722.05 interest on the upaid Sun refund accrued prior to payment.

1. Claims Based Upon Howard's Alleged Overcharges

We propose that the maximum refund for the identified firms listed in Appendix A be based on the amounts they were allegedly overcharged, as indicated in the Howard audit files.[7] To calculate the size of each identified applicant's potential refund, we propose to multiply the alleged overcharge amount for that claimant by 0.451478, a pro rata factor representing the portion of the total alleged overcharges that Howard remitted to the DOE pursuant to the Settlement Agreement.[8] The potential refunds for those customers identified in the Howard audit files are set forth in Appendix A. In addition, successful applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds into the escrow account.

For firms who were allegedly overcharged by Howard but who are not identified in the audit files, we propose to adopt a volumetric refund presumption. The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it suffered a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

Under the volumetric system we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of middle distillates and residual fuel oils purchased from Howard between August 19, 1973 through December 31, 1974, times the volumetric factor. The volumetric factor for this refund pool equals $0.008186 per gallon.[9] In addition, successful claimants will receive a proportionate share of the interest which has accrued since the deposit of the funds in the escrow account.

2. Claims Based Upon the Sun Oil Refund

The audit files shows four identified purchasers and two groups of unidentified customers who did not receive their full share of the Sun refund from Howard. *See* n.7, *supra*. To calculate the size of each identified applicant's potential refund we propose to multiply the Sun refund amount designated for that claimant by 0.668646, a pro rata factor representing the portion of the total Sun refund amount that Howard remitted to the DOE pursuant to the settlement.[10] These potential refund amounts are set forth in Appendix B.[11] Also, successful applicants will receive a pro rata share of the interest which has accrued since the deposit of the funds in the escrow account.

The unidentified claimants for the Sun Oil refund monies consist of Howard customers that purchased kerosene in November 1974 or No. 2 oils in November or December 1973. The audit files set forth the total Sun refund amounts attributable to these two groups. Accordingly, in order to calculate refunds for claimants in these groups, we propose to adopt two volumetric refund amounts.[12] Based upon the information available to us at this time, the volumetric refund amount for unidentified kerosene purchasers will be $0.381705 per gallon ($403,169.98 divided by 1,056,233 gallons). For unidentified No. 2 oil purchasers the volumetric refund amount will be $0.357903 per gallon ($343,644.97 divided by 960,161 gallons). Successful claimants will also receive a proportionate share of the interest which has accrued since the deposit of the funds into the escrow account.

[6] The Settlement Agreement, ¶ 2 states:

Howard Oil will pay the sum of $15,500,000 in full settlement of the above captioned civil action through November 1, 1984. Of that amount, $3,000,000 is paid as restitution to the Department of Energy on behalf of any customers of Howard Oil who may be entitled to refunds for alleged overcharges during 1973 and 1974; $4,500,000 is paid to the Department of Energy on behalf of customers of Howard Oil who may be entitled to refunds in connection with the refund received by Howard Oil from Sun Oil Company in 1974; $7,900,000 is paid on account of claims for accrued interest on the alleged overcharges and the Sun Oil refund through October 31, 1984 and $100,000 represent civil penalties to be paid to the Treasury of the United States.

We recognize that the time periods of the alleged violations described in this provision of the Settlement Agreement are not as comprehensive as the August 1973 through January 27, 1981 settlement period established by provision six of the Settlement Agreement. Nonetheless, as indicated above, we propose to follow the specific allocation terms of the Settlement Agreement.

[7] Although we recognize that the ERA audit files do not provide conclusive evidence as to the identity of all allegedly overcharged parties or the amount of money they should receive in a Subpart V proceeding, we will use this information in the present case as a basis for identifying overcharged customers and their potential refunds since it can be used to fashion a refund plan which will correspond closely to the injuries experienced. *See Marion.*

[8] The alleged overcharge amount includes accrued interest through October 31, 1984.

[9] The $0.008186 volumetric factor was derived by dividing the $6,280,461.49 balance of this refund pool by 767,127,246, the total number of gallons of middle distillates and residual fuel oil sold by Howard to unidentified purchasers during the August 1973–December 1974 period.

[10] The Sun refund amount includes accured interest through October 31, 1984.

[11] Since York Oil is affiliated with Howard and was a party to the Settlement Agreement (*see* footnote 1), we propose that it and any other applicant similarly affiliated with Howard be ineligible for refunds in this proceeding. *See Dalco Petroleum, Inc.*, 14 DOE ¶ 85,248 at 88,464 (1968); *Bayside Fuel Oil Depot Corp.*, 13 DOE ¶ 85,139 at 88,381–82 (1985).

[12] These volumetric factors were derived by multiplying the aggregate Sun refund amounts attributable to the respective unidentified customer group by the pro-rated overcharge factor, 0.668646, and then dividing each amount by the respective number of gallons of kerosene and No. 2 oils purchased during the applicable time periods.

IV. Conclusion

Refund applications in this proceeding should not be filed until issuance of a final Decision and Order. Detailed procedures for filing applications will be provided in that final Decision. Before disposing of any of the funds received, we intend to publicize the distribution process and to provide an opportunity for any affected party to file a claim.[13] In addition to publishing copies of the proposed and final decisions in the **Federal Register**, copies will be provided to the Howard customers whose names and addresses we have obtained from the DOE audit files.

In the event that money remains after all first stage claims have been disposed of, these funds could be distributed in various ways. We will not be in a position to decide what should be done with any remaining funds until the first stage of this refund proceeding is completed.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Howard Oil Company pursuant to the Settlement Agreement executed on April 9, 1985 will be distributed in accordance with the foregoing Decision.

APPENDIX A

Customers allegedly overcharged by Howard	Potential refund
Melanol Corp	$833,498.77
Orange & Rockland Utilities, Inc	371,839.19
Carbonit Curacao, N.V	218,599.32
Texaco Inc	72,344.94
Unidentified customers 8/19/73–12/31/74	[1]6,280,461.49
Total	7,776,743.71

[1] $0.008186 per gallon.

APPENDIX B

Sun Oil refund customers	Potential refund
Melanol Corp	$6,087,024.41
Carbonit Curacao N.V	910,153.03
York [1] Oil Trading & Transportation Co. Inc	345,815.87
Con Edison	40,913.79
Unidentified Customers:	
Kerosene sold during 11/74	[2] 403,169.98
No. 2 oil sold from 11/6/73–12/31/73	[3] 343,644.97
Total	8,130,722.05

[1] See footnote 11 concerning eligibility.
[2] $0.381705 per gallon.
[3] $0.357903 per gallon.

[FR Doc. 86–19227 Filed 8–25–86; 8:45 am]
BILLING CODE 6450–01–M

[13] The potential refund figures in Appendices A and B are based on the best information available. However, should the number of eligible claimants result in meritorious claims in excess of the fund, it will be necessary to reduce proportionately the amounts to be refunded. *See* 10 CFR 205.286. Accordingly, we will not process refund applications until the end of the filing period.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $1,009,609.84 obtained as a result of a consent order which the DOE entered into with Northeast Petroleum Industries, Inc. (Northeast), a reseller-retailer of refined petroleum products located in Chelsea, Massachusetts. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund of a portion of the Northeast consent order funds must be filed in duplicate and must be received within 90 days of publication of this notice in the **Federal Register**. All applications should refer to Case Number HEF–0138 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Gloria Walach, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282)c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision relates to a consent order entered into by the DOE and Northeast Petroleum Industries, Inc. (Northeast) which settled all claims and disputes between Northeast and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period, May 1, 1974 through August 31, 1979 (consent order period). A Proposed Decision and Order tentatively establishing refund procedures and soliciting comments from the public concerning the distribution of the Northeast consent order funds was issued on February 4, 1986. 51 FR 5242 (February 12, 1986).

The Decision sets forth procedures and standards that the DOE has formulated to distribute the contents of an escrow account funded by Northeast pursuant to the consent order. The DOE has decided to accept Applications for Refund from firms and individuals that purchased motor gasoline sold by Northeast during the consent order period. Eligible applicants include indirect customers as well as first purchasers. In order to receive a refund, a claimant will be required to submit a schedule of its monthly purchases of Northeast motor gasoline and to demonstrate that it was injured by Northeast's pricing practices. An indirect purchaser must also submit the name of its immediate supplier and indicate why it believes the motor gasoline was originally sold by Northeast.

As the accompanying Decision and Order indicates, Applications for Refund may now be filed by customers that purchased motor gasoline sold by Northeast during the consent order period. Applications will be accepted provided they are filed in duplicate and received no later than 90 days after publication of this Decision and Order in the **Federal Register**. The specific information required in an Application for Refund is set forth in the Decision and Order.

Dated: August 15, 1986.

George B. Breznay,

Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

August 15, 1986.

Name of Firm: Northeast Petroleum Industries, Inc.

Date of Filing: October 13, 1983

Case Number: HEF–0138

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Northeast Petroleum Industries, Inc. (Northeast) and its subsidiaries. This Decision and Order contains the procedures which OHA has formulated to distribute the

funds received pursuant to that consent order.

I. Background

Northeast is a "reseller-retailer" of petroleum products as that term is defined in 10 CFR 212.31, with its home office located in Chelsea, Massachusetts. Based on an audit of Northeast's records, ERA alleged that Northeast had committed possible violations of the Mandatory Petroleum Price Regulations with respect to the firm's sale and allocation of motor gasoline during the period May 1, 1974 through August 31, 1979. 10 CFR Part 212, Subpart F.

In order to settle all claims and disputes between Northeast and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Northeast and the DOE entered into a consent order on June 17, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. The consent order also states that Northeast does not admit that it violated the regulations.

Under the terms of the consent order, Northeast agreed to deposit $840,000, plus installment interest, into an interest-bearing escrow account for ultimate distribution by the DOE. Northeast completed its payments on March 15, 1985. Including installment interest, Northeast's deposit totaled $1,009,609.84. As in other proceedings this figure will be considered to be principal in this Decision.[1]

On February 4, 1986, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of refunds to parties that can make a reasonable showing of injury as a result of Northeast's alleged violations in its sales of motor gasoline during the consent order period. 51 FR 5242 (February 12, 1986). The PD&O stated that the purpose of a special refund proceeding is to make restitution for injuries that were experienced as a result of actual or alleged violations of the DOE regulations. In order to give notice to all potentially affected parties, a copy of the Proposed Decision was published in the **Federal Register** and comments regarding the proposed refund procedures were solicited.

This decision establishes procedures for filing claims in the first stage of the refund proceeding and describes the information that a claimant should submit in order to demonstrate that it is eligible to receive a portion of the funds. In establishing these requirements, we have considered comments filed by several interested parties in response to the first-stage proposals in the February 4, 1986 PD&O. We will not, however, determine procedures for a second stage of the refund process in this decision. Although we received comments from several states regarding disposition of funds remaining at the conclusion of the first stage of the refund proceeding, it is premature for us to address the issues raised by the States until all the first-stage claims have been paid.[2]

II. Jurisdiction

The Subpart V regulations set forth general guidelines by which OHA may formulate and implement a plan of distribution for funds received as a result of enforcement proceedings. It is DOE policy to use the Subpart V process to distribute such funds. For a detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981). As we stated in the Proposed Decision, we have determined that a Subpart V proceeding is an appropriate method for distributing the Northeast consent order funds. Therefore, we will grant the ERA's petition and assume jurisdiction over the funds received pursuant to the Northeast consent order.

III. Refunds to Identifiable Purchasers

In the first stage of the Northeast refund proceeding, we will distribute the funds currently in escrow to claimants that demonstrate that they were injured by the alleged overcharges. In order to be eligible to receive a refund, claimants will have to file an application and, with three exceptions which will be discussed later in this Decision, show the extent to which they were injured by the alleged overcharges. To the extent that any individual or firm can establish injury, it will be eligible for a share of the consent order fund.

In this case we will adopt three rebuttable presumptions regarding injury. These presumptions have been used in many previous special refund cases. First, we will not require a detailed demonstration of injury from regulated utilites or agricultural cooperatives that purchased Northeast motor gasoline and passed the alleged overcharges associated with that product through to their end-user members. Second, we will presume that purchasers of Northeast motor gasoline who are claiming small refunds ($5,000 or less) were injured by the alleged overcharges. Third, in the absence of compelling material, we will adopt a presumption that spot purchasers were not injured. In addition, we are finding that end-users or ultimate consumers of Northeast products whose business operations are unrelated to the petroleum industry were injured by the alleged overcharges. Prior OHA decisions provide detailed explanations of the bases of these presumptions and the end-user finding. *E.g., True Co.*, 13 DOE ¶ 85,178 at 88,484–85 (1985). The rationale for these presumptions was also fully explained in the PD&O. 51 FR 5242 (February 12, 1986). These presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

Several comments were received in response to the PD&O. Best Petroleum Company (Best) contends that it is inequitable to limit the small claims presumption to claims of $5,000 or less when the value of the "potential average claim" is much greater. The firm urges that the threshold figure be increased to $55,000. That figure is produced by dividing the amount of money which was in the Northeast escrow account when the PD&O was issued by the number of potential claimants identified in the ERA audit of Northeast.

The small claims presumption was established to facilitate relatively small refund claims. *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 at 88,510 (1986). If all applicants were required to make a separate detailed showing of injury, in many cases the cost of making such a showing would exceed the value of the potential refund. As a result, these applicants would effectively be denied an opportunity to seek restitution. Since that result would be inequitable, we concluded that no detailed showing of injury should be required of applicants seeking a refund of $5,000 or less. After all, applicants for refunds of less than $5,000 are most often small firms that usually do not have the resources or records to compile a detailed showing of injury. From this discussion, it is clear that the factors raised by Best, such as the value of a "potential average claim" (which could not be determined in advance anyway) or the product of the escrow account divided by the number of purchasers identified by the ERA

[1] As of July 31, 1986, the Northeast escrow account contained a total of $1,680,335.59, representing $1,009,609.84 in principal and $670,725.75 in accrued interest.

[2] Comments were submitted collectively on behalf of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island and West Virginia.

audit, are irrelevant. In this latter regard, it is clear from our experience that any firm seeking a refund of $55,000 will at least attempt a detailed showing of injury. It is of course possible that the small claims threshold should be adjusted and we continue to solicit comments towards that end. However, there is no material in the Best submission which would lead us to change the threshold in this proceeding.

Parker Fuel Corporation also submitted comments urging that firms which did not maintain contemporaneous cost bank records of unrecouped product costs be allowed to show injury through alternate methods. As in other proceedings, when cost bank data is not available, we will accept alternative demonstrations. For example, in *Tenneco Oil Co./Northern Petroleum, Inc.*, 13 DOE ¶ 85,207 (1985) (*Northern*), Northern provided "approximate banks" which were based upon product-wide profit margin figures for the consent order period. *See also Bayou State Oil Corp. & Ida Gasoline Inc./E–Z Mart Stores, Inc.*, 14 DOE ¶ 85,302 (1986). We have also accepted other evidence which shows that an applicant could not have recovered increased product costs and was likely to have had banks of unrecovered costs at the time of the alleged overcharges. For example, in *Waller Petroleum Co., Inc./Tower Sales, Inc.*, 13 DOE ¶ 85,033 (1985), the firm submitted a comparison between the selling price of the consent order product and the prices it paid to acquire the product. This comparison revealed that the firm suffered more than a 15 cent per gallon loss in over 50 percent of its sales of the consent order product. Based on this data, together with the fact that the acquisition price paid for the firm from its principal supplier—which was less than half the price charged by the consent order firm—was also higher than the local market average price, we concluded that it was very likely that the firm had banks of unrecouped product cost and accordingly, granted the application for refund.

These alternative calculations took into account the cumulative nature of cost banks. In other words, a firm which could not recover all increased product costs in the month incurred could have recovered them in a later period. A firm which was ultimately able to recoup these costs could not have been injured by the alleged overcharges and would not be eligible for a refund. *See, e.g., Husky Oil Co.*, 13 DOE ¶ 85,045 at 88,113 (1985); *Bayou State, supra.*

As stated in the PD&O, the volumetric method will be employed to allot the consent order funds among eligible claimants. This method incorporates the rebuttable presumption that the alleged overcharges fell equally over all of the gallons of motor gasoline which Northeast sold during the consent order period. Dividing the consent order funds by the approximate number of gallons of motor gasoline which Northeast sold produces a volumetric refund amount of $0.000998 per gallon.[3] Successful claimants may receive a refund based upon their volume of purchases from Northeast, multiplied by its volumetric figure, plus a proportionate share of the interest accured in the escrow account. It is possible that the alleged overcharges were not distributed equally and, as a result, a particular purchaser could have suffered a disproportionate injury. Any purchaser that can make a showing of disproportionate overcharge may be entitled to a larger refund.

As in previous cases, only claims for at least $15 will be processed. We have found in other refund proceedings that the cost of processing claims for less than $15 outweights the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982). *See also* 10 CFR 205.286(b). The same principle applies here.

IV. Applications for Refund

Through the procedures described above, we will be able to distribute the Northeast consent order funds as equitably and efficiently as possible. Accordingly, we will now accept applications for refunds from individuals and firms who purchased motor gasoline from Northeast during the period May 1, 1974 through August 31, 1979.

In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of motor gasoline from Northeast. Purchasers will be required to provide specific information as to the volume of motor gasoline purchased, the date of purchase, and the extent of any injury alleged. Applicants should also provide all relevant information necessary to support their claim in accordance with the presumptions stated above.

In addition, all applications must state:

(1) How it used the Northeast motor gasoline—*i.e.*, whether it was a reseller, retailer or ultimate consumer;

(2) Whether the applicant is a public utility regulated by a government agency or an agricultural cooperative which sold the covered products to its membership. Such applicants are not required to submit proof of injury but are required to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this, and to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money;

(3) Whether the applicant has previously received a refund, from any source, with respect to the alleged overcharges identified in the ERA audit underlying this proceeding;

(4) Whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund;

(5) Whether the applicant is or has been involved as a party in DOE enforcement or private, Section 210 actions. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep the OHA informed of any change in status while its application for refund is pending. *See* 10 CFR 205.9(d); and

(6) The name and telephone number of a person who may be contracted by this Office for additional information.

Finally, each application must include the following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

All applications must be filed in duplicate and must be received within 90 days from the date of publication of this Decision and Order in the **Federal Register**. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant which believes that its application contains confidential information must indicate this and submit two additional copies of its application from which the information has been deleted. All applications should refer to Case No. HEF–0138 and should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

[3] This figure is derived by dividing the $1,009,609.84 principal amount by the 1,012,031,000 gallons of motor gasoline which Northeast reported it sold during the consent order period.

It is therefore ordered that:

(1) Applications for refunds from the funds remitted to the Department of Energy by Northwest Petroleum Industries, Inc. pursuant to the consent order executed on June 17, 1980, may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: August 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-19228 Filed 8-25-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51637; FRL-3070-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty three such PMNs and provides a summary of each.

Dates: Close of Review Period:

P 86-1505, 86-1506, 86-1507, 86-1508, 86-1509, 86-1510, 86-1511 and 86-1512, November 6, 1986

P 86-1513, 86-1514, 86-1515, 86-1516, 86-1517, 86-1518, November 9, 1986

P 86-1519, 86-1520, 86-1521, 86-1522, 86-1523, 86-1524, 86-1525, 86-1526, 86-1527, 86-1528 and 86-1529, November 10, 1986

P 86-1530, 86-1531, 86-1532, 86-1533, 86-1534, 86-1535, 86-1536, and 86-1538, November 11, 1986

Written comments by:

P 86-1505, 86-1506, 86-1507, 86-1508, 86-1509, 86-1510, 86-1511 and 86-1512, October 7, 1986

P 86-1513, 86-1514, 86-1515, 86-1516, 86-1517, 86-1518, October 10, 1986

P 86-1519, 86-1520, 86-1521, 86-1522, 86-1523, 86-1524, 86-1525, 86-1526, 86-1527, 86-1528 and 86-1529, October 11, 1986

P 86-1530, 86-1531, 86-1532, 86-1533, 86-1534, 86-1535, 86-1536 and 86-1538, October 12, 1986

ADDRESS: Written comments, identified by the document control number "[OPTS-51637]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-1505

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1506

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1507

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1508

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1509

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1510

Manufacturer. Confidential.

Chemical. (G) Carboxymethylated nonionic surfactant.

Use/Production: (G) An additive used in cleaning formulations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/day.

Environmental Release/Disposal. Confidential.

P 86-1511

Manufacturer. Confidential.

Chemical. (G) Oil modified polyurethane.

Use/Production: (S) Used in lacquer systems as one component of a two component system with nitro-cellulose, it can be used alone for air dry purposes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1512

Manufacturer. Confidential.

Chemical. (G) Oil modified polyurethane.

Use/Production: (S) Used in lacquer systems as one component of a two component system with nitro-cellulose, it can be used alone for air dry purposes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86–1513

Manufacturer. Detrex Corporation.
Chemical. (G) Amphoteric surface active polymer solution.
Use/Production: (G) Product for use in metal finishing. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1514

Manufacturer. Dynamit Nobel Chemicals.
Chemical. (G) Alkylalkoxysilane.
Use/Production: (G) Industrial additive for polymerization catalyst in a closed process. Prod. range: 5,000 to 50,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to .5 hrs/day, up to 17 days/hr.
Environmental Release/Disposal. 1 kg/batch released to land. Disposal by Resource Conversation and Recovery Act (RCRA) and permitted approved landfill.

P 86–1515

Manufacturer. Confidential.
Chemical. (G) Alkyl imine.
Use/Production: (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1516

Manufacturer. Confidential.
Chemical. (G) Alkyl quaternary ammonium salt.
Use/Production: (S) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >1,500 mg/kg; Irritation: Skin—Moderate to severe, Eye—Gross destruction at 24 hours.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1517

Importer. Confidential.
Chemical. (G) Salt of heteropolycycle compound and organic acid.
Use/Production: (S) Site-limited intermediate. Prod. Range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1518

Manufacturer. Confidential.
Chemical. (G) Styrene acrylic latex.
Use/Production: (G) Exterior wood panel coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1519

Manufacturer. Confidential.
Chemical. (G) Half-blocked aromatic isocyanate.
Use/Production: (S) Site-limited industrial isolated intermediate. Prod. range: 66,000 to 161,000 kg/yr.
Toxicity Data. No data on PMN substance submitted.
Exposure. Manufacture and processing: a total of 52 workers, up to 8 hrs/day, up to 22 days/yr.
Environmental Release/Disposal. Trace to 120 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1520

Manufacturer. Confidential.
Chemical. (G) Blocked aromatic isocyanate.
Use/Production: (S) Site-limited and industrial isolated intermediate. Prod. range: 30,000 to 71,500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 35 workers, up to 8 hrs/day, up to 22 days/yr.
Environmental Release/Disposal. 0.04 to 112 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1521

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 ky/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1522

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1523

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1524

Manufacturer. Confidential.
Chemical. (G) Complex epoxy resin adduct.
Use/Production: (G) Industrial polymer. Prod. range: 200,000 to 487,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 31 workers, up to 8 hrs/day, up to 206 days/yr.
Environmental Release/Disposal. 4 to 318 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1525

Manufacturer. GAF Chemicals Corporation.
Chemical. (S) 2-Pyrrolidone-1-dodecyl.
Use/Production: (G) Detergent additive, biotechnology processing acid, cosmetic formulary and fuel additive. Prod. range: Confidential.
Toxicity Data. Acute dermal: >5.0 gms/kg; Irritation: Skin—Mild to severe material, Eye—Non-irritant to moderate; Ames test: Non-mutagenic.
Exposure. Manufacture: dermal, a total of 12 workers, up to 4 hrs/day.
Environmental Release/Disposal. Minimal release to water. Disposal by biological treatment system,

P 86–1526

Manufacturer. GAF Chemicals Corporation.
Chemical. (S) N-n-octyl-2- pyrrolidone 2-pyrrolidone-1-octyl.
Use/Production: (G) Detergent additive, biotechnology processing acid, reaction medium, and metal working fluid. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Minimal to extreme, Eye—Severe.
Exposure. Manufacture: dermal, a total of 12 workers, up to 4 hrs/day.
Environmental Release/Disposal. Minimal release to water. Disposal by biological treatment system.

P 86–1527

Manufacturer. Confidential.
Chemical. (G) Aliphatic urethane-modified alkyd polymer.
Use/Production: (S) Clear and pigmented air-dry coatings Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1528

Manufacturer. Confidential.
Chemical. (G) Propanedioic acid, bis(2-(2-hydroxy ethoxy) ethyl)ester.
Use/Production: (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute dermal: Non-toxic; Irritation: Skin—Mild, Eye—Non-irritant; Sdin Sensitization: Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1529

Manufacturer. Confidential.
Chemical. (G) Tertiary amine adduct with epoxy resin.
Use/Production: (G) Industrial cross-linking agent. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 3 workers, up to 3 hrs/day, up to 4 days/yr..
Environmental Release/Disposal. 1 kg/batch released by land. Disposal by Resource Conservation and Recovery Act (RCRA).

P 86–1530

Manufacturer. Confidential.
Chemical. (G) Saturated polyester silane.
Use/Production: (G) Commercial industrial specialty chemical. Prod. range: 15,000 to 21,000 kg/yr.
Toxicity Data. No data on PMN substance submitted.
Exposure. Manufacture and processing: dermal, a total of 19 workers, up to 8 hrs/day, up to 31 days/yr.
Environmental Release/Disposal. 2 to 46 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1531

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Silylated carboxylic acid.
Use/Production: (G) Industrial contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—mild, Eye—Non-irritant..
Exposure. No data submitted.
Environmental Release/Disposal. Confidential.

P 86–1532

Manufacturer. The Dow Chemical Company.
Chemical. (G) Prepolymer of benzene, 1,1+methylene bis, hexanedioic acid.
Use/Production: (S) Industrial urethane elastomers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1533

Manufacturer. The Dow Chemical Company.
Chemical. (G) Thermoplastic polyurethane elastomer.
Use/Production: (S) Industrial injection molding of plastic articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1534

Manufacturer. The Dow Chemical Company.
Chemical. (G) Thermoplastic polyurethane elastomer.
Use/Production: (S) Industrial injection molding of plastic articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1535

Manufacturer. The Dow Chemical Company.
Chemical. (G) Benzene, 1,1'methylenebis, 1,4-butane diol, dipropylene glycol, polybutylene adipate polymer.
Use/Production. (S) Industrial extrusion and injection molding of polyurethane articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1536

Manufacturer. The Dow Chemical Company.
Chemical. (G) Benzene, 1,1'methylenebis, 1,4-butane diol, dipropylene glycol, polybutylene adipate polymer.
Use/Production. (S) Industrial extrusion and injection molding of polyurethane articles. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1538

Manufacturer. Lawler International, Inc.
Chemical. (S) Isophthalic, nonanoic acid, isophorondiamine, trimethylolpropane, ester-amide polymer.
Use/Production. (S) Industrial fluorescent pigment (resin carrier for daylight dyes). Prod. range: 227,000 to 363,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 10 workers, up to 10 hrs/day, up to 35 days/yr.
Environmental Release/Disposal. 0.1 to 1 kg/day released to air and water. Disposal by approved landfill and navigable waterway.

Dated: August 20, 1986.

Denise Devoe,
Acting Division Director, Information Management Division.

[FR Doc. 86–19248 Filed 8–25–86; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–59781; FRL–3070–9]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of five such PMNs and provides a summary of each.

DATES: Close of Review Period: Y 86–219 and 86–220, September 1, 1986. Y 86–221, 86–222 and 86–223, September 2, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett,

Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86–219

Manufacture. Confidential.
Chemical. (G) Modified polyester of carbomonocyclic acids and anhydride with neopentyl glycol.
Use/Production. (S) Industrial coil coatings to be applied to steel substrate. Prod. range: 32,000 to 160,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–220

Manufacturer. Confidential.
Chemical. (G) Acrylic solution.
Use/Production. (S) Industrial alkyd resin modification and gloss enamel vehicle. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 14 hrs/day, up to 3 day/yr.
Environmental Release/Disposal. No release.

Y 86–221

Manufacturer. Confidential.
Chemical. (G) Polyester polyol.
Use/Production. (S) Low shrink thermoset molding additive Prod. range: 150,000 to 225,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–222

Manufacture. Confidential.
Chemical. (G) Vinyl acetate-acrylate copolymer (vinyl acrylic copolymer).
Use/Production. (G) Coatings ingredient, an open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86–223

Manufacturer. Confidential.
Chemical. (G) Styrene-acrylic copolymer.
Use/Production. (G) Coatings ingredient, an open, non-dispersive use. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: August 15, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 86–19245 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

[SW–FRL–3070–2]

Hazardous Waste Permits; Availability of Guidance Manual

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance manual.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of a guidance manual entitled "Guidance Manual for Research, Development, and Demonstration Permits Under 40 CFR 270.65" (EPA/530–SW–86–008, OSWER Policy Directive #9527.00–1A). The purpose of this manual is to provide guidance to permit applicants and permit writers on preparing and processing research, development, and demonstration (RD&D) permit applications and permits, respectively. Topics covered include criteria for RD&D permits, types of permit application information, types of permit terms and conditions, and the roles of the State and EPA Regional Offices. This manual also contains an appendix with answers to frequently asked questions about the RD&D permit program.

ADDRESS: National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, Telephone: (703) 487–4650. NTIS Order No. PB–86229192. The manual is currently available for purchase from the National Technical Information Service (NTIS) either as a paper copy ($11.95) or as microfiche ($5.95). A 25% discount is available for orders of 5 to 99 copies (for orders of 100 or more, contact NTIS for more information). Also, there is an additional $3.00 processing charge per order, regardless of the number of copies.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, at (800) 414–9346 (toll free), or (202) 382–3000. For technical information contact Arthur Glazer at (202) 382–4692.

Dated: August 13, 1986

J.W. McGraw

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–19240 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

[A–2–FRL–3070–1]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The purpose of this notice is to announce that between February 1, 1986, and June 30, 1986, the United States Environmental Protection Agency (EPA), Region II Office, issued one final determination and the New York State Department of Environmental Conservation (NYSDEC) issued five final determinations pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Eng, Chief, Air and Environmental Applications Section, Permits Administration Branch, Office of Policy and Management, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, Room 432, New York, New York 10278, (212) 264–4711.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA Region II Office and the NYSDEC have made final determinations relative to the sources listed below:

Name of applicant	Location	Project description	Reviewing agency	Final action	Date of final action
Northern Energy Group, Incorporated.	Chateaugay, New York	Installation of a 15 megawatt wood-fired electrical generating facility.	NYSDEC	PSD Permit Approval	2/9/86

Name of applicant	Location	Project description	Reviewing agency	Final action	Date of final action
General Foods Corporation	Saratoga Springs, New York	Replacement of a printing press line	NYSDEC	PSD Non-applicability Determination.	2/19/86
Hess Oil Virgin Islands Corporation.	St. Croix, U.S. Virgin Islands	Revision of existing permit to add new conditions and to clarify certain existing conditions.	EPA Region II	Revised PSD Permit Approval	3/25/86
IBM Corporation	Endicott, New York	Increase in hours of operation of a natural gas/No. 6 oil-fired boiler.	NYSDEC	PSD Permit Approval	4/20/86
R. H. Miller, Division of the Penwalt Corporation.	Homer, New York	Replacement of an existing oil-fired boiler	NYSDEC	PSD Non-applicability Determination.	5/14/86
Algonquin Gas Transmission Company.	Stony Point, New York	Removal of permit conditions restricting hours of operation for two natural gas-fired turbines.	NYSDEC	PSD Permit Approval	6/15/86

This notice lists only the sources that have received final PSD determinations. Copies of these determinations and related materials may be available for public inspection at the following offices:

EPA Region II Action

United States Environmental Protection Agency, Region II Office, Permits Administration Branch, 26 Federal Plaza—Room 432, New York, New York 10278

NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233–0001

If available pursuant to the Consolidated Permit Regulations (40 CFR Part 124), judicial review of these determinations under section 307(b)(1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register**. Under section 307(b)(2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

Dated: August 11, 1986.

William J. Muszynaski

Acting Regional Administrator.

[FR Doc. 86–19241 Filed 8–25 86; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–3069–8]

Science Advisory Board Integrated Air Cancer Project Review Subcommittee; Open Meeting

September 16–17, 1986.

Under Pub. L. 92–463, notice is hereby given of a meeting on September 16–17, 1986 of the Science Advisory Board's Integrated Air Cancer Project Review Subcommittee. The Subcommittee will meet at the Environmental Protection Agency's Environmental Research Center Auditorium located at the corner of Route 54 and Alexander Drive, Research Triangle Park, North Carolina 27711. The meeting will begin at 9:00 a.m. on Tuesday and adjourn no later than 5:00 p.m. on Wednesday.

The purpose of the meeting is to enable the Subcommittee to review the Office of Research and Development's Integrated Air Cancer Project which is an interdisciplinary effort planned both to identify the principal airborne carcinogens and their sources, and to improve EPA's ability to assess human exposure and risk from these carcinogens. Copies of the project may be obtained by calling or writing Joellen Lewtas (919) 541–3849 at U.S. Environmental Protection Agency, Health Effects Research Laboratory, Mail Drop 68, Research Triangle Park, North Carolina 27711.

The meeting is open to the public; however, seating is limited. Any member of the public wishing to attend or obtain information should contact Mrs. Kathleen Conway, Executive Secretary, or Mrs. Dorothy Clark, Staff Secretary, (A101–F) Radiation Advisory Committee, Science Advisory Board, by the close of business on September 12, 1986. The telephone number is (202) 382–2552.

Dated: August 19, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86–19243 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

[OARM–FRL–3070–3]

Privacy Act of 1974; Deletion of a System of Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Privacy Act of 1974; Notice of Deletion of a System of Records.

SUMMARY: The Environmental Protection Agency is deleting a system of records, Security Computer Program System (EPA–6), that is no longer in use.

DATE: Effective September 26, 1986.

FOR FURTHER INFORMATION CONTACT: Anna M. Virbick, Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (202) 382–4912.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, EPA previously published in the **Federal Register** notices for the system of records called Security Computer Program System (EPA–6). These notices were published at 41 FR 39689 (September 15, 1976) and 43 FR 3502 (January 25, 1978). Since those notices were published, EPA has deleted all information in this system from its computer files. Hard copy of some data formerly in this system is now maintained in the EPA systems of records called OIG Personnel Security Files (EPA–5) published at 51 FR 15825 (April 28, 1986) and General Personnel Records (EPA–2) published at 45 FR 3502 (January 25, 1978). Accordingly, this notice formally deletes the EPA–6 system of records.

Dated: August 12, 1986.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management.

[FR Doc. 86–19239 Filed 8–25–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for

comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010676–016
Title: Mediterranean/U.S.A. Freight Conference
Parties:
Achille Lauro
C.I.A. Venezolana de Navegacion
Compania Transatlantica Espanola, S.A.
Costa Line
Farrell Lines, Inc.
"Italia" de Navigazione, S.p.A.
Jugolinija
Jugooceanija
Lykes Lines
Med-America Express Service
Nedlloyd Lines
Nordana Line/Dannebrog Lines AS
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.
Synopsis: The proposed amendment would delete Puerto Rico from the scope of the agreement. It would also provide that any party to the agreement may serve any one or more of the four port ranges covered by the agreement while still operating as an independent in the other ranges of the agreement, and would reduce the notice period for a party's withdrawal from 60 days to 45 days.

Agreement No.: 202–010717–012
Title: United States Atlantic and Gulf/Central America Conference
Parties:
Coordinated Caribbean Transport, Inc.
Ecuadorian Line, Inc.
Compania Sud Americana de Vapores, S.A.
Seaboard Marine Line, Ltd.
Transportes Navieros Equatorianos
Sea-Land Service, Inc.
United States Lines, Inc.
Synopsis: The proposed amendment would include U.S. West Coast ports and inland and coastal U.S. points via such ports in the scope of the agreement. It would also exclude from carriage under the agreement household goods, personal effects and privately owned vehicles moving on U.S. Government bills of lading. It would further authorize the establishment of additional rate-making sections as the parties may deem necessary and would restate the agreement to incorporate all previously effective amendments.

Dated: August 21, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 86–19201 Filed 8–25–86; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Dominion Bankshares Corp. 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 September 17, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation,* Roanoke, Virginia; to acquire 100 percent of the voting shares of Nashville City Bank and Trust Company, Nashville, Tennessee.

2. *James Madison Limited,* Washington, DC; to acquire 100 percent of the voting shares of TMB National Bank, McLean, Virginia, the successor by merger of The McLean Bank, McLean, Virginia.

3. *NCNB Corporation,* Charlotte, North Carolina; to acquire up to 100 percent of the voting shares of Hartsville Bancshares, Inc., Hartsville, South Carolina, and thereby indirectly acquire The Bank of Hartsville, Hartsville, South Carolina.

4. *Washington National Holdings, N.V.,* Curacao, Netherlands Antilles; Colson, Inc., Wilmington, Delaware; and Washington Bancorporation, Washington, DC; to acquire 100 percent of the voting shares of Enterprise Bank Corporation, Reston, Virginia.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Central Bancshares of the South, Inc.,* Birmingham, Alabama; to acquire 100 percent of the voting shares of Jacksonville State Bank, Jacksonville, Alabama.

2. *Southeast Banking Corporation,* Miami, Florida; to acquire 100 percent of the voting shares of Southeast Bank of Tallahassee, Tallahassee, Florida, a *de novo* bank.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *City Bancorp of Bloomington-Normal, Inc.,* Bloomington, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Saybrook, Saybrook, Illinois.

2. *The Marine Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Marine Bank of Mt. Pleasant, National Association, Mt. Pleasant, Wisconsin, a *de novo* bank.

3. *Marisub, Inc.,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Marine Bank of Mt. Pleasant, National Association, Mt. Pleasant, Wisconsin, a *de novo* bank.

4. *Mid-Citco Incorporated,* Chicago, Illinois; to acquire 100 percent of the voting shares of Bank of Elmhurst, Elmhurst, Illinois. Comments on this application must be received by September 15, 1986.

5. *Summcorp,* Fort Wayne, Indiana; to acquire 100 percent of the voting shares of Clinton County Bancorp, Frankfort, Indiana, and thereby indirectly acquire Clinton County Bank and Trust Company, Frankfort, Indiana.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Rainier Bancorporation,* Seattle, Washington; to acquire 100 percent of the voting shares of United Bank, A Savings Bank, Tacoma, Washington.

2. *Ventura County National Bancorp,* Oxnard, California; to acquire 100 percent of the voting shares of Conejo Valley National Bank, Thousand Oaks, California.

Board of Governors of the Federal Reserve System, August 20, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-19179 Filed 8-25-86; 8:45 am]
BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 17, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire DALA Company, Inc., Lancaster, Pennsylvania, and thereby engage in leasing personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

2. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to acquire General Funding Services Corporation, Huntingdon, Pennsylvania, and thereby engage in leasing personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 20, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-19180 Filed 8-25-86; 8:45 am]
BILLING CODE 6210-01-M

Susquehanna Bancshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 15, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Lititz, Pennsylvania; to engage *de novo* through its subsidiary, Susque-Bancshares Leasing Company, Inc., Lititz, Pennsylvania, in leasing personal property as permitted under § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to engage *de novo* in the origination of home mortgage loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

2. *J.R. Montgomery Bancorporation*, Lawton, Oklahoma; to engage *de novo* through its subsidiary, Express Life Insurance Company, Lawton, Oklahoma, in the sale of life, accident, and health insurance related to extensions of credit by Applicant or its subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Viejo Bancorp*, Mission Viejo, California; to engage *de novo* through its subsidiary, Viejo Escrow Corporation, Mission Viejo, California, in the functions or activities that may be performed by a trust company pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 20, 1986.
William W. Wiles,
Secretary of the Board.
[FR Doc. 86-19178 Filed 8-25-86; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements; Preventive Health Services; Acquired Immunodeficiency Syndrome (AIDS) Surveillance and Associated Epidemiologic Investigations; Program Announcement and Availability of Funds for Fiscal Year 1987

The Centers for Disease Control (CDC) announces that competitive Cooperative Agreement applications are

being accepted for acquired immunodeficiency syndrome (AIDS) active surveillance and asssociated epidemiologic investigations. The Catalog of Federal Domestic Assistance number is 13.118.

Program Objective

The objective of these cooperative agreements is to assist State and local health departments in (1) designing, implementing, and maintaining active surveillance programs for AIDS cases and conducting associated epidemiologic investigations to determine incidence trends of AIDS, identify risk groups and risk factors; and (2) monitoring infection with human T-lymphotropic virus type II/lymphadenopathy-associated virus (HTLV–III/LAV or HIV) in population groups at risk.

Authority

This program is authorized under section 301(a), 304(a), 306(b), and 308(d) of the Public Health Service Act, as amended.

Eligibility Requirements

Eligible applicants are the official health departments of any State or local government, including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. Awards will be limited to health departments which have reported at least 50 AIDS cases that meet the CDC surveillance case definition for national reporting:

1. Presence of reliably diagnosed disease at least moderately indicative of underlying cellular immunodeficiency; and

2. Absence of all known underlying causes of cellular immunodeficiency (other than HTLV–III/LAV infection) and absence of all other causes of reduced resistance reported to be associated with the disease.

Eligible State and local health agencies are stongly encouraged to coordinate their request for assistance, ideally in a single application, to ensure the most efficient use of federal, State, and local resources.

Availability of Funds

Based upon the President's Budget, approximately $4.1 million is anticipated to be available in Fiscal Year 1987 to continue existing cooperative agreements and to support new or competing continuation cooperative agreements. Although new applications will be considered, priority for funding will be given to continue existing programs. The average award is expected to be $100,000, with individual awards ranging from $75,000 to $125,000. New projects and competing continuations will be funded with a 12-month annual budget period and a 3-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding estimate outlined above may vary and is subject to change, based upon final congressional appropriations.

Type of Assistance

Awards resulting from this announcement will be cooperative agreements.

Collaborative Activities

The collaborative and programmatic involvement of CDC and recipients of funds is as follows:

1. Recipient Agency Activities

a. Design and conduct surveillance activities directed to improving the reporting of all AIDS cases (including pediatric cases) diagnosed in the public health agency's geographic jurisdiction. In those jurisdictions which encourage or require the reporting of disease other than AIDS associated with HTLV–III/LAV infections, the CDC classification system for HTLV/LAV infections (Morbidity and Mortality Weekly Report v. 35, no. 20, pp. 334–9, May 23, 1986) for such reporting should be used.

b. Establish systems with physicians, hospitals or clinics, cancer registries, laboratories, hemophilia centers, death certificate registries, and other public health agencies for identifying and reporting cases.

c. Develop and maintain a central registry of all reported cases which includes epidemiologic and clinical information for individual cases, and which allows for rapid, uniform updates and retrieval of case information for regular and special tabulations of data for analysis. The case registry must be of limited access and have procedures in existence to insure confidentiality of patient records.

d. Evaluate the effectiveness of surveillance approaches.

e. Conduct epidemiologic investigations of cases that have no identified risk factors including possible blood transfusion-related cases and their donors.

f. Where feasible, serologically survey and thereby monitor the prevalence of infection with HTLV–III in accessible, potentially high risk populations [e.g.: methadone clinic or detoxification center attendees; STD clinic patients subdivided by sex, sexual orientation, use of IV drugs, etc; hemophilia centers; newborns (in areas reporting appreciable amounts of AIDS in children and/or women)].

g. Analyze, present, and publish the results of surveillance activities and epidemiologic investigations in consultation with CDC.

2. Centers for Disease Control Activities

a. Collaborate in the design, development, and implementation of surveillance and associated epidemiologic investigations including specific approaches to AIDS surveillance and epidemiologic investigations, methods for establishing and maintaining a central registry of cases, sampling and reporting format for serologically surveying accessible high risk groups, and analysis and publication of findings.

b. Provide criteria for the surveillance definition of AIDS cases and case report forms, and the classification system for other diseases associated with HTLV–III/LAV infection.

c. Assist State and local public health agencies in analyzing data from reported cases including incidence trends and groups at risk.

d. Provide on-site technical assistance in planning, operating, and evaluating surveillance activities.

e. Assist State and local public health agencies in conducting epidemiologic investigations of selected AIDS cases including those with no identified risk factors.

f. Assist in providing sampling and reporting format for serologic surveys in accessible high risk groups in order to monitor the prevalence of infection, and providing confirmatory serologic testing as needed.

Applications

1. Copies—Place of Submission

The original and two copies of the application should be submitted on Form PHS 5161–1 (revised 3–86) on or before September 30, 1986 to: Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Room 321, 255 East Paces Ferry Road, NE, Atlanta, Georgia 30305.

Application forms should be available in the institution's business office or from the above address.

2. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-

dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier of U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. Late Application

Applications which do not meet the criteria in either paragraph 2 a or b immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

4. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

5. Content

Applications must include a narrative which details the following:

a. The background and need for project support including information that relates to factors by which the applications will be evaluated.

b. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time-phased.

c. The methods that will be used to accomplish objectives for active AIDS surveillance to improve the identification and reporting of AIDS cases, conduct epidemiologic investigations of selected cases, establish a central registry of cases in the official public health department, and where feasible, monitor the seroprevalence of HTLV-III/LAV in accessible at-risk populations.

d. The methods that will be used to evaluate the success of active surveillance and epidemiologic investigations.

e. The methods that will be used to serologically survey accessible high risk groups including proposed sampling methods, which types of groups would be surveyed, and the number of individuals to be tested.

f. The methods that will be used to assure confidentiality both of AIDS patients and persons found serologically positive for HTLV-III/LAV.

g. Fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project.

h. Any other information that will support the request for assistance.

Use of Funds

Cooperative agreement funds may be used to support personnel and to purchase supplies, services, and computer equipment directly related to AIDS surveillance, epidemiologic investigation activities, and serologic surveys. Funds may not be used to supplant funds supporting existing AIDS activities provided by the health department or to support construction costs.

Review Criteria

1. Initial applications and competing continuation applications will be reviewed and evaluated based on the evidence submitted which specifically describes the applicant's ability to meet the following critera:

a. The applicant's understanding of the AIDS problem and the purpose of the cooperative agreement.

b. The qualifications and time allocation of the proposed staff and a description of how the project will be administered.

c. The applicant's activities in AIDS surveillance and a demonstration of close collaboration and working relationships between the public health department and those medical institutions diagnosing and treating patients with AIDS and related illnesses.

d. The establishment of objectives which are consistent with the stated purpose of the cooperative agreement and which are specific, measurable, and time-phased.

e. The methods to be used by the applicant in developing, implementing and maintaining surveillance systems for AIDS in hospitals and among physicians, including establishing and maintaining a central registry of cases; how epidemiologic investigations of selected cases (e.g., cases with no identified risk factors, etc.) will be conducted; and how serologic studies of accessible high risk groups will be undertaken.

f. The soundness of the plan for evaluation.

g. The degree to which confidentiality of all records related to case reports, the central registry, and serologic surveys will be maintained.

2. Continuation awards within the project period will be made on the basis of the following criteria:

a. The accomplishments of the current budget period show that the applicant is meeting its objectives.

b. The objectives for the new budget period are realistic, specific, and measurable.

c. The methods described will clearly lead to achievement of these objectives.

d. The evaluation plan will allow management to monitor whether the methods are effective.

e. The budget requested is clearly explained, adequately justified, reasonable, and consistent with the intended use of cooperative agreement funds.

Information

Information on application procedures, copies of applicants forms, and other materials may be obtained from Marsha Driggans, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575.

Technical assistance may be obtained from Lawrence D. Zyla, AIDS Program, Center for Infectious Diseases, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-3651, FTS: 236-3651.

Dated: August 20, 1986.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-19204 Filed 8-25-86; 8:45 am]

BILLING CODE 4160-18-M

Health Care Financing Administration

[HSQ-115-FN]

Medicare Program; End Stage Renal Disease Program: Revised Network Area Designations

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

ACTION: Final Notice.

SUMMARY: A final rule published separately in this issue of the Federal Register provides for consolidating the existing 32 End Stage Renal Disease (ESRD) networks into as few as 14, establishes provisions for new, more efficient network organizations, and removes the requirement that we change ESRD network area designations through rulemaking. This notice provides for 14 networks and sets forth the geographic areas of the new network organizations (area designations) under the ESRD program.

EFFECTIVE DATE: This final notice is effective on September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Jeffrey Clark, (301) 597-5137.

SUPPLEMENTARY INFORMATION:

I. Background

The Social Security Amendments of 1972 (Pub. L. 92-603) extended Medicare coverage to individuals with end-stage renal disease (ESRD) who require dialysis or transplantation. The End-

Stage Renal Disease Amendments of 1978 (Pub. L. 95–292) authorized the establishment of ESRD network areas and network organizations under the Medicare program, consistent with the criteria the Secretary finds appropriate to assure the effective and efficient administration of ESRD program benefits.

In June 1984 Congress (House Report 98–861, p. 1336) directed the Secretary to consider consolidating the existing 32 network areas.

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (Pub. L. 99–272) was enacted. Section 9214 of that law requires the Secretary to maintain renal disease network organizations as authorized under section 1881(c) of the Act, and not merge the network organizations into other organizations or entities. The Secretary may consolidate network organizations, but only if such consolidation does not result in fewer than 14 such organizations being permitted to exist.

Consistent with section 9214 of Pub. L. 99–272, we published a notice of proposed rulemaking on April 15, 1986 (51 FR 12714) and the final rule that appears separately in this issue of the **Federal Register.** Briefly, the final rule revises regulations that appear at 42 CFR Part 405, Subpart U, to restructure ESRD network organizations to more closely reflect statutory requirements. The final rule provides for the consolidation of the existing 32 network organizations into as few as 14 network organizations. It also announces that we will no longer publish in regulations a list of the ESRD network area designations (previously published as an appendix to Subpart U). Rather, we will publish a revised list of the network area designations as a final notice in the **Federal Register.** We will also issue area designations through revisions to the ESRD Facility Manual and the Provider Reimbursement Manual. We will require facilities to notify patients of the area designation changes, and we will notify patient advocacy groups (for example, The National Association of Patients on Hemodialysis and Transplantation and The Kidney Patients Association) directly. (The published notice of proposed rulemaking and final rule provide detailed explanations and rationale for the regulation and program changes.)

Accordingly, this final notice announces the new ESRD network area designations and discusses the factors we considered in developing those designations.

II. Provisions of This Final Notice

A. Development of Revised Network Area Designations

Section 1881(c) of the Act provides HCFA very broad authority to establish ESRD networks. That section provides that HCFA will use such criteria as it finds appropriate and such network organizations as are necessary to assure effective and efficient administration of the ESRD program.

In considering criteria for the consolidation of the existing 32 network organizations, we were mindful of our paramount responsibility—the protection of ESRD beneficiary health and safety. In keeping with that responsibility, we have designed a configuration of 14 geographic areas that we believe is cost-effective without compromising quality of care. By reducing the number of network organizations to 14, we expect the expenditures for administrative costs to be reduced and ot constitute a relatively smaller portion of the total operating costs. Thus, a larger proportion of funds will be available for quality assurance activities supported by meaningful data analysis.

We adopted the 14 ESRD network area configuration after careful analysis and 20 years of experience with the ESRD program. As stated in the April 15, 1986 notice of proposed rulemaking (51 FR 12716), we also consulted with the Public Health Service on issues of health care quality and access in establishing the new network designations. We considered other configurations but found them to be deficient in one or more of the factors that were used to choose the new network areas.

Prior to designing the 14 network area configuration criteria were established that focused on achieving an area size that is adequate to provide for: (1) A data base that permits meaningful analysis; (2) An interchange of perspectives that is conducive to effective medical review; and (3) The needs of the ESRD population served. A list of the factors we considered in developing the 14 ESRD network area configuration follows.

1. Sufficient number of dialysis and transplant facilities to:

- Assure patient access to all treatment modalities of ESRD care;
- Ensure effective and comprehensive medical review based on peer review and an interchange of perspectives;
- Provide a broad data base to ensure meaningful analyses in support of quality assurance activities; and
- Provide optimum utilization of network staff and equipment.

2. Preservation and/or consolidation of ESRD patient referral and treatment areas

Since the early 1960s, when the feasibility of facility dialysis, home dialysis, and renal transplantation was being explored by the Public Health Service, specific ESRD patient referral patterns and treatment areas have emerged. In designing the 14 area configuration, we made every effort to consolidate the existing patient referral and treatment areas.

3. Geography of each area

The size of each designated area does not prohibit patients and facility staff from participating in the activities of the network organization.

4. More than One State in each designated area

By eliminating single State networks, we will enhance peer review and provide for a more diverse interchange or perspectives. A larger base of clinical data will be developed that will enhance quality assurance studies.

5. Preservation of State boundaries

State boundaries—

- Preserve the integrity of State Health Departments, State Medical Societies, State renal committees, etc.;
- Preserve the applicability of State laws;
- Are consistent with PRO boundaries;
- Facilitate the comparison of incidence/prevalence statistics by defined United States census areas;
- Facilitate the sharing of data between State agencies;
- Coincide with uniform State billing and data collection; and
- Coincide with HCFA's records format changes.

6. Comparability (to the greatest extent feasible) of the number of patients and facilities

The comparability of the number of patients and facilities provides for similar workloads for network staff, similar data requirements, and a more equitable distribution of resources. Because of the geography and population of the areas, parity was not possible in all 14 areas. For example, the large geographical area of Network No. 14 (five States) has a patient population of 2,664, where a smaller geographical area of Network No. 2 (two States) has a patient population of 9,429.

Comparability, however, was obtained in nine out of 14 areas.

The 14-area configuration provides a similar number of transplant centers in

each area and provides a larger forum of transplantation expertise in each network area.

7. Economic consideration

Expenditures for administrative costs will constitute a relatively smaller portion of total costs. A lesser number of computer systems will be needed, which will enable HCFA to ensure compatibility and efficiency.

8. Compatibility with HCFA program evaluation and assessment needs

Onsite assessments will be enhanced by fewer areas. Monitoring of network activity and performance will be strengthened to ensure compliance with HCFA requirements and guidelines.

9. Program experience

The configuration of 32 ESRD network areas has been administratively cumbersome. The 32 areas varied in geographic size, facility membership, and number of patients. Escalating administrative costs and an emphasis on administrative operations resulted in the networks focusing less attention on quality assurance initiatives. There are substantial and unjustified variations in the quality of performance and in the cost effectiveness of the different networks in meeting their statutory responsibilities.

B. ESRD Network Area Designations

The following is a list of the 14 new network area designations.

ESRD Network No. 1

Maine	Rhode Island
Massachusetts	Vermont
New Hampshire	

ESRD Network No. 2

Connecticut	New York

ESRD Network No. 3

Delaware	Puerto Rico, Virgin Islands
New Jersey	
Pennsylvania	

ESRD Network No. 4

District of Columbia	North Carolina
Maryland	Virginia

ESRD Network No. 5

Florida	South Carolina
Georgia	

ESRD Network No. 6

Alabama	Mississippi
Arkansas	Tennessee
Louisiana	

ESRD Network No. 7

Indiana	Ohio
Kentucky	West Virginia

ESRD Network No. 8

Illinois	Michigan

ESRD Network No. 9

Minnesota	South Dakota
North Dakota	Wisconsin

ESRD Network No. 10

Iowa	Missouri
Kansas	Nebraska

ESRD Network No. 11

Oklahoma	Texas

ESRD Network No. 12

Arizona	Utah
Colorado	Wyoming
New Mexico	

ESRD Network No. 13

California	Nevada
Hawaii	American Samoa, Guam

ESRD Network No. 14

Alaska	Oregon
Idaho	Washington
Montana	

III. Request for Proposals

We are developing separately an announcement of a request for proposals (RFP) to solicit prospective contractors as the new ESRD network organizations for these newly designated areas. We will publish the announcement in the Commerce Business Daily (CBD) for 15 consecutive days. During those 15 days, interested parties may request copies of the RFP. On the fifteenth day that the announcement appears in the CBD, we will distribute copies of the RFP to existing organizations that we feel currently have the expertise to perform network organization functions and any other parties that request copies. We will accept proposals within 30 days from the date that we issue copies of the RFP.

IV. Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any "major rule" that is likely to have an annual effect on the economy of $100 million or more, result in a major increase in costs or prices for consumers, any industries, government agencies or geographic regions, or meet other threshold criteria that are specified in that order. In addition, consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–12), we prepare and publish a regulatory flexibility analysis for regulations unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities.

Because ESRD networks are such a small activity, with a total FY 1986 budget of less than $5 million, these redesignations do not meet any of the criteria for a major rule under Executive Order 12291, and a regulatory impact analysis is not required. The existing network organizations are small, and a substantial number of them would experience a significant adverse economic effect as a result of our changes. The reduction in the number of network areas clearly affects all existing network organizations. However, these organizations are a creation of the government and are funded by us solely to fulfill the requirements of the law. They are not the kind of small entities to which the Regulatory Flexibility Act is usually considered to apply. Further, the final rule eliminated the requirement that redesignation be accomplished through rulemaking. Therefore, although we have voluntarily prepared initial and final regulatory flexibility analyses for the proposed and final rules, we have determined that it is neither necessary nor appropriate to prepare a regulatory flexibility analysis for this notice.

V. Collection of Information Requirements

This notice contains no information collection requirements. Consequently, this notice need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

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

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, and 1881 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, and 1395rr).

Dated: July 11, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 25, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–19147 Filed 8–25–86; 8:45 am]

BILLING CODE 4120–01–M

HEALTH AND HUMAN SERVICES

National Institutes of Health

Meeting of the Dental Research Programs Advisory Committee

Pursuant to Pub. L. 92–463 notice is hereby given of the meeting of the Dental Research Programs Advisory Committee from 9:00 a.m. to recess on September 11 and from 9:00 a.m. to adjournment on September 12, 1986, Conference Room #7, Building 31, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. Marie Nylen, Director for Extramural Programs, NIDR, NIH, Westwood Building, Room 503, Bethesda, MD 20892 (telephone: 301/496-7723) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior, Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845—Dental Research Institutes, National Institutes of Health).

Dated: August 19, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-19293 Filed 8-25-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke; Solicitation of Public Comments for the Interagency Committee on Spinal Cord Injury

Notice is hereby given that the Interagency Committee on Spinal Cord Injury plans to solicit public comments in conjunction with the charge to the Interagency Committee to seek information from the scientific community and other interested groups or individuals. The meeting will be held on October 24, 1986, from 9:30 a.m. until 5:00 p.m., in the Rayburn House Office Building, Room 2325, South Capitol Street and Independence Avenue, SW., Washington DC.

Pursuant to section 7 of Pub. L. 99-158, the Secretary of Health and Human Services established in the National Institute of Neurological and Communicative Disorders and Stroke an Interagency Committee on Spinal Cord Injury. The Interagency Committee consists of representatives from the National Institute of Neurological and Communicative Disorders and Stroke, the Department of Defense, the Department of Education, the Veterans Administration, the Office of Science and Technology Policy, and the National Science Foundation. The Interagency Committee is to develop a report that includes a description of research projects on spinal cord injury and central nervous system regeneration conducted or supported by Federal agencies. The report will also contain a plan to develop, coordinate, and implement comprehensive Federal initiatives on research on spinal cord injury and central nervous system regeneration.

The attendance and the number of presentations during the meeting will be limited to the time and space available. Thus, all individuals who wish to attend or present statements at the meeting should notify Michael D. Walker, M.D., Executive Secretary, Interagency Committee on Spinal Cord Injury, National Institute of Neurological and Communicative Disorders and Stroke, National Institutes of Health, 7550 Wisconsin Avenue, Federal Building, Room 8A08, Bethesda, Maryland 20892 by October 10, 1986. Notification should indicate complete name, affiliation, address, and telephone number.

Those who wish to make a presentation must file a written statement or detailed summary of their presentation with the Executive Secretary before 5:00 p.m., October 15, 1986. Only speakers discussing subjects relevant to the mission of the Interagency Committee will be scheduled. Each speaker will be limited to 10 minutes to summarize or highlight their written statement. Those who cannot attend the meeting but would like to submit a written statement are encouraged to do so. Statements longer than a few pages must also contain a succinct summary.

Dated: August 19, 1986.

James B. Wyngaarden,

Director, National Institutes of Health.

[FR Doc. 86-19292 Filed 8-25-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-010-06-4333-13]

Camping, Campfire and Road Closure Order; Hoyt Crossing, South Yuba River, Folsom Resource Area, Bakersfield District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of Camping, Campfire and Road Closure Order on Public Lands along the South Yuba River of Folsom Resource Area, Bakersfield District, California.

SUMMARY: No camping or campfires shall be allowed in T.17N., R.8E., Sec. 28-33, known as Hoyt Crossing and vicinity. The area shall be open for day use recreation only. Augustine Road leading to Hoyt Crossing is closed to vehicle access.

DATE: This order goes into effect September 15, 1986 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Deane K. Swickard, Area Manager, Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. Telephone: (916) 985-4474.

SUPPLEMENTARY INFORMATION: The purpose of this order is to protect resources, to reduce fire hazards on Public Land and to implement rules consistent with those of the California Department of Parks and Recreation which manages adjacent State Park lands. Authority for this restriction order is contained in CFR Title 43 Part 8364, §§ 8364.1 and 8365.1-2(a).

Any person who fails to comply with this restriction order may be subject to a fine not-to-exceed $1,000 and/or imprisonment not-to-exceed twelve (12) months. Penalties are contained in CFR Title 43, Chapter II, Part 8360, § 8630.0-7.

D. K. Swickard,

Area Manager, Folsom Resource Area.

[FR Doc. 86-19184 Filed 8-25-86; 8:45 am]

BILLING CODE 4310-40-M

[NV-040-06-4322-10]

Ely District; District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: The Ely District Advisory Council will conduct a meeting on Tuesday, October 7, 1986. The meeting will convene a 10:00 a.m., in the Conference Room of the Ely District BLM Office, Pioche Highway, Ely, Nevada.

The main agenda items will be a briefing on the status of the activity planning efforts, and the major District programs by Resource Area.

The meeting is open to the public. Written comments may be filed with the District Manager for the Council's consideration, and oral statements will be heard at 1:00 p.m. Depending upon the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the meeting will be available for public inspection at the Ely District Office within 30 days following the meeting.

DATE: October 7, 1986.

ADDRESS: Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301.

FOR FURTHER INFORMATION CONTACT: Wayne Lowman, 702–289–4865.

Dated: August 18, 1986.

Kenneth G. Walker,

District Manager.

[FR Doc. 86–19210 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–HC–M

[CO–070–06–4212–14; C–35209]

Realty Action; Non-Competitive Sale of Public Lands in Garfield County, Colorado; Correction

In Federal Register Document 86–17157 beginning on Page 27466 in the issue dated Thursday, July 31, 1986, in the third column, first paragraph, lines 6 and 7, "at the fair market value of $1,000,000" should have read "at the fair market value of $1,000.00."

Dated: August 18, 1986.

Robert D. Kaiser,

District Manager, Acting, Grand Junction District.

[FR Doc. 86–19186 Filed 8–25–86; 8:45 am]

BILLING CODE 4310–JB–M

Roswell District, New Mexico; Establishment of Supplementary Rules for Noncommercial Use of Special Area Caves

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of change in administrative authority for management of certain caves located on public land.

SUMMARY: Notice is hereby given in accordance with authority contained in 43 CFR Part 8360, § 8365.1–6 of the establishment of supplementary rules for noncommercial use of special area caves administered by the Bureau of Land Management (BLM), Roswell District, New Mexico.

SUPPLEMENTARY INFORMATION: Publication of this notice also modifies access requirements for 19 caves, retains existing closure authority on 20 caves, and rescinds closure authority for one cave. On July 17, 1980, (45 FR 47935) the following named caves were closed to public access, determined to be "special areas" and established as areas where special recreation permits were required:

Agogino	Honest Injun Cave
Big Manhole Cave	Jurnigan No. 1 Cave
Blue Tick Cave	Jurnigan No. 2 Cave
Doc Brito Cave	Little Sand Cave
Dry Cave	Lost Cave
Endless Cave	Manhole Cave
Feather Cave	McKittrick Cave
Fort Stanton Cave	Sand Cave
Hick's (Wind) Cave	Torgac Cave

On October 7, 1982, (47 FR 44438) Burnet Cave, Crockett's Cave, and Oso Cave were closed to public access, subject to specifically authorized travel. Crockett's Cave was determined to be a "special area" and established as being subject to the issuance of special recreation permits.

The existing closures, made under authority contained in 43 U.S.C. 1201 and regulations contained in 43 CFR 8364.1–1, are retained on all the previously named caves, except Oso Cave. At the time Oso Cave was discovered, it was situated near an indefinite boundary in an unsurveyed township. After the completion of a survey on September 1, 1983, it was determined that Oso Cave was located on lands administered by the Lincoln National Forest, Guadalupe Ranger District. Since the BLM has no authority to manage this cave, the previous closure is rescinded. The previous determination of "special area" status is continued for the 19 caves named above, and is rescinded for Oso Cave.

Noncommercial public use of these caves will be conducted in accordance with the supplementary rules contained in this notice; and approved use will be granted on a Cave Entrance Registration Form instead of a Special Recreation Permit Form. Commercial or competitive use of these same caves will continue to be subject to special recreation permit requirements contained in 43 CFR Part 8370 regulations.

These administrative changes are being made to maintain consistency with cooperating Federal land management agencies concerning nonfee requirements for the use of undeveloped caves. Also, by changing from a special recreation permit authorization which would require payment of user fees, there will be reduced administrative workloads for BLM personnel, less paperwork burden for the public, and the wide variety of cave uses (recreation, research, exploration, and education) can be accommodated using a consistent set of rules and registration document.

Supplementary Rules for Cave Visitation

In order to provide for the protection of public lands and resources, minimize safety or health risks for the visiting public, and reduce agency liability by exercising reasonable care for visitors, noncommercial use of "special area" caves will be allowed in accordance with the following procedures, general conditions, and special stipulations:

A. Procedures

1. Applications to enter caves must be directed to the appropriate BLM, Resource Area Manager, who is the authorized officer for BLM. Current addresses and areas of responsibility are listed below:

(a) Applications for use of the following caves—Agogino, Blue Tick, Crockett's, Feather, Fort Stanton, and Torgac are the responsibility of the Roswell Resource Area Manager, P.O. Drawer 1857, Roswell, NM 88201, telephone number (505) 624–1790.

(b) Use applications for all other caves are the responsibility of the Carlsbad Resource Area Manager, P.O. Box 1778, Carlsbad, NM 88220, telephone number (505) 887–6544.

2. Applications are considered on a first-come-first-served basis. Use applications and reservations for intended use dates may be requested in person, by mail or telephone, but no verbal entrance authorizations will be granted. All cave visitors must have completed Pre-entrance Registration Forms and have a copy in their possession prior to entering a cave. Possession of a completed registration form will be authorization for use.

3. Applicants will be required to furnish sufficient information, as contained on the application form, to enable the BLM authorized officer to reach a determination to grant or deny a request. One person who is at least 18 years old and elects to serve as trip leader for a group, may provide the necessary information to BLM and secure an authorization on behalf of other individuals.

4. Application forms should be submitted to BLM at least 10 days in advance of the intended use date. Forms which are submitted with less processing time may not be assured of being returned to the applicant by the intended date of use.

B. General Conditions

The following conditions apply to all cave visitors or groups:

1. Intentional or unintentional damage or removal of cave resources is neither authorized nor implied.

2. Visitors must signify they have been informed of hazards and agree to hold harmless the United States for all property damage, injury to or death of persons that are connected with the authorized activity.

3. Visitors shall protect the land and property of the United States from damage and shall compensate the United States for any damage due to negligence, violation of use conditions,

or violation of applicable law or regulation.

4. Authorizations are revocable for any breach of conditions or at the discretion of the authorized officer.

5. All visitors are required to wear a safety helmet and have in their possession at least two sources of light.

6. At least one person in a group must be 18 years or older, and must be responsible for the actions of younger members of the group.

7. All materials or equipment taken into a cave must be removed and properly disposed of at the end of each cave visit.

8. Visitors must agree to abide by special stipulations which pertain to a particular cave or portion thereof.

9. All pets are prohibited from entering any cave.

10. All locking devices on cave fences or gates must be secured after entry or departure from a cave, and mechanical problems with locks must be promptly reported to the authorized officer.

11. Expired authorization forms, including those for trips which are cancelled, will be returned to the issuing BLM office within 5 days after the expiration date.

12. Entrance authorizations are validated only upon signature of each person prior to entering a cave. Signature of a parent or legal guardian is required for all individuals under 18 years of age.

13. Approved and validated authorizations must be visibly displayed on the dashboard of a vehicle when participants are in a cave, or otherwise made readily available for inspection by BLM personnel.

C. Special Stipulations

Special stipulations have been developed which apply only to activities in a particular cave. These requirements were developed to provide for protection of unusual resource values, visitor health, or safety. Stipulations described below represent the range of requirements currently in effect at 9 of 20 caves. Based on resource protection requirements or safety problems, special stipulations may be applied to other caves, or these requirements may be waived by the authorized officer in order to accommodate certain activities such as research use.

1. Minimum group size shall be no less than three people and maximum group size limits vary from six to 10 people.

2. Overnight camping, use of firearms, and open fires (except carbide lamps) are prohibited in caves.

3. Sections of caves which are blocked off with flagging tape or signs to protect seasonal bat populations or cave studies must not be entered.

4. In cave areas that have marked trail systems, travel must be confined to the marked routes.

5. Contact with or disturbance of bats is prohibited.

6. Certain caves or portions of caves may be visited only if a group is accompanied by a guide that is approved by the authorized officer.

7. Special safety equipment, such as the use of dust masks to prevent airborne diseases, must be used when required by the authorized officer.

D. Enforcement

All members of a noncommercial group that enter a cave without possessing a valid authorization, or persons who violate a general condition or special stipulation of a valid authorization will be subject to the penalties prescribed in 43 CFR 8360.0–7. Violations are punishable upon conviction by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

The provisions of this notice and supplementary rules shall become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the State Director.

FOR FURTHER INFORMATION CONTACT: Timothy R. Kreager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88201, telephone (505) 622–9042, (FTS) 572–0222.

Dated: August 15, 1986.

Monte G. Jordan,

Acting State Director.

[FR Doc. 86–19182 Filed 8–25–86; 8:45 am]

BILLING CODE 4310-FB-M

Closure Order on Use of Motor Vehicles on Certain Designated Road Systems

AGENCY: Bureau of Land Management, Interior.

Charge Code: (OR120–6310–02: GP6–321).

ACTION: Notice is hereby given that certain road systems in the Coos Bay District are closed to use by motorized vehicles in accordance with the current Habitat Management Plan (HMP) and other appropriate Bureau of Land Management (BLM) planning documents. Closures are 12 months per year. This does not affect non-motorized forms of travel. The reason for this order is to implement a planning system mitigation to benefit elk habitat primarily, with certain other benefits outlined in the HMP.

Copies of the HMP and maps of the roads closed are available from the Coos Bay District Office, BLM, 333 South 4th Street, Coos Bay, Oregon, 97420. Lands administered by the Coos Bay District are in Coos, Curry, Douglas, and Lane counties. The road closure system will be reviewed annually by BLM, the Oregon Department of Fish and Wildlife and Oregon State Police, with opportunities for public comment. Particular roads may be added or dropped from the system.

This is a cooperative road closure program with the Oregon Department of Fish and Wildlife. All persons authorized to enforce state game laws may enforce this closure. Oregon State Police and County Sheriffs are hereby authorized to enforce state and federal laws and regulations on federal properties in accordance with the HMP. Administrative details are spelled out in the HMP.

This closure order is in accordance with the provisions of Pub. L. 93–452, the Sikes Act (88 Stat. 1369), (16 U.S.C. 670 et. seq) and Pub. L. 94–579, the Federal Land Policy and Management Act of 1976 (90 Stat. 2743), (43 U.S.C. 1701) and 43 CFR, Subpart 8364. Any person who fails to comply with the provisions of this order may be subject to penalties outlined in 43 CFR 8360.0–7 or as ordered through the Oregon criminal justice system.

The following is a listing of roads closed for 1986 by road number and resource area:

Tioga Resource Area	*Umpqua Resource Area*
25–10–33.2	23–10–7.1
26–10–3.1/3.5	23–9–9.0
26–10–7.1	23–9–10.0
26–10–19.4	23–9–4.4
26–10–23.3	23–9–15.2
26–10–24.3	23–9–15.0
26–10–28.5/28.8	23–9–21.0
26–10–26.0	23–9–15.4
26–10–30.1	23–9–14.3
26–10–35.0	23–9–13.6/13.7/13.4
26–10–36.1	23–10–13.2
26–9–33.1	23–9–17.0/19.0
26–9–19.0	
26–9–21.2	
26–9–33.2	
27–10–26	
28–12–19.1 B	
28–12–19.2 B	
27–10–22.1	
27–10–29.5	
27–9–31.0/31.1	
27–10–19	
27–10–23.1	
25–10–33	

David W. Taylor,

Acting Associate District Manager.

[FR Doc. 86–19191 Filed 8–25–86; 8:45 am]

BILLING CODE 4310-33-M

[CA-059-06-5440-10-ZBKD; CA 17122]

Realty Actions; Sale of Public Lands, California

ACTION: Notice.

SUMMARY: The purpose of this action is the direct sale of the public land in Lot 30, section 10, T. 19 N., R. 6 E., M.D.M., 1.18 acres to Mr. and Mrs. Doug Matthiessen at the appraised value of $8000 sixty days after publication of this notice. The lands described above have been examined, and through the development of land-use planning decisions based upon public input, resource considerations, regulations, and Bureau policies, it has been determined that the proposed sale of this parcel to terminate an occupancy trespass in the town of Forbestown is consistent with the Federal Land Policy and Management Act (FLPMA) of October 21, 1976, and approved Redding Resource Area Land Use Plans as measured by the criteria in 43 CFR 2711.3-3.

All minerals beneath the parcel will also be offered for conveyance. The mineral interests being offered have no known mineral value. A bid on the parcel will also constitute application for conveyance of those mineral interests offered under the authority of section 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719(b)).

The patent issued as the result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, as provided by the regulations of 43 CFR 2711.1-2(d). This segregation will expire 270 days from the date of publication of this notice.

Sale Procedures

Mr. and Mrs. Matthiessen, the designated bidders, will be required to submit payment of at least 20% of the fair market value by certified check, cashier's check, or money order to the Bureau of Land Management, 355 Hemsted Drive, Redding, California, within 45 days of this notice date. Concurrently, the bidder will be required to deposit an additional $50.00 nonrefundable filing fee and application for the conveyance of offered minerals pursuant to 43 CFR 2720.1-2(c).

The balance of the appraised fair market value will be due within 180 days, payable in the same form at the same location. Failure to submit initial payment of 20% during the stated time or remainder of the payment within 180 days of receipt of the decision notice accepting the bid deposit will result in cancellation of the sale offering and forefeiture of deposited monies.

Further Information and Public Comment

Additional information concerning this sale including the environmental assessment and land report are available for review at the Redding Bureau of Land Management Office. 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 Area Manager, Redding Resource Area. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: August 11, 1986.

Robert J. Bainbridge,

Area Manager.

[FR Doc. 86-19188 Filed 8-25-86; 8:45 am]

BILLING CODE 4310-40-M

[CO-050-06-4212-12; C-42677]

Realty Action; Colorado; Correction

ACTION: Notice of Realty Action: Correction of Legal Description in Notice of Direct Sale of Public Land to Mr. and Mrs. Gerald Tannehill.

SUMMARY: The Notice of Realty Action published in Vol. 51, No. 151 of the **Federal Register** on August 6, 1986 contained an incorrect section number for the land to be sold. The correct legal description is:

T. 29 S., R. 69 W., 6th P.M., Colorado
Section 5, Lots 6, 7, and 8
Contains 18.27 acres.

DATE: The comment period continues for 45 days from publication of this notice.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 86-19278 Filed 8-25-86; 8:45 am]

BILLING CODE 4310-JB-M

[WY-920-06-4990-14; W-98476]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-98476 for lands in Niobrara County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-98476 effective January 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86-19209 Filed 8-25-86; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7313; with copies to David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646, Room 6A110; Minerals Management Service; 12203 Sunrise Valley Drive; Reston, Virginia 22091.

Title: Outer Continental Shelf Minerals Management.

Abstract: Respondents submit information necessary for the Minerals Management Service to

determine which tracts will be leased, to identify areas for environmental study and further consideration for leasing, and to determine if the applicant or bidder filing for a lease in the Outer Continental Shelf is qualified to hold such a lease.

Frequency: On occasion.

Description of Respondents: Federal oil and gas lessees, potential bidders, and the public.

Annual Responses: 2,693

Annual Burden Hours: 12,819

Bureau Clearance Officer: Dorothy Christopher, (703) 435–6213

Dated: June 5, 1986.

Richard B. Krahl,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 86–19185 Filed 8–25–86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

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 August 16, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning teh 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 September 10, 1986.

Beth Grosvenor,

Acting Chief of Registration, National Register.

Alabama

Jefferson County

Birmingham, *Second Presbyterian Church,* Tenth Ave. and Twelfth Sts., S.

Arkansas

Washington County

Springdale, *Rabbits Foot Lodge,* 3600 Silent Grove Rd.

California

Amador County

Jackson, *Butterfield, John A., House,* 115 Broadway

Los Angeles County

West Hollywood, *Patio del Moro,* 8225–8237 Fountain Ave.

Monteray County

Pacific Grove, *Buck, Frank LaVerne, House,* 581 Pine Ave.

Orange County

San Juan Capistrano, *Forster, Frank A., House,* 27182 Ortega Hwy.

San Meteo County

Woodside, *Green Gables—Fleishhacher, Mortimer, Country House,* 329 Albion Ave.

Florida

Alachua County

Gainesville, *Rolfs Hall,* Buckman Dr., University of Florida Campus

Hillsborough County

Tampa, *Masonic Temple No. 25,* 508 E. Kennedy Blvd.

Volusia County

Daytona Beach, *Rogers House,* 436 N. Beach St.

Georgia

Elbert County

Elberton, *Elberton Depot,* N. Oliver and Deadwyler Sts.

Franklin County

Royston, *Bond-Baker-Carter House,* 211 Franklin Springs St.

Maine

Aroostook County

Houlton, *Amazeen House,* 15 Weeks St.

Cumberland County

Portland, *Maine Eye and Ear Infirmary, 794–800 Congress St.*

South Portland, *Seavey-Robinson House,* 580 Ocean St.

Hancock County

Brooklin, *Holden House,* ME 175

Castone, *Off-the-Neck Historic District,* ME 166

Kennebec County

Augusta, *Crosby Street Historic District,* Crosby St. and Crosby Ln.

Lincoln County

Waldboro, *Waldo Theatre,* Main St.

Oxford County

Fryeburg, *Parsons, Marion, House,* 90 Main St.

York County

Old Orchard Beach, *Staples Inn,* 8 Portland Ave.

Maryland

Alleghany County

Cumberland, *Truog, George, House,* 230 Baltimore Ave.

Carroll County

Westminster vicinity, *Frizzell, Andrew P., House and Farm Complex,* 3801 Salem Bottom Rd.

Cecil County

Calvert vicinity, *Churchman, John and George, House,* 115 Churchman Ln.

Queen Anne's County

Stevensville, *Stevensville Historic District,* MD 18 and Love Point Rd.

Somerset County

Somerset Academy

Talbot County

St. Michaels, *St. Michaels Historic District,* Roughly bounded by North Ave., Mill St., Miles River, Seymour, Baltimore & Eastern RR tracks, and Glory Ave.

Massachusetts

Essex County

Lynn, *English High School,* Essex and James Sts.

Hampden County

Springfield, *McKnight District (Boundary Increase),* Roughly bounded by New England RR, Dartmouth St., Buchingham, State, and Bowdoin Sts.

Mississippi

Coahoma County

Dickerson Site (22-Co-502),

Spendthrift Site (22-Co-520)

Holmes County (also in Carroll County),

French Site (22-Ho-565),

Quitman County

Posey Site (22-Qu-500)

Shady Grove Site (22-Qu-525)

Nevada

Clark County

Las Vegas, *Las Vegas High School Academic Building and Gymnasium,* 315 S. Seventh St.

New Mexico

Barnalillo County

Albuquerque, *Silver Hill Historic District,* Roughly bounded by Central Ave., Yale Blvd., Lead Ave., and Sycamore St.

Guadalupe County

La Placita de Abajo (Anton Chico Land Grant MRA),

Anton Chico, *Anton Chico de Abejo Historic District (Anton Chico Land Grant MRA),* Roughly village limits of Anton Chico

Colonias vicinity *Colonias de San Jose Historic District (Anton Chico Lnad Grant MRA),* Roughly village limits of Colonias

Rio Arriba County

Encenada vicinty, *El Porvenir Community Ditch (La Tierra Amarilla MRA),* Extending from 4.5 mi. E of Encenada to 0.5 mi. N of Encenada

Ecenada vicinty, *Encenada Community Ditch (La Tierra Amarilla MRA),* Extending from 4.5 mi. E of Encenada to 0.3 mi. W of US 84 0.5 mi. NE of State Fish Hatchery

Ecenada, *Jaramillo, Ramon, House and Barn (La Tierra Amarilla MRA),* Ensenada Rd.

Encenada, *San Joaquin Church (La Tierra Amarilla MRA),* NM 162

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Encenada, *Valdez, Miguel, Barn (La Tierra Amarilla MRA)*, San Joaquin Church Loop Rd.
La Puente vicinity, *La Puente Community Ditch (La Tierra Amarilla MRA)*, Extending from Parkview discharge point to 0.7 mi. SW of La Puenta on the Chama River
Los Brazos vicinity, *El Barranco Community Ditch (La Tierra Amarilla MRA)*, Extending from Chama River at Chama Division to Upper Brazos Ditch
Los Brazos vicinity, *Sanchez, Samuel, Barns (La Tierra Amarilla MRA)*, Off US 64
Los Brazos vicinity, *Sanchez, Samuel, House (La Tierra Amarilla MRA)*, Off US 64
Los Ojos vicinity, *Parkview Community Ditch (La Tierra Amarilla MRA)*, Extending from 4.5 mi. E of Encenada to 1 mi. SW of State Fish Hatchery
Los Ojos, *Our Lady of Lourdes Grotto (La Tierra Amarilla MRA)*, Old Highway
Plaza Blanca vicinity, *Plaza Blanca Community Ditch (La Tierra Amarilla MRA)*, Extending from 2 mi. WSW of State Fish Hatchery to 1 mi. SSW of Plaza Blanca
Plaza Blanca, *Plaza Blanca Historic District (La Tierra Amarilla MRA)*, Roughly Plaza Blanca Rd. and Old La Puente Ford Rd. adjacent to Plaza Blanca Ditch
Tierra Amarilla vicinity, *Tierra Amarilla Community Ditch (La Tierra Amarilla MRA)*, Extending from 2 mi. ESE of Tierra Amarilla to 0.2 mi. N. of La Corridera Rd.
Tierra Amarilla, *Tierre Amarilla Historic District (La Tierra Amarilla MRA)*, Rougly along La Puenta Rd. on both sides of US 84, and along Old Highway and Creek Rd.

New York

Bronx County

New York, *United Workers Cooperatives*, 2700–2870 Bronx Park, E.

Cortland County

McGraw, *Presbyterian Church of McGraw*, 3 W. Main St.

New York County

New York, *Tudor City Historic District*, Roughly bounded by Fourty-third St., First Ave., Fourty-first St., and Second Ave.
New York, *University Settlement House*, 184 Eldridge St.

Suffolk County

Branch, *Village of Branch Historic District*, Along N side of Middle Country Rd.
Center Moriches, *Masury Estate Ballroom*, Old Neck Rd., S.
Yaphank, *Suffolk County Almshouse Barn*, Yaphank Ave.

Ulster County

Rosendale, *All Saints' Chapel*, Main St.

Oklahoma

Garfield County

Covington vicinity, *Hoy, R. E., No. 1 Oil Well*, Off US 64

Lincoln County

Stroud, *Bon Ton House*, 404 N. Fourth Ave.
Stroud, *Carpenter, Joseph, House*, 204 W. Sixth St.
Stroud, *Hadley, Walter, House*, 424 W. Seventh St.
Stroud, *Hughes, George, House*, 308 W. Fifth St.

Osage County

Pawhuska, *Pawhuska Historic District*, Roughly bounded by Grand View Ave., E. Eighth St., Leahy Ave., and E. Fifth St.

Texas

Anderson County

Palestine *Palestine High School*, 400 Micheaux Ave.

Ellis County

Ennis, *Allen, I.R., House (Ennis MRA)*, 601 N. Dallas
Ennis, *Atwood, E.K., House (Ennis MRA)*, 605 N. Preston
Ennis, *Barkley-Floyd House (Ennis MRA)*, 709 N. Dallas
Ennis, *Barrington House (Ennis MRA)*, 206 W. Belknap
Ennis, *Boren, E.T., House (Ennis MRA)*, 616 W. Denton
Ennis, *Dunkerly, G.G., House (Ennis MRA)*, 607 W. Baylor
Ennis, *Ennis Commercial Historic District (Ennis MRA)*, Roughly bounded by Baylor, Main, Crockett, and McKinney Sts.
Ennis, *Ennis Cotton Compress (Ennis MRA)*, 111 E. Lampasas
Ennis, *Ennis Cotton Oil Company (Ennis MRA)*, 800 blk. S. Kaufman
Ennis, *Ennis High School (Ennis MRA)*, 501 N. Gaines
Ennis, *Fain House (Ennis MRA)*, 403 N. Preston
Ennis, *Farrar House (Ennis MRA)*, 601 S. Main, W.
Ennis, *Gillespie Farm (Ennis MRA)*, 908 S. Mulberry
Ennis, *H&TC Railroad Division Yard Shop (Ennis MRA)*, 1311 N. Main, W.
Ennis, *House at 106 East Denton (Ennis MRA)*, 106 E. Denton
Ennis, *House at 404 East Crockett (Ennis MRA)*, 404 E. Crockett
Ennis, *House at 500 North Main, E. (Ennis MRA)*, 500 N. Main, E.
Ennis, *House at 508 North Dallas (Ennis MRA)*, 508 N. Dallas
Ennis, *House at 509 West Brown (Ennis MRA)*, 509 W. Brown
Ennis, *House at 722 West Madison (Ennis MRA)*, 722 W. Madison
Ennis, *House at 708 East Brown (Ennis MRA)*, 708 E. Brown
Ennis, *House at 802 East Ennis (Ennis MRA)*, 802 E. Ennis
Ennis, *House at 806 South Dallas (Ennis MRA)*, 806 S. Dallas
Ennis, *House at 807 North Preston (Ennis MRA)*, 807 N. Preston
Ennis, *House at 810 North Preston (Ennis MRA)*, 810 N. Preston
Ennis, *Jolesch House (Ennis MRA)*, 504 W. Knox
Ennis, *MacCanless-Williams House (Ennis MRA)*, 402 W. Tyler
Ennis, *Matthews-Atwood House (Ennis MRA)*, 307 N. Sherman
Ennis, *Matthews-Templeton House (Ennis MRA)*, 606 W. Denton
Ennis, *Meredith-McDowal House (Ennis MRA)*, 701 N. Gaines
Ennis, *Moore House (Ennis MRA)*, 400 W. Denton
Ennis, *Moorhead, J.B., House (Ennis MRA)*, 801 S. Main, W.
Ennis, *Morton House (Ennis MRA)*, 1007 N. McKinney
Ennis, *Neal House (Ennis MRA)*, 704 N. Preston
Ennis, *Novy, Joe, House (Ennis MRA)*, 401 N. Clay
Ennis, *Old City Mills (Ennis MRA)*, 212 E. Ennis and 108 E. Brown
Ennis, *Ransom House (Ennis MRA)*, 501 N. McKinney
Ennis, *Raphael House (Ennis MRA)*, 500 W. Ennis
Ennis, *Sanderson, James S., House (Ennis MRA)*, 201 N. Gaines
Ennis, *Sharp House (Ennis MRA)*, 208 N. Gaines
Ennis, *Story, Jesse and Mary, House (Ennis MRA)*, 510 W. Brown
Ennis, *Telfair House (Ennis MRA)*, 209 N. Preston
Ennis, *Weatherford House (Ennis MRA)*, 501 N. Preston
Ennis, *Weekley, John M., House (Ennis MRA)*, 510 W. Denton
Waxahachie, *Adamson, F.R., House (Waxahachie MRA)*, 309 University
Waxahachie, *Alderdice, J.M., House (Waxahachie MRA)*, 1500 W. Main
Waxahachie, *Alderman, G.H., House (Waxahachie MRA)*, 317 E. Marvin
Waxahachie, *Berry, J.S., House (Waxahachie MRA)*, 201 E. University
Waxahachie, *Building at 441 East Main (Waxahachie MRA)*, 441 E. Main
Waxahachie, *Building at 500–502 East Main (Waxahachie MRA)*, 500–502 E. Main
Waxahachie, *Bullard, T.J., House (Waxahachie MRA)*, 221 Patrick
Waxahachie, *Central Presbyterian Church (Waxahachie MRA)*, 402 N. College
Waxahachie, *Chapman, Oscar H., House (Waxahachie MRA)*, 201 Overhill
Waxahachie, *Cohn, Joe, House (Waxahachie MRA)*, 501 Sycamore
Waxahachie, *Cole-Hip House (Waxahachie MRA)*, 309 E. Marvin
Waxahachie, *Coleman-Cole House (Waxahachie MRA)*, 1219 E. Marvin
Waxahachie, *Connally, Roy, House (Waxahachie MRA)*, 205 E. University
Waxahachie, *Paillet House (Waxahachie MRA)*, 800 S. College
Waxahachie, *Rockett, Paris Q., House (Waxahachie MRA)*, 321 E. University
Waxahachie, *Dillon, George C., House (Waxahachie MRA)*, 123 E. University
Waxahachie, *Eastham, D.D., House (Waxahachie MRA)*, 401 E. Marvin
Waxahachie, *Erwin, J.R., House (Waxahachie MRA)*, 414 W. Marvin
Waxahachie, *Forrest, W.B., House (Waxahachie MRA)*, 500 Royal
Waxahachie, *Graham, Dr. L.H., House (Waxahachie MRA)*, 909 W. Marvin
Waxahachie, *Hines, E.M., House (Waxahachie MRA)*, 124 Kaufman
Waxahachie, *House at 104 Kaufman (Waxahachie MRA)*, 104 Kaufman
Waxahachie, *House at 106 Kaufman (Waxahachie MRA)*, 106 Kaufman

Waxahachie, *House at 111 Brown (Waxahachie MRA)*, 111 Brown
Waxahachie, *House at 111 Williams (Waxahachie MRA)*, 111 Williams
Waxahachie, *House at 113 East Ross (Waxahachie MRA)*, 113 E. Ross
Waxahachie, *House at 1301 East Marvin (Waxahachie MRA)*, 1301 E. Marvin
Waxahachie, *House at 1423 Sycamore (Waxahachie MRA)*, 1423 Sycamore
Waxahachie, *House at 301 Turner (Waxahachie MRA)*, 301 Turner
Waxahachie, *House at 320 East Marvin (Waxahachie MRA)*, 320 E. Marvin
Waxahachie, *House at 418 North College (Waxahachie MRA)*, 418 N. College
Waxahachie, *House at 501 North Grand (Waxahachie MRA)*, 501 N. Grand
Waxahachie, *House at 512 North Grand (Waxahachie MRA)*, 512 N. Grand
Waxahachie, *House at 523 Highland (Waxahachie MRA)*, 523 Highland
Waxahachie, *House at 625 Cantrell (Waxahachie MRA)*, 625 Cantrell
Waxahachie, *House at 700 South Rogers (Waxahachie MRA)*, 700 S. Rogers
Waxahachie, *House at 703 South College (Waxahachie MRA)*, 703 S. College
Waxahachie, *House at 712 East Marvin (Waxahachie MRA)*, 712 E. Marvin
Waxahachie, *House at 803 Cantrell (Waxahachie MRA)*, 803 Cantrell
Waxahachie, *House at 816 Cantrell (Waxahachie MRA)*, 816 Cantrell
Waxahachie, *House at 816 West Water (Waxahachie MRA)*, 816 W. Water
Waxahachie, *House at 901 Cantrell (Waxahachie MRA)*, 901 Cantrell
Waxahachie, *Joshua Chapel A.M.E. Church (Waxahachie MRA)*, 110 Ailen
Waxahachie, *Kirven, J.D., House (Waxahachie MRA)*, 601 Sycamore
Waxahachie, *Koger, William, House (Waxahachie MRA)*, 409 Kaufman
Waxahachie, *Langsford, Samuel, House (Waxahachie MRA)*, 1208 E. Marvin
Waxahachie, *Lwis, William, House (Waxahachie MRA)*, 1201 E. Marvin
Waxahachie, *McCartney House (Waxahachie MRA)*, 603 W. Marvin
Waxahachie, *Moore, W.B., House (Waxahachie MRA)*, 912 E. Marvin
Waxahachie, *National Compress Company Building (Waxahachie MRA)*, 503 E. Flat
Waxahachie, *North Rogers Street Historic District (Waxahachie MRA)*, 500–600 blks. N. Rogers, 500–600 blks. N. Monroe, and 100–200 blks. W. Marvin Sts.
Waxahachie, *Odom, Frank, House (Waxahachie MRA)*, 910 W. Marvin
Waxahachie, *Oldham Avenue Historic District (Waxahachie MRA)*, Oldham Ave. roughly bounded by N. Jackson, Bethel, Williams, and McClain
Waxahachie, *Patrick, Marshall T., House (Waxahachie MRA)*, 233 Patrick
Waxahachie, *Payne, M.S., House (Waxahachie MRA)*, 521 N. Grand
Waxahachie, *Phillips, E.F., House (Waxahachie MRA)*, 902 W. Marvin
Waxahachie, *Plumhoff House (Waxahachie MRA)*, 612 S. Rogers
Waxahachie, *Ralston, Mary, House (Waxahachie MRA)*, 116 E. University
Waxahachie, *Ray, M.B., House (Waxahachie MRA)*, 401 N. Monroe
Waxahachie, *Reinmiller, W.B., House (Waxahachie MRA)*, 206 E. Marvin
Waxahachie, *Second Trinity University Campus (Waxahachie MRA)*, 1200 blk. Sycamore
Waxahachie, *Sims, O.B., House (Waxahachie MRA)*, 1408 W. Main
Waxahachie, *Solon, John, House (Waxahachie MRA)*, 617 Solon Rd.
Waxahachie, *St. Paul's Episcopal Church (Waxahachie MRA)*, 308 N. Monroe
Waxahachie, *Templeton, Judge M.B., House (Waxahachie MRA)*, 203 N. Grand
Waxahachie, *Thompson, D.H., House (Waxahachie MRA)*, 312 Kaufman
Waxahachie, *Trippet-Shive House (Waxahachie MRA)*, 209 N. Grand
Waxahachie, *Trippet-Shive House (Waxahachie MRA)*, 1104 E. Grand
Waxahachie, *Waxahachie Lumber Company (Waxahachie MRA)*, 123 Kaufman
Waxahachie, *West End Historic District (Waxahachie MRA)*, Roughly bounded by W. Water, Monroe, Madison, W. Jefferson, W. Main, and Central
Waxahachie, *Williams, Porter L., House (Waxahachie MRA)*, 200 E. University
Waxahachie, *Witten, Pat, House (Waxahachie MRA)*, 204 Brown
Waxahachie, *Wyatt Street Shotgun House Historic District (Waxahachie MRA)*, E side 300 blk. Wyatt St.

Jones County

Stanford, *AMA Building (Stamford MRA)*, 101 S. Wetherbee & 210 E. McHarg
Stanford, *Astin, J.P., House (Stamford MRA)*, 111 E. Campbell
Stanford, *Buena Vista Hotel (Stamford MRA)*, 123 N. Wetherbee
Stanford, *Bunkley, Dr. E.P., House and Garage (Stamford MRA)*, 1034 E. Reynolds
Stanford, *First Baptist Church (Stamford MRA)*, E. Oliver and E. Swenson
Stanford, *House at 501 North Swenson (Stamford MRA)*, 501 N. Swenson
Stanford, *House at 502 South Orient (Stamford MRA)*, 502 S. Orient
Stanford, *House at 610 East Oliver (Stamford MRA)*, 610 E. Oliver
Stanford, *House at 709 East Reynolds (Stamford MRA)*, 709 E. Reynolds
Stanford, *House at 719 East Reynolds (Stamford MRA)*, 719 E. Reynolds
Stanford, *House at 815 East Campbell (Stamford MRA)*, 815 E. Campbell
Stanford, *Jackson, A.J., House (Stamford MRA)*, 305 S. Ferguson
Stanford, *Old Bryant—Link Building (Stamford MRA)*, 120 S. Swenson
Stanford, *Old Penick—Hughes Company (Stamford MRA)*, 100—106 E. Hamilton
Stanford, *Old West Texas Utilities Company (Stamford MRA)*, 127 E. McHarg
Stanford, *Old Wooten, H. O., Grocery Company (Stamford MRA)*, 128 E. Rotan
Stanford, *St. John's Methodist Church (Stamford MRA)*, S. Ferguson St.
Stanford, *Stamford City Hall (Stamford MRA)*, 201 E. McHarg
Stanford, *Swenson, A.J., House (Stamford MRA)*, 510 E. Oliver
Stanford, *United States Post Office (Stamford MRA)*, Town Square

Victoria County

Victoria, *Barden—O'Connor House (Victoria MRA)*, 305 N. Moody
Victoria, *Hauschild, George H., Building (Victoria MRA)*, 206 N. Liberty
Victoria, *O'Connor—Proctor Building (Victoria MRA)*, 202 N. Main
Victoria, *Alden, C.R., Building (Victoria MRA)*, 106—110 W. Juan Linn
Victoria, *Alonso, Frank, House (Victoria MRA)*, 401 S. Cameron
Victoria, *B'nai Isreal (Victoria MRA)*, 604 N. Main
Victoria, *Barnes, W.C., House (Victoria MRA)*, 106 W. Stayton
Victoria, *Bendt, E.H.D, House (Victoria MRA)*, 407 S. DeLeon
Victoria, *Bettin, Max, House (Victoria MRA)*, 602 E. Santa Rosa
Victoria, *Braman House (Victoria MRA)*, 206 W. Stayton
Victoria, *Buhler, Theodore, House (Victoria MRA)*, 202 W. Stayton
Victoria, *Burrough—Daniel House (Victoria MRA)*, 502 W. North
Victoria, *Calhoun Bakery (Victoria MRA)*, 209 N. Wheeler
Victoria, *City of Victoria Pumping Plant—Waterworks (Victoria MRA)*, 105 W. Juan Linn
Victoria, *Clark House (Victoria MRA)*, 606 S. Liberty
Victoria, *Clark, Robert, House (Victoria MRA)*, 317 N. Main
Victoria, *Clegg, John H., House (Victoria MRA)*, 507 N. Vine
Victoria, *Crain, F.H., House (Victoria MRA)*, 307 N. Vine
Victoria, *DeLeon Plaza and Bandstand (Victoria MRA)*, 100 blk. W. Constitution
Victoria, *Diebel—Hyak House (Victoria MRA)*, 501 S. Cameron
Victoria, *Farmers and Merchants Cotton Gin Warehouse (Victoria MRA)*, 402 S. East
Victoria, *Fleming—Welder House (Victoria MRA)*, 607 N. Craig
Victoria, *Fossati, E.J., House (Victoria MRA)*, 607 S. DeLeon
Victoria, *Fox, Jacob, House (Victoria MRA)*, 708 W. Power
Victoria, *Gaylord—Levy House (Victoria MRA)*, 402 N. Bridge
Victoria, *Goldman's Cotton Gin Warehouse (Victoria MRA)*, 901 E. Murray
Victoria, *Goldman, A., Building (Victoria MRA)*, 207 E. Constitution
Victoria, *Gramann House (Victoria MRA)*, 203 E. Goodwin
Victoria, *Hauschild, George & Adele, House (Victoria MRA)*, 208 N. Liberty
Victoria, *Hill—Howard House (Victoria MRA)*, 802 W. Power
Victoria, *Hiller House (Victoria MRA)*, 501 E. Church
Victoria, *Hiller House (Victoria MRA)*, 3003 N. Vine
Victoria, *House at 1602 North Moody (Victoria MRA)*, 1602 N. Moody
Victoria, *House at 1907 Southwest Ben Jordon (Victoria MRA)*, 1907 S.W. Ben Jordon
Victoria, *House at 205 East Constitution (Victoria MRA)*, 205 E. Constitution
Victoria, *House at 304 West Stayton (Victoria MRA)*, 304 W. Stayton

Victoria, *House at East Forrest (Victoria MRA)*, 306 E. Forrest
Victoria, *House at 401 East Stayton (Victoria MRA)*, 401 E. Stayton
Victoria, *House at 407 East Convent (Victoria MRA)*, 705 E. Polk
Victoria, *House at 4402 East Juan Linn (Victoria MRA)*, 4402 E. Juan Linn
Victoria, *House at 604 East Santa Rosa (Victoria MRA)*, 604 E. Santa Rosa
Victoria, *House at 702 Siegfried (Victoria MRA)*, 702 Siegfried
Victoria, *House at 706 Siegfried (Victoria MRA)*, 706 Siegfried
Victoria, *House at 804 Siegfried (Victoria MRA)*, 804 Siegfried
Victoria, *Hull House (Victoria MRA)*, 1002 NE Water
Victoria, *Jecker, E.J., House (Victoria MRA)*, 201 N. Wheeler
Victoria, *Jecker, J.T., House (Victoria MRA)*, 104 N. Liberty
Victoria, *Jordan—Koch House (Victoria MRA)*, 307 N. Deleon
Victoria, *Kaufman, E.C., House (Victoria MRA)*, 502 S. DeLeon
Victoria, *Keef—Filley Building (Victoria MRA)*, 214 S. Main
Victoria, *Krenek House (Victoria MRA)*, 607 N. Main
Victoria, *Lander—Hopkins House (Victoria MRA)*, 202 W. Power at N. Bridge
Victoria, *Lawrence House (Victoria MRA)*, 1203 N. Bridge
Victoria, *Levi—Welder House (Victoria MRA)*, 403 N. Main
Victoria, *Little House (Victoria MRA)*, 502 N. Victoria
Victoria, *Martin—Thumford, Vera Piek, House (Victoria MRA)*, 507 N. William
Victoria, *McCable Building (Victoria MRA)*, 508 N. Wheler
Victoria, *McCan—Nava House (Victoria MRA)*, 401 N. Glass
Victoria, *McDonald House (Victoria MRA)*, 406 E. Constitution
Victoria, *McFaddin, James, House (Victoria MRA)*, 207 W. Commercial
Victoria, *McNamara—O'Connor House (Victoria MRA)*, 502 N. Liberty
Victoria, *Mitchell, Guy, House (Victoria MRA)*, 402 W. Goodwin
Victoria, *Moeller House (Victoria MRA)*, 901 S. East
Victoria, *Mohris—Abschier House (Victoria MRA)*, 101 N. DeLeon
Victoria, *Murphy, Mrs. J.V., House (Victoria MRA)*, 204 E. Santa Rosa
Victoria, *Nave, Royston, Memorial (Victoria MRA)*, 306 W. Commercial
Victoria, *O'Conner, Thomas M., House (Victoria MRA)*, 303 S. Bridge
Victoria, *Old Brownson School (Victoria MRA)*, 500 blk. W. Power
Victoria, *Old Federal Building & Post Office (Victoria MRA)*, 210 E. Constitution
Victoria, *Old Municipal Assembly Hall (Victoria MRA)*, 800 E. Pine
Victoria, *Old Nazareth Academy (Victoria MRA)*, 105 W. Church
Victoria, *Our Lady of Lourdes Church (Victoria MRA)*, 105 N. William
Victoria, *Pela House (Victoria MRA)*, 309 E. Santa Rosa
Victoria, *Pickering House (Victoria MRA)*, 403 N. Glass
Victoria, *Pippert House (Victoria MRA)*, 207 E. Third
Victoria, *Presbyterian Iglesia Nicea (Victoria MRA)*, 401 S. DeLeon
Victoria, *Proctor House (Victoria MRA)*, 507 N. Class
Victoria, *Proctor—Vandenberge House (Victoria MRA)*, 604 N. Craig
Victoria, *Randall Building (Victoria MRA)*, 103–105 W. Santa Rosa
Victoria, *Regan, D.H., House (Victoria MRA)*, 507 S. DeLeon
Victoria, *Schrader, Henry, House (Victoria MRA)*, 607 S. Cameron
Victoria, *Schroeder House (Victoria MRA)*, 1507 N. Vine
Victoria, *Schummacker Company Building (Victoria MRA)*, 402 E. Power
Victoria, *Senegle, A.T., House (Victoria MRA)*, 502 E. Juan Linn
Victoria, *Sigmund House (Victoria MRA)*, 508 E. Santa Rosa
Victoria, *South Bridge Street Historic District (Victoria MRA)*, W. side 700 blk. S. Bridge St. and N side 700 blk. Water St.
Victoria, *St Mary's Catholic Church (Victoria MRA)*, 101 W. Church
Victoria, *Stuart House (Victoria MRA)*, 506 S. Bridge
Victoria, *Tasin House (Victoria MRA)*, 202 N. Wheeler
Victoria, *Texas Company Filling Station (Victoria MRA)*, 102 S. William
Victoria, *Townsend—Wilkins House (Victoria MRA)*, 106 N. Navarro
Victoria, *Trinity Lutheran Church (Victoria MRA)*, 402 E. Constitution
Victoria, *Urban, Fred, House (Victoria MRA)*, 501 E. River
Victoria, *Vandenberge, J.V., House (Victoria MRA)*, 301 N. Vine
Victoria, *Victoria Colored School (Victoria MRA)*, 702 E. Convent
Victoria, *Weber—Schubert House (Victoria MRA)*, 302 E. Constitution
Victoria, *Webster Chapel United Methodist Church (Victoria MRA)*, 405 S. Wheeler
Victoria, *Wheeler, William, House (Victoria MRA)*, 303 N. William
Victoria, *Williams, B.F., House (Victoria MRA)*, 401 E. Murray
Victoria, *Woodhouse House (Victoria MRA)*, 609 N. Wheeler
Victoria, *Zahn, Herman and Alvin, House (Victoria MRA)*, 107 S. DeLeon

Virginia

South Boston (Independent City)

South Boston Historic District, Along Railroad Ave. Ferry, Factory, and Main Sts., Wilborn Ave., N. Main St., Washington and Peach Aves., and Jefferson St.

Wisconsin

Door County

Sister Bay, *Jischke's Meat Market*, 414 Maple Dr.

Iowa County

Barneveld, *Cassidy Farmhouse (Barneveld MRA)*, Off WI K, N of US 18/151
Barneveld, *Grove Street Historic District (Barneveld MRA)*, 304–316 Grove St.
Barneveld, *Harris House (Barneveld MRA)*, 202 W. Wood St.
Barneveld, *Ihm House (Barneveld MRA)*, 203 N. Garfield St.
Barneveld, *Kittleson House (Barneveld MRA)*, 104 W. Wood St.
Barneveld, *Roberts House (Barneveld MRA)*, 302 Front St.
Barneveld, *Roethlisberger House (Barneveld MRA)*, 205 N. Grove St.

La Crosse County

La Crosse, *Our Lady of Sorrows Chapel*, 519 Losey Blvd., S.

Milwaukee County

Milwaukee, *East Side Commercial Historic District*, Roughly bounded by E. Wells, and N. Jefferson Sts., E. Wisconsin Ave., N. Milwaukee St., E. Clybourn, N. Water, and E. Mason Sts.

Waukesha County

Hartland, *East Capitol Drive Historic District (Hartland MRA)*, 337–702 E. Capitol Dr.

Wyoming

Carbon County

Savery vicinity, *Stone Wall Ranch*, Star Rte. Box 1300

Uinta County

Triagulation Point Draw Site District (48UT114, 48UT337, 48UT392, 48UT440)

Washakie County

Big Trails, *Ainsworth House*, Spring Creek Rd.

Ten Sleep, Ten Sleep Mercantile, Second and Pine Sts.

[FR Doc. 86–19260 Filed 8–25–86; 8:45 am]
BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18 (Sub–No. 85X)]

The Chesapeake and Ohio Railway Co.; Abandonment Exemption; Boone County, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by The Chesapeake and Ohio Railway Company of 3.99 miles of track in Boone County, WV, subject to standard labor protection.

DATES: This exemption is effective September 25, 1986. Petitions for stay must be filed by September 5, 1986 and petitions for reconsideration must be filed by September 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–18 (Sub-No. 85X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7693.

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: August 19, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19214 Filed 8–25–86; 8:45 am]

BILLING CODE 7035-07-M

[Docket No. AB–270 (Sub-No. 1X)]

Sumter and Choctaw Railway Co.; Exemption; Abandonment in Sumter County, AL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts Sumter & Choctaw Railway Company from the requirements of 49 U.S.C. 10903, *et seq.*, to abandon its entire 3.1-mile line of railroad in Sumter County, AL.

DATES: This exemption will be effective on September 25, 1986. Petitions for stay must be filed by September 5, 1986 and petitions for reconsideration must be filed by September 15, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–270 (Sub-No. 1X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's Representative: Ralph J. Libsohn, American Can Company, American Lane, P.O. Box 3610, Greenwich, CT 06836–3610

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (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: August 19, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–19215 Filed 8–25–86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act; Browning-Ferris Industries of Kansas City

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on *August 15, 1986* a proposed consent decree in *United States* v. *Browning-Ferris Industries of Kansas City, Inc.*, was lodged simultaneously with the filing of the complaint with the United States District Court for the Western District of Missouri. The proposed consent decree concerns discharges of pollutants without a permit into the Missouri river, in violation of the Clean Water Act. The proposed consent decree requires defendant to pay a civil penalty of $11,250.00, to never allow such a discharge again, and to take certain steps to assure that such a discharge will never again occur.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Browning-Ferris Industries of Kansas City, Inc.*, D.J. Ref. #90–5–1–1–2567.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Missouri, 549 U.S. Courthouse, 811 Grand Avenue, Kansas City, Missouri, 64106, and at the Region VII Offices of the United States Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas, 66101. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–19183 Filed 8–25–86; 8:45 am]

BILLING CODE 4410-01-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: 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, extensions, 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.

Revision

Employment Standards Administration

Accident Data on School Bus Drivers Annual Report
1215-0045; WH-374
Annually
State or local governments
9 responses; 18 hours; 1 form

Section 570.52 declares the occupation of motor vehicle driver to be hazardous for 16 and 17-year-olds. Upon application by a State, an exemption may be granted to permit such minors to drive school buses. The data provided annually on form WH-374 is used to evaluate whether an exemption is warranted.

Employment Standards Administration

Employment Information Forms
1215-0001; WH-3 and WH-3 (Sp.)
On occasion
Individuals or households
41,000 responses; 13,667 hours; 2 forms

These forms are used to obtain information (i.e., complaints) from individuals about alleged violations of the various laws enforced by the Wage-Hour Division. They are also used as a screening device to determine whether the Division has jurisdiction in handling alleged violations.

Employment and Training Administration

Unemployment Compensation for Ex-Servicepersons (UCX) Handbook
1205-0176; ETA 841, 842 & 843
On Occasion
Individuals or households; State or local governments
183,333 respondents; 4,736 burden hours; 3 forms

Federal law (5 U.S.C. 8521 et seq.) provides unemployment insurance protection, to former members of the Armed Forces (ex-servicepersons) and is referred to in abbreviated form as "UCX." The forms in Chapter V through VIII of the *UCX Handbook* are used in connection with the provisions of this benefit assistance.

Office of the Assistant Secretary for Administration and Management

Supplemental Experience Statement
1225-0010; DL-1-2034
On occasion
Individual or households; Federal agencies or employees
10,350 responses; 15,525 hours; 1 form

The form is a supplement to the basic Federal employment application form (SF-171) to elicit specific job-related information from applicants to assure that their qualifications are accurately, completely, and efficiently evaluated.

Extension

Employment Standards Administration

OFCCP Complaint Form
1219-0131; CC-4
As needed
Individuals or households
3,213 responses; 3,213 hours; 1 form

Complaint forms are prepared by individual citizens who allege discrimination by Government contractors. These forms are received by OFCCP, reviewed for coverage, and, where appropriate, assigned for investigation.

Employment and Training Administration

Customer Survey Data Request
1205-0190; ETA 8562
On Occasion
Businesses or other for-profit; Small businesses or organizations 16,238 respondents; 16,238 hours; 1 form

Information needed for Secretary of Labor to make determinations of eligibility of petitioning workers to apply for trade adjustment assistance in accordance with sections 222, 223 & 249 of the Trade Act of 1974 as amended, affecting manufacturers, wholesalers, retailers and distributors.

Employment and Training Administration

Producers/Purchasers Survey Data Request
1205-0191; ETA 8566
On occasion
Businesses or other for-profit; Small businesses or organizations 30 respondents; 53 hours; 1 form

To acquire aggregate statistics needed by the Secretary of Labor to make determinations of eligibility of petitioning workers to apply for worker trade adjustment assistance in accordance with section 223 of the Trade Act of 1974 as amended.

Mine Safety and Health Administration

Noise Data Report Form and Calibration Records
1219-0037
Semi-annually; annually
Businesses and other for profit; small businesses or organizations
5,024 respondents; 9,130 hours

Requires coal mine operators to report to MSHA when noise exposure surveys show noncompliance with permissible levels. Records are also required to be kept at the mine of when and by whom noise dosimeters and acoustical calibrators are recalibrated.

Assistant Secretary for Veterans' Employment and Training

Implementing Regulations for Veterans' Employment Programs under Title IV, Part C of the Job Training Partnership Act
1293-0001
Other (at time of application for grant)
State or local governments; non-profit institutions
140 responses; 4,480 hours

The information is needed as the basis upon which the cost-effectiveness of the program proposed by the grant application will be evaluated. It is the primary focus of the application for funding used for approving or denying the application for funds under Title IV-C of JTPA.

Signed at Washington, DC, this 21st day of August 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 19299 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

American Standard, Inc.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 11, 1986—August 15, 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 of proportion of the workers in the workers' firm, or an appropriate

subdivision thereof, have become totally or partially 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–17,139; American Standard, Inc., Union Switch & Signal Division, Swissvalle, PA

TA–W–17,863; JC Embroidery Co., Fairview, NJ

TA–W–16,975; Howard Uniforms Co., Baltimore, MD

TA–W–16,301; Inspiration Mines, Inc., Tennessee Zinc Div., Jefferson City, TN

TA–W–17,206; Standard Steel Enterprise of Freedom Forge Corp., Burnham, PA

TA–W–17,152; Bethlehem Steel Corp., Sparrows Point Shipyard, Sparrows Point, MD

TA–W–17,237; General Electric Co., Drive Systems Operations, Salem, VA

TA–W–17,175; SKF Industries, Tapered Bearings Div., Massillon, OH

TA–W–17,154; Eagle Plastic of Maine, Inc., Sanford, ME

TA–W–17,241; Allen Steel Co., Salt Lake City, UT

TA–W–17,118; Bibb Company, Columbus, GA

TA–W–16,909; Nu Art Cutting Co., Guttenburg, NJ

TA–W–16,928; Schiffli Arts Corp., North Bergen, NJ

TA–W–16,958; Wartsky Embroidery Co., West New York, NJ

TA–W–16,812; Diament Embroidery Co., West New York, NJ

TA–W–16,849; Hampshire Embroidery, West New York, NJ

TA–W–16,852; Herman Stern & Son Corp., West New York, NJ

TA–W–16,787; RJ Novelties, North Bergen, NJ

TA–W–16,911; Paris Schiffli Fashions Corp., Fairview, NJ

TA–W–16,845; H.M. Frank Embroidery Co., Fairview, NJ

TA–W–16,957; Walker Eight Corp., T/A Universal Thread & Scallop Cutting, North Bergen, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA–W–17,232; Offshore Navigation, Inc., Harahan, LA

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–17,250; On Site Machine Service, Inc., Farmington, NM

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–16,893; Majestic Emb Co., West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA–W–16,945; Tony Embroidery, Inc. West New York, NJ

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification. Sales increased in 1985 compared to 1984.

Affirmative Determinations

TA–W–17,180; Hart Fireplace Furnishings, New Albany, IN

A certification was issued covering all workers of the firm separated on or after January 27, 1985.

TA–W–16,861; J & H Embroidery, West New York, NJ

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–16,985: Wilner Wood Products, Norway, ME

A certification was issued covering all workers of the Heel Department separtated on or after November 27, 1984 and before February 28, 1986.

TA–W–17,252; Ree Bee Sportswear, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after February 13, 1985 and before June 1, 1985.

TA–W–16,968; California Manufacturing Co., St. James, MO

A certification was issued covering all workers of the firm separated on or after November 22, 1984.

TA–W–16,975; Cal-Crest Outerwear, Inc., Murphysboro, IL

A certification was issued covering all workers of the firm separated on or after October 11, 1985 and before December 11, 1985.

TA–W–17,223; Amax Chemical Corp., Carlsbad, NM

A certification was issued covering all workers of the firm separated on or after February 2, 1986.

TA–W–17,213; Mackintosh-Hemphill Manufacturing Co., Pittsburgh, PA

A certification was issued covering all workers of the firm separated on or after February 3, 1985 and before May 15, 1986.

TA–W–17,148; U.S. Repeating Arms Co., New Haven, CT

A certification was issued covering all workers of the firm separated on or after January 17, 1985.

TA–W–11,153; Black and Decker, Inc., Hampstead, MD

A certification was issued covering all workers of the firm separated on or after April 1, 1985.

TA–W–17,266; Wilson Sporting Goods Co., Humboldt, TN

A certification was issued covering all workers of the firm separated on or after March 10, 1985 and before April 1, 1986.

TA–W–17,142; Edgewater Steel Co., Oakmont, PA

A certification was issued covering all workers of the firm separated on or after January 22, 1985.

TA–W–16,795; Broadway Thread & Scallop Cutting, Inc., Guttenberg, NJ

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA–W–17,151; The Alliance Machine Co., Alliance, OH

A certification was issued covering all workers of the firm separated on or after January 15, 1985.

TA–W–17,239; Lynchburg Foundry Co., Lower Basin Plant, Lynchburg, VA

A certification was issued covering all workers of the firm separated on or after February 13, 1985.

TA–W–16,793; Borden Thread & Scallop, West New York, NJ

A certification was issued covering all workers of the firm separated on or after November 25, 1984.

TA–W–17,107; Eastern Stainless Steel Co., Baltimore, MD

A certification was issued covering all

workers of the firm separated on or after January 13, 1985.

TA–W–17,169; Elgin Electronics, Erie, PA

A certification was issued covering workers engaged in employment in the assembly of transformers separated on or after January 1, 1986.

TA–W–17,170; Elgin Electronics, Waterford, PA

A certification was issued covering workers engaged in employment in the assembly of transformers separated on or after January 1, 1986.

TA–W–17,178; USS (Formerly S.S. Steel) Irvin Works, Dravosburg, PA

A certification was issued covering all workers employed in the production of tin mill products separated on or after January 21, 1985 and before June 30, 1986.

I hereby certify that the aforementioned determinations were issued during the period August 11, 1986—August 15, 1986. Copies of these determinations are available for inspection Room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 19, 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–19297 Filed 8–25–86; 8:45 am]

BILLING CODE 4570–30–M

[TA–W–17,188]

Badger Coal Co.; Mine No. 1 and Preparation Plant, Buckhannon, WV

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Badger Coal Company's Mine #1 and Preparation Plant, Buckhannon, West Virginia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–17,188; Badger Coal Compnay, Mine No. 1 and Preparation Plant, Buckhannon, West Virginia (August 15, 1986)

Signed at Washington, DC, this 19th day of August 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 86–19298 Filed 8–25–86; 8:45 am]

BILLING CODE 4510–30–M

Buckeye, Inc., et al.; Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

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 September 5, 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 September 10, 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.

Singed at Washington, DC this 18th day of August 1986.

Glenn M. Zech,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/Workers or Former Workers of—	Location	Date received	Date of petion	Petition No.	Articles produced
Buckeye, Inc. (workers)	Midland, TX	8/4/86	7/31/86	TA-W-17,836	Oil well services.
Cherokee Drilling & Development Corp (workers)	Midland, TX	8/12/86	8/1/86	TA-W-17,837	Oil drilling.
Coastal Oil and Gas Corp. (workers)	Houston, TX	8/11/86	7/17/86	TA-W-17,838	Oil exploration and production
Dee Drilling Co (workers)	Mt Carmel, IL	8/5/86	7/20/86	TA-W-17,839	Oil drilling.
Dwight Brehm Resources (workers)	Mt. Vernon, IL	8/6/86	7/12/86	TA-W-17,840	Oil drilling.
H&L Rentals, Inc. (workers)	Williston, ND	8/11/86	7/31/86	TA-W-17,841	Oil well service.
Hayhurst Bros. Drilling Co. (workers)	Abilene, TX	8/5/86	7/31/86	TA-W-17,842	Oil well drilling.
Oilgear Co (The) (workers)	Longview, TX	8/12/86	8/5/86	TA-W-17,843	Ball flow meters and valves, hydraulic pumps.
Texas Oil and Gas Corp. (workers)	Amarillo, TX	8/12/86	8/5/86	TA-W-17,844	Oil, gas and gas by-products.
Timax Drilling, Inc (company)	Millersburg, OH	8/5/86	7/28/86	TA-W-17,845	Natural gas-crude oil.
West Sierra Drilling Co. (workers)	Abilene, TX	8/5/86	7/30/86	TA-W-17,846	Oil drilling.
Atlas Energy Group, Inc. (company)	Coraopolis, PA	8/7/86	8/5/86	TA-W-17,847	Petroleum products.
Baker Packers (workers)	San Antonio, TX	8/7/86	7/31/86	TA-W-17,848	Oil tools used in cementing process of oil and gas wells.
Columbia Footwear Corp. (UFCW)	Hazleton, PA	8/6/86	7/30/86	TA-W-17,849	Casual footwear, and sneakers.
Container Products Inc. (workers)	Port Arthur, TX	8/13/86	8/5/86	TA-W-17,850	Steel
Cullman Lingerie Corp (ILGWU)	Cullman, AL	8/12/86	8/6/86	TA-W-17,851	Womens lingerie.
Halliburton Services, Inc. (workers)	Odessa, TX	8/12/86	8/8/86	TA-W-17,852	Oil well service.
Honeymead Products (USWA)	Fridley, MN	8/6/86	8/1/86	TA-W-17,853	Crushed sunflower seeds for edible oils and soaps.
Lenwood Tarpley, Inc. (workers)	Crane, TX	8/8/86	8/1/86	TA-W-17,854	Oilfield construction and maintaining.
Parker Plastics Inc. (workers)	Odessa, TX	8/8/86	8/4/86	TA-W-17,855	Plastic pipe and fittings.
Strata Energy Minerals (company)	Williston, ND	7/31/86	7/28/86	TA-W-17,856	Exploration-oil and gas, and dydrocarbons.
Vulcan Mold & Iron Co. (USWA)	Lansing, IL	8/6/86	7/29/86	TA-W-17,857	Molds used for pouring steel.
Amber Refining, Inc. (workers)	Forth Worth, TX	7/28/86	7/17/86	TA-W-17,858	Oil and refined products such as gasoline diesel and jet fuel.
BHP Petroleum Co, Inc. (workers)	Synder, TX	8/5/86	7/28/86	TA-W-17,859	Oil and natural gas.
Coosa River Garment Co., (ILGWU)	Gadsen, AL	8/5/86	7/31/86	TA-W-17,860	Ladies sportswear.
Carn Drilling Co. (workers)	Abilene, TX	7/18/86	6/22/86	TA-W-17,861	Oil and gas drilling.
Dresser Industries, Guiberson Div. (USWA)	Dallas, TX	7/14/86	7/7/86	TA-W-17,862	Oilwell completion equipment and related oil tools.
Schlumberger Offshore (workers)	Corpus Christi, TX	8/5/86	7/30/86	TA-W-17,863	Oil and gas well services.

APPENDIX—Continued

Petitioner Union/Workers or Former Workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Hammond Cold Finish Bar Plant of LTV Steel (workers).	Hammond, IN	7/31/86	7/24/86	TA-W-17,864	Carbon and alloy cold finish steel bars.
I-F Manufacturing Co. (USWA)	New Philadelphia, OH	8/5/86	8/1/86	TA-W-17,865	Iron castings.
Geoservice, Inc. (workers)	Denver, CO	8/12/86	8/6/86	TA-W-17,866	Mudlogs and equipment.
Willis Drilling Co. (workers)	Edinburg, TX	8/5/86	7/29/86	TA-W-17,867	Oil well drilling.
Thermo Serv Plastics Inc. (workers)	Anoka, MN	7/28/86	7/16/86	TA-W-17,868	Plastic products.
Bryson Tank Company (workers)	Odessa, TX	8/4/86	7/29/86	TA-W-17,869	Production of oil storage equipment.
Tuscaloosa Energy Corp., Republic Mine (workers)	Elkhorn City, KY	7/31/86	7/25/86	TA-W-17,870	Metallurgical coal.

[FR Doc. 86-19296 Filed 8-25-86; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

New York State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called "the Act") by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Parts 1902 or 1956. On June 1, 1984, notice was published in the **Federal Register** (49 FR 22794) of the approval of the New York State Plan for Public Employees and the adoption of Subpart F to Part 1956 containing the decision.

Pursuant to section 27-a, Subdivision 4a of the New York State Labor Law Chapter 729, Laws of 1980, the New York plan provides for the adoption by reference, of Federal standards as State standards applicable to public employees of the State and its political subdivisions. Section 1956.51 of 29 CFR Part 1956, Subpart F, sets forth the State schedule for the adoption of Federal standards. By letter dated November 14, 1984, from Joseph F. Drayton, Director, Division of Occupational Safety and Health, New York Department of Labor, to Gerald P. Reidy, Regional Administrator, Occupational Safety and Health Administration, the State submitted revisions and additions to its existing public employee occupational safety and health standards to bring them into conformance with Federal OSHA standards as of July 1, 1983. The November 14, 1984 State submission contained documentation of New York's adoption of State standards identical to Federal OSHA standards contained in the following parts of Title 29 of the Code of Federal Regulations revised as of July 1, 1983: 29 CFR Parts 1910 (General Industry), 1915 (Shipyard Employment), 1917 (Marine Terminals), 1918 (Longshoring), 1926 (Construction) and 1928 (Agriculture). These State standards, which are contained in Part 800 of Title 12 of the New York Codes, Rules and Regulations, were adopted by order of Lillian Roberts, New York Commissioner of Labor, on April 13, 1984, after publication of Notice of Proposed Agency Action in the New York State Register on March 14, 1984. These State standards became effective upon filing with the New York Department of State on April 17, 1984. By letter dated September 3, 1985 from Stuart Schrank, Assistant Director, Division of Safety and Health, New York Department of Labor, to Elie Yadoff, Program Analyst, Occupational Safety and Health Administration, the State submitted documentation of New York's updating of State standards to bring them into conformance with the Federal OSHA standards contained in 29 CFR Parts 1910, 1915, 1917, 1918, 1926 and 1928 of the Code of Federal Regulations revised as of June 30, 1984. These State standards, which are contained in Part 800 of Title 12 of the New York Codes, Rules and Regulations, were adopted by order of Lillian Roberts, New York Commissioner of Labor, on July 18, 1985 after publication of Notice of Proposed Agency Action in the New York State Register on May 22, 1985. These State standards became effective upon filing with the New York State Department of State on July 19, 1985. By letter dated May 30, 1986, from Stuart Schrank, Director, Division of Safety and Health, New York State Department of Labor, to Byron Chadwick, Acting Regional Administrator, Occupational Safety and Health Administration, the State has submitted supplements and incorporated as part of the plan, State certification documenting promulgation of State standards comparable to Educational and Scientific Diving—Guidelines, 29 CFR Part 1910, Subpart T, as published in the **Federal Register** (50 FR 1046), dated January 9, 1985; Amendments to Power Lawn Mowers, 29 CFR 1910.243, as published in the **Federal Register** (50 FR 4649), dated February 1, 1985; Coke Oven Emissions, Conforming Deletions, 29 CFR 1910.1029, as published in the **Federal Register** (50 FR 37352), dated September 13, 1985; Ethylene Oxide Labeling Requirements, 29 CFR 1910.1047, as published in the **Federal Register** (50 FR 41491), dated October 11, 1985; Hazard Communication: Interim Final Rule and Corrections, 29 CFR 1910.1200, as published in the **Federal Register** (50 FR 48750), dated November 27, 1985. These State standards, which are contained in Part 800 of Title 12 of the New York Codes, Rules and Regulations, were adopted by order of Lillian Roberts, New York Commissioner of Labor, on March 3, 1986, after publication of Notice of Proposed Agency Action in the New York State Register on January 29, 1986. These State standards became effective upon filing with the New York Department of State on March 4, 1986.

2. *Decision.* Having reviewed the State submissions in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, United States Department of Labor, OSHA, 1515 Broadway, Room 3445, New York, New York 10036; Office of the Director, New York State Department of Labor, Division of Safety and Health, One Main Street, Brooklyn, New York 11201; and the Office of the Director of Federal-State Operations, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210.

4. *Public participation.* Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent

with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the New York State plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards which were promulgated in accordance with Federal law including meeting requirements for public participation.

2. The standards were adopted in accordance with procedural requirements of State law and further participation would be unnecessary.

This decision is effective August 26, 1986.

Authority: Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at New York, New York, this eighth day of July 1986.

Byron R. Chadwick,

Acting Regional Administrator.

[FR Doc. 86-19232 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-26-M

LIBRARY OF CONGRESS

Copyright Office

Policy Decisions Regarding Searches of Certain In-Process Materials and Telephone Requests for Searches of Copyright Office Records

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of policy decisions.

SUMMARY: The purpose of this notice is to inform the public of two policy decisions made by the Copyright Office.

1. The Copyright Office will no longer conduct free searches to ascertain the status of certain fee service requests that are in-process and that have been in the Office less than eight weeks.

2. The Copyright Office will no longer give free expedited service to telephone requests for searches of the Copyright Office records.

These changes in practice are effective upon publication of this notice.

FOR FURTHER INFORMATION CONTACT: Winston Tabb, Chief, Information and Reference Division, Copyright Office, Library of Congress, Washington, DC 20559, Telephone: (202) 287-6800.

SUPPLEMENTARY INFORMATION: 1. *In-Process Searches:* This notice refers to status searches requested to be performed by the Certifications and Documents and the Reference and Bibliography Sections of the Information and Reference Division with respect to fee service requests that have been submitted and have been in the Copyright Office for a period of less than eight weeks. The types of fee service requests referred to are those such as requests for searches of the Office records and requests for certified copies of various materials. Heretofore upon receiving a request for a status report on a submitted fee service request the Office would conduct a search without charge and provide such a report. This service consumes valuable time and taxes resources that are needed to fill pending fee service requests.

The normal processing time for fee service requests is six to eight weeks depending upon the current work load. In order to provide better service for all fee service requests, the Copyright Office will no longer conduct free searches of fee service requests that have been in the Office less than eight weeks. The Office discourages the making of such requests. However, if the person making the request is adamant about receiving a status report on requests less than eight weeks old, the Office will provide the service for a fee of $10.00 per hour or fraction thereof expended in making the search and providing the report. If persons sending in a fee service request wish to know when the Copyright Office receives their request, it is suggested that the request be sent via registered or certified mail with return receipt requested.

2. *Telephone Search Requests:* In the past the Reference and Bibliography Section has provided expedited service to requests for searches of the Copyright Office records received by telephone from deposit account holders, without charging an additional fee above the statutory fee of $10.00 per hour or fraction thereof expended on the search. The Office will continue to accept telephone requests for such searches from deposit account holders, but these searches will be processed in sequence with all other pending requests for Copyright Office record searches. The normal processing time of such requests is usually six to eight weeks.

Responses to telephone search requests will be made in writing *or* by telephone, in accordance with the requester's instructions. If both telephone and written search reports of the Office records are required, the Copyright Office will provide both services. However, statutory fee charges will be made for *all* of the time consumed in making both sequences. Any telephone calls that may be necessary for the Copyright Office to make will be made at Office expense.

If an expedited search report is required due to pending or prospective litigation, customs matters, or contract or publishing deadlines, the Office will make every reasonable effort to provide this service in writing, and by telephone if requested, within five working days after approval of the request. The written search report will be sent via first class mail unless other arrangements are made by the requester. Because expedited service of this type can be provided only by the staff working overtime, it is necessary to charge a fee of $30 per hour or fraction thereof. There is a minimum fee of $60 for expedited service.

Dated: August 13, 1986.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 86-19213 Filed 8-25-86; 8:45 am]

BILLING CODE 1410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86-57]

Government-Owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent.) Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: August 26, 1986.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, Director of Patent Licensing, Code GP, Washington, DC 20546, telephone (202) 453-2430.

Patent Application 765,979: Multispectral Glancing Incidence X-Ray Telescope; filed August 15, 1985.

Patent Application 805,010: Apparatus and Method for Quiescent Containless Processing of High Temperature Metals and Alloys in Low Gravity; filed December 5, 1985.

Patent Application 804,039: Method for Machining Holes in Composite Materials; filed December 3, 1985.
Patent Application 805,012: Quasi-Containerless Glass Formation Method and Apparatus; filed December 5, 1985.
Patent Application 815,099: Neighborhood Comparison Operator; filed December 31, 1985.
Patent Application 815,103: Programmable Pipelined Image Processor; filed December 31, 1985.
Patent Application 815,105: Convoler; filed December 31, 1985.
Patent Application 809,975: High Band Gap III–IV Tunneling Junction for Silicon Multijunction Solar Cells; filed December 17, 1985.
Patent Application 805,011: Reconfigurable Work Station for a Video Display Unit and Keyboard; filed December 5, 1985.
Patent Application 798,713: Liquid Hydrogen Polygeneration System and Process; filed November 15, 1985.
Patent Application 751,644: Personnel Emergency Carrier Vehicle; filed July 3, 1985.
Patent Application 790,597: Tool and Process for Explosive Joining of Tubes; filed October 23, 1985.
Patent Application 775,989: Acoustic Radiation Stress Measurement; filed September 13, 1985.
Patent Application 806,572: Aminophenoxycyclotriphosphazene Cured Epoxy Resins and the Composites Laminates, Adhesives and structures thereof; filed November 21, 1985.
Patent Application 823,712: Airborne Tracking Sun Photometer Apparatus and System; filed January 29, 1985.
Patent Application 838,648: Floating Emitter Solar Cell Junction Transistor; filed March 11, 1986.
Patent Application 802,769: Method of Measuring Field Funneling and Range Straggling in Semiconductor Charge-Collecting Junctions; filed November 27, 1985.
Patent Application 831,371: Deployable Geodesic Truss Structure; filed February 20, 1986.
Patent Application 831,372: Inductive Energy for Rapid Strain Gauge Attachment; filed February 20, 1986.
Patent Application 829,042: Ultransonic Depth Gauge for Liquids Under High Pressure; filed February 13, 1986.
Patent Application 831,377: Adjustable Mount for Electro-Optic Transducers in an Evacuted Cryogenic System; filed February 20, 1986.
Patent Application 804,196: Flat-Panel, Full-Color Electroluminescent Display; filed December 3, 1985.
Patent Application 804,040: Measurement Apparatus and Procedure for the Determination of Surface Emissivities; filed December 3, 1985.
Patent Application 846,429: Ice Detector; filed March 31, 1986.
Patent Application 840,825: Laser Ranging and Video Display System; filed March 18, 1986.
Patent Application 846,430: Braille Reading System; filed March 31, 1986.
Patent Application 840,812: Semi-2-Interpenetrating Polymer Networks of High Temperature Polymer Systems; filed March 18, 1986.
Patent Application 840,900: Oxygen Diffusion Barrier Coating; filed March 18, 1986.
Patent Application 834,978: Poly(carbonate-imides); filed February 27, 1986.
Patent Application 838,655: Process for Crosslinking and Extending Conjugated Diene-Containing Polymers; filed March 11, 1986.
Patent Application 838,654: Process for Cross-Linking Methylene-Containing Aromatic Polymers with Ionizing Radiation; filed March 11, 1986.
Patent Application 846,428: Liquid Seeding Atomizer; filed March 31, 1986.
Patent Application 846,439: Swashplate Control System; filed March 31, 1986.
Patent Application 846,437: Dual Mode Laser Velocimeter; filed March 31, 1986.
Patent Application 831,193: Method and Apparatus for Measuring Distance; filed February 20, 1986.
Patent Application 852,468: Variable Energy High Flux, Ground-State Atomic Oxygen Source; filed April 10, 1986.
Patent Application 855,982: Oxygen Chemisorption Cryogenic Refrigerator; filed April 24, 1986.
Patent Application 834,977: Oxidation Protection Coatings for Polymers; filed February 27, 1986.
Patent Application 855,983: Lightning Discharge Protection Rod; filed April 24, 1986.
Patent Application 832,296: Heat Treatment for Superalloy; filed February 24, 1986.
Patent Application 855,879: Polyether-Polyester Graft Copolymer; filed April 24, 1986.
Patent Application 838,649: Active Control of Boundary Layer Transistor and Turbulence; filed March 11, 1986.
Patent Application 765,991: Planar Oscillatory Stirring Apparatus; filed August 15, 1985.

Dated: August 15, 1986.

Edward A. Frankle,

Deputy General Counsel.

[FR Doc. 86–19177 Filed 8–25–86; 8:45 am]

BILLING CODE 7510-01-M

[Notice 86-56]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant to Ernest W. Millen, Seaford, Virginia, a limited, exclusive, royalty-bearing, revocable license to practice the invention as described in U.S. Patent No. 4,586,140 for a "Aircraft Liftmeter," which issued on April 29, 1986, to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years and will contain appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart, 2. NASA will negotiate the final terms and conditions and grant the exclusive license unless, within 60 days of the date of the Notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentations. The Director of Patent Licensing will review all written responses to the Notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATE: Comments to this notice must be received by October 27, 1986.

ADDRESS: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. John G. Mannix, (202) 453–2430.

Dated: August 14, 1986.

Edward A. Frankle,

Deputy General Counsel.

[FR Doc. 86–19176 Filed 8–25–86; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on September 11–13, 1986, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on August 19, 1986.

Thursday, September 11, 1986

8:30 A.M.–8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.–11:45 A.M.: Improved Light-Water Reactors (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations to the NRC regarding proposed characteristics of improved light-water reactors.

11:45 A.M.–12:30 P.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS subcommittee meetings and items proposed for full Committee consideration. The schedule for ACRS full Committee meetings for CY 1987 will also be discussed.

1:30 P.M.–1:50 P.M.: Topics for Meeting with NRC Commissioners (Open)—The members will discuss the presentation of its report dated August 12, 1986 (Revised 8/15/86) on the proposed NRC policy statement on standardization of nuclear power plants.

2:00 P.M.–3:30 P.M.: Meeting with NRC Commissioners (Open)—Presentation and discussion of ACRS report dated August 12, 1986 (Revised 8/15/86) on the proposed NRC Standardization Policy Statement.

3:45 P.M.–6:00 P.M.: Emergency Core Cooling Systems (Open)—The members will hear presentations and discuss proposed changes in NRC regulatory requirements for emergency core cooling systems. Representatives of the NRC Staff will participate in this discussion.

6:00 P.M.–6:30 P.M.: Primary System Integrity (Open)—The members will hear and discuss the report of its subcommittee regarding research activities related to the integrity of the primary coolant systems in nuclear power plants.

Friday, September 12, 1986

8:30 A.M.–9:30 A.M.: Decay Heat Removal (Open)—The members will hear and discuss a Subcommittee report regarding activities related to resolution of Unresolved Generic Issue 124, Auxiliary Feedwater System Reliability. Members of the NRC Staff will participate as appropriate.

9:30 A.M.–10:30 A.M.: International Operating Experience (Open)—Briefing by member of the U.S. Team regarding the sequences which contributed to the Chernobyl Nuclear Power Plant accident.

10:45 A.M.–12:00 Noon and 1:00 P.M.–2:15 P.M.: Babcock and Wilcox Light-Water Reactor Safety (Open/Closed)—The members will hear and discuss a presentation by representatives of the Babcock and Wilcox Company regarding plans for review of the long-term safety of B&W nuclear plants.

Portions of this session may be closed as necessary to discuss Proprietary Information related to B&W nuclear plants.

2:15 P.M.–5:15 P.M. Long-Range Planning (Open)—The members of the Committee will discuss proposed ACRS comments and recommendations regarding the preparation of a long-range plan for NRC activities.

5:15 A.M.–6:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss reports of designated ACRS subcommittees regarding safety-related matters, including the NRC incident investigation program, activities of the NRC Office of Inspection and Enforcement, and evaluation of seismic margins with respect to nuclear power stations.

Saturday, September 13, 1986

8:30 A.M.–12:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed ACRS reports and memoranda to the NRC regarding items considered during this meeting. In addition, proposed ACRS comments on seismic qualification of safety-related equipment in nuclear power plants and use of aptitude testing in the selection of nuclear power plant personnel will be discussed.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matters being discussed.

1:30 p.m.–2:30 p.m.: ACRS Subcommittee Activities (Open/Closed)—The members will hear and discuss reports of its subcommittees on management and conduct of ACRS activities, including the prioritization and allocation of ACRS resources and the non-ACRS activities of individual members.

Portions of this session will be closed as necessary to discuss information; the release of which would represent a clearly unwarranted invasion of personal privacy.

2:30 p.m.–3:30 P.M.: Miscellaneous (Open/Closed)—The member will complete discussion of matters noted above.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matter being discussed.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)] applicable to the facilities being discussed and information the release of which would represent a clearly unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)].

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 a.m. and 5:00 p.m.

Dated: August 21, 1986.

John C. Hoyle,

Advisory, Committee Management Officer.

[FR Doc. 86–19263 Filed 8–25–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–410]

Niagara Mohawk Power Corp.; Nine Mile Point Nuclear Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from certain requirements of 10 CFR Part 50 to the Niagara Mohawk Power Corporation (the applicant) for the Nine Mile Point Nuclear Station, Unit 2

(NMP–2), located at the applicant's site in Scriba, New York.

Environmental Assessment

A. Containment Air Lock Testing

Identification of Proposed Action: The exemption would eliminate the full pressure test required by Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50 each time the air lock is opened during periods when containment integrity is not required. Instead a seal leakage test would be conducted at a pressure and intervals specified in the Technical Specifications. The exemption is discussed in the applicant's request dated March 3, and June 24, 1986.

The Need for the Action: The exemption is required to provide the applicant with greater plant availability over the lifetime of the plant.

Environmental Impact of the Action: The exemption would allow the substitution of an air lock seal test for an air lock pressure test while the reactor is in a shutdown or refueling mode. With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability and the magnitude of containment leakage during an accident which would lead to potentially greater offsite radiological consequences. However, the potential increase from this exemption is small and would result from the potential leakage path through the door mechanism which will not be measured by this modified test. The 6-month test requirement of paragraph III.D.2(b)(i) of Appendix J, the 3-day test requirement of paragraph III.D.2(b)(iii) of Appendix J and the test requirements when maintenance is performed on the air lock, will measure the leakage through the door mechanism and provide assurance that the air lock will not leak excessively.

Likewise the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological impacts associated with the exemption.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The prinicpal alternative would be to deny the requested exemption. This would not reduce the environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

B. Leak Rate Testing of Main Steam Isolation Valves (MSIV's)

Identification of Proposed Action: The exemption would exclude the measured leakage from the MSIV's from the summation of the local leak rate test results. The proposed exemption is in accordance with the applicant's request dated March 3, 1986.

The Need for the Proposed Action: Paragraph III.C.3 of Appendix J of 10 CFR Part 50 states, "The combined leakage rate for all penetrations and valves subject to Type B and C tests shall be less than 0.6 La."

The Nine Mile Point, Unit 2 (NMP–2) Technical Specifications are being written to exclude the measured leakage from MSIVs from the combined leakage rate limit of 0.60 La. The NMP–2 Technical Specifications are being written based on the NRC staff's evaluation in Supplement 2 to the NMP–2 SER.

Environmental Impact of the Action: The exemption would exclude the measured leakage through the MSIVs from the combined local leak rate test results (limit 0.60 La). In the radiological analysis for the design basis loss-of-coolant accident (LOCA), doses were calculated on the basis of MSIV leakage being considered as a separate leakage path bypassing secondary containment. This leakage was conservatively assumed to be released directly to the environment without dilution in the reactor building or filtration by the standby gas treatment system. The MSIVs will be periodically tested to verify that the leakage assumed in the radiological analysis is not exceeded.

The proposed NMP–2 Technical Specification requirements will provide reasonable assurance against undue MSIV leakage and that no material increase in the probability or extent of MSIV leakage is to be expected. Therefore, there is no significant increase in the probability of higher post-accident offsite or onsite doses related to the proposed exemption and no significant increase in environmental impact beyond that experienced with no exemption.

In addition, the radiological analysis for the design basis LOCA has already considered leakage from the MSIVs up to the limit specified in the Technical Specification. Thus, the radiological releases will not be greater than previously determined, nor does the proposed relief otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the exemption.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the exemption, any alternative to the exemption will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impact of plant operations and would provide no greater assurance that offsite or onsite doses, in the event of an accident that resulted in fission product release, would be any less.

Alternative Use of Resources: These actions in the granting of exemptions A and B above do not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Nine Mile Point Nuclear Station, Unit No. 2" dated May 1985.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests that support the requested exemptions A and B above. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

On the basis of the foregoing environmental assessments, we conclude that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemptions.

For further details with respect to the action, see the applicant's requests for the exemption dated March 3, 1986, and June 24, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the local public document room, Penfield Library, State University College, Oswego, New York 13126.

Dated at Bethesda, Maryland this 19th day of August 1986.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–19267 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-443-OL-1; 50-444-OL-1]

Public Service Co. of New Hampshire, et. al; (Seabrook Station, Units 1 and 2); Order; Scheduling Hearing

Atomic Safety and Licensing Board: Before Administration Judges: Sheldon J. Wolfe, Chairman, Emeth A. Luebke, Jerry Harbour; On-site Emergency Planning and Safety Issues; (ASLBP No. 82-471-02-OL) August 20, 1986.

The reopened hearing will commence on September 29, 1986 at 9:00 a.m. (EDT) at the following location: Howard Johnson's Motor Lodge, Interstate Traffic Circle, Salons A & B, Portsmouth, New Hampshire 03801.

The hearing will be held each day from 9:00 a.m. to 6:00 p.m. on September 29–30, October 1 and, if necessary, on October 3, 1986.

During the reopened hearing, the Board will receive supplementary evidence upon NECNP Contention 1.B.2 (Environmental Qualification of Electrical Equipment) and upon NECNP Contention III.1 and NH Contention 20 (Emergency Classification and Action Levels). Evidence may be received upon SAPL Supplemental Contention 6 (Control Room Design), which, being the subject of Applicants' motion for summary disposition, is currently under consideration by the Board. As soon as is possible, before formally issuing its ruling, the Board will informally advise the parties whether it has granted or denied Applicants' motion for summary disposition of SAPL Supplemental Contention 6.

The public is invited to attend.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman, Administrative Judge.

Dated at Bethesda, Maryland, this 20th day of August, 1986.

[FR Doc. 86-19262 Filed 8-25-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-182]

Purdue University; Consideration of Application for Renewal of Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R-87, issued to Purdue University for operation of the Purdue University Reactor (PUR-I) located on the University's campus in West Lafayette, Indiana.

The renewal would extend the expiration date of Facility License No. R-87 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated June 30, 1986 as supplemented July 17, 1986.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 25, 1986, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); (Purdue University) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to John F. Vogel, 801 Life Building, Lafayette, Indiana, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated June 30, 1986 as supplemented July 17, 1986; which is available for public inspection at the Commission's

Public Document Room at 1717 H Street, NW., Washington, DC 20555.

Dated at Bethesda, Maryland, this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing–B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–19265 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–124]

Virginia Polytechnic Institute and State University; Proposed Issuance of Orders Authorizing Dismantling of Facility and Disposition of Component Parts, and Terminating Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of Orders authorizing Virginia Polytechnic Institute and State University (Virginia Tech or the licensee) to dismantle the reactor facility and dispose of the component parts, and termination of Facility Operating License No. R–62, in accordance with the licensee's application dated July 17, 1986.

The first of these Orders would be issued following the Commission's review and approval of the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By September 25, 1986, the licensee may file a request for a hearing with respect to issuance of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate Order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any Order which may be entered on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the Order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Herbert N. Berkow: (petitioner's name and telephone number); (date petition was mailed); Virginia Tech; and publication date and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Ms. Jane Bulbin, attorney for the licensee, University Legal Counsel, Virginia Polytechnic Institute and State University, Blacksburg, Virginia 24061.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this section, see the licensee's application dated July 17, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Maryland this 19th day of August 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B, Office of Nuclear Reactor Regulation.

[FR Doc. 86–19266 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[NUREG–0956]

Issuance as a Final Report

NUREG–0956, "Reassessment of The Technical Bases for Estimating Source Terms," has been issued by the NRC as a Final Report. A source term is defined

as the timing, quantity, and characteristics of the release of radioactive material to the environment following a severe reactor accident. NUREG–0956 was issued for public comment in August 1985. The comment period ended on January 7, 1986.

NUREG–0956 is a report on the technology for estimating source terms and has been issued after several years of research, analysis, peer review, and public comment.

Copies of NUREG–0956 are for sale through the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

Dated at Rockville, Maryland, this 20th day of August 1986.

For the Nuclear Regulatory Commission.

Denwood F. Ross,

Acting Director, Office of Nuclear Regulatory Research.

[FR Doc. 86–19268 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–443]

Public Service Co. of New Hampshire, et al.;[1] Seabrook Station, Unit 1; Order Extending the Latest Construction Completion Date

On July 7, 1976, the Nuclear Regulatory Commission issued Construction Permits CPPR–135 and CPPR–136 to the Public Service Company of New Hampshire, et al. for the Seabrook Station, Units 1 and 2. The facility is located in the Town of Seabrook, Rockingham County, New Hampshire.

When issued, CPPR–135 for the Seabrook Station, Unit 1, listed the latest construction completion date as June 30, 1983. By Order, dated May 1, 1984, the latest construction completion date for CPPR–135 was extended to June 30, 1986.

By letter, dated May 7, 1986, Public Service Company of New Hampshire requested an extension of the latest construction completion date for Seabrook Station, Unit 1 from June 30, 1986 to June 30, 1987. The appplicant stated that construction of Seabrook Station, Unit 1 is essentially complete. However, necessary approvals for fuel loading and low power operation have not been issued. Certification of readiness for fuel load has been delayed.

Delays in the formulation of offsite emergency plans by various state and local governmental entities assured that necessary NRC approval for full power operation would not be forthcoming by June 30 1986, the estimated fuel load date in applicants' May 7, 1986, letter.

The fuel load schedule of July 20, 1986, was updated by Public Service Company of New Hampshire letter dated July 3, 1986. By Memorandum and Order dated July 25, 1986, the Atomic Safety and Licensing Board reopened the hearing to be held in a four-day session sometime between September 29 and October 10, 1986. Upon completion of the hearing a decision on licensing the Seabrook Station, Unit 1 is imminent.

The requested revised completion date extends beyond the date by which Public Service Company of New Hampshire expects to load fuel at Seabrook Station, Unit 1. The applicants have requested an extension from June 30, 1986 to June 30, 1987, to address the condition.

As discussed more fully in the staff's related Safety Evaluation, dated, August 19, 1986, we have concluded that good cause has been shown for delay, and that the requested extension involves no significant hazards consideration, and therefore no prior public notice is required.

The NRC staff has prepared an environmental assessment and finding of no significant impact which was published in the **Federal Register** on June 19, 1986 (51 FR 22366).

The NRC staff has concluded that this action will not have significant impact on the quality of the human environment and therefore no environmental impact statement need be prepared.

The applicants' letters dated May 7, 1986 and July 3, 1986, and the NRC staff's letter and evaluation, dated August 19, 1986, issued in support of this Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Exeter Public Library, Front Street, New Hampshire 03833.

It is hereby ordered that the latest construction completion date for CPPR–135, Unit 1 of the Seabrook Station be extended from June 30, 1986 to June 30, 1987.

Date of Issuance: Aug. 19, 1986.

For the Nuclear Regulatory Commission.

George Lear,

Acting Director, Division of PWR Licensing-A.

[FR Doc. 86–19269 Filed 8–25–86; 8:45 am]

BILLING CODE 7590–01–M

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[1] The current construction permit holders for Seabrook Station are: Bangor Hydro-Electric Company, Canal Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation, Connecticut Light & Power Company, Fitchburg Gas & Electric Light Company, Hudson Light & Power Department, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Company, Montaup Electric Company, New England Power Company, New Hampshire Electric Cooperative, Inc., Public Service Company of New Hampshire, Taunton Municipal Lighting Plant, United Illuminating Company, and Vermont Electric Generation and Transmission Cooperative, Inc.

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

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 July 29, 1986 (51 FR 27101). Individual authorities established or revoked under Schedule A, B, or C between July 1, 1986, and July 31, 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.

Schedule A

No Schedule A exceptions were established during July. However, the following exceptions are revoked:

Department of Agriculture

Two Schedule A excepted appointing authorities for temporary and seasonal positions in the Farmers Home Administration engaged in making and servicing loans under the Economic Opportunity Act of 1964 and the Agricultural Credit Act of 1978 were revoked because they are no longer used. Effective July 14, 1986.

The Animal and Plant Health Inspection Service's Schedule A excepted appointing authority for temporary field positions concerned with the control, suppression, and eradication of emergency livestock and plant diseases and emergency outbreaks of plant pests was revoked because it is no longer needed. Effective July 14, 1986.

Department of Health and Human Services

Schedule A excepted appointing authority for 11 technical and clerical positions in the Social Security Administration that involve contact with recent Indochinese refugees was revoked because the organization is no longer responsible for providing direct assistance to refugees and, consequently, its positions no longer require qualifications that cannot be measured through a competitive examination. Effective July 16, 1986.

Schedule B

The following exception was established:

Department of Health and Human Services

One position of Public Health Education Specialist, GS–1725–15, in the Centers for Disease Control, Atlanta, Georgia. Effective July 16, 1986.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Office of International Cooperation and Development. Effective July 1, 1986.

One Confidential Assistant to the Administrator. Effective July 3, 1986.

One Confidential Assistant to the Administrator, Farmers Home Administration. Effective July 22, 1986.

One Administrator, Human Nutrition Information Service, to the Assistant Secretary for Food and Consumer Services. Effective July 23, 1986.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective July 25, 1986.

Department of the Air Force

One Secretary (Steno) to the Secretary of the Air Force. Effective July 18, 1986.

One Secretary (Steno) to the General Counsel of the Air Force. Effective July 22, 1986.

Department of the Army

One Executive Director to the Assistant Secretary of the Army. Effective July 8, 1986.

Department of Commerce

One Confidential Aide to the Special Assistant to the Secretary. Effective July 1, 1986.

One Confidential Assistant to the Director of Congressional Affairs, National Oceanic and Atmospheric Administration. Effective July 9, 1986.

One Confidential Aide to the Special Assistant to the Secretary. Effective July 9, 1986.

One Public Affairs Specialist to the Director, Office of Public Affairs, International Trade Administration. Effective July 10, 1986.

One Special Assistant to the Director, Bureau of the Census. Effective July 11, 1986.

One Congressional Staff Assistant to the Deputy Assistant for Congressional Affairs. Effective July 16, 1986.

One Secretary to the Deputy Assistant Secretary for Africa, Near East and South Asia. Effective July 18, 1986.

One Confidential Assistant to the Deputy Assistant Secretary for Services, International Trade Administration. Effective July 21, 1986.

One Special Assistant to the Deputy Assistant Secretary for Loan Programs. Effective July 23, 1986.

Department of Defense

One Special Assistant for Technology Transfer Policy to the Director, Defense Technology Security Administration. Effective July 10, 1986.

One Staff Assistant to the Secretary of Defense. Effective July 25, 1986.

One Special Assistant to the Principal Deputy Assistant Secretary of Defense. Effective July 29, 1986.

Department of Education

One Confidential Assistant to the Director of Public Affairs, Office of Planning, Budget, and Evaluation. Effective July 2, 1986.

One Confidential Assistant to the Director of Public Affairs, Office of Planning, Budget, and Evaluation. Effective July 22, 1986.

One Executive Assistant to the Deputy Assistant Secretary for Operations/Coordinator for Operations. Effective July 25, 1986.

One Special Assistant to the Assistant Secretary for Postsecondary Education. Effective July 29, 1986.

Department of Energy

One Special Assistant to the Administrator, Bonneville Power Administration. Effective July 1, 1986.

One Staff Assistant to the Special Assistant to the Secretary. Effective July 7, 1986.

One Confidential Assistant to the General Counsel. Effective July 7, 1986.

One Principal Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison. Effective July 16, 1986.

One Confidential Assistant to a Member, Federal Energy Regulatory Commission. Effective July 22, 1986.

Department of Health and Human Services

One Special Assistant to the Director, Office of Minority Health. Effective July 9, 1986.

One Confidential Staff Assistant to the Chief of Staff. Effective July 10, 1986.

One Director, Office of Legislation and Policy, to the Administrator, Health Care Financing Administration. Effective July 21, 1986.

One Confidential Staff Assistant to the Director, Office of Community Services. Effective July 23, 1986.

One Special Assistant for External Affairs to the Commissioner, Social Security Administration. Effective July 23, 1986.

One Special Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration. Effective July 25, 1986.

Department of Housing and Urban Development

One Special Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective July 7, 1986.

One Assistant for Congressional Relations to the Deputy Assistant Secretary. Effective July 16, 1986.

One Staff Assistant to the Assistant Secretary for Housing—Federal Housing Commissioner. Effective July 18, 1986.

One Executive Assistant to the President, Government National Mortgage Association. Effective July 18, 1986.

One Executive Assistant to the General Deputy Assistant Secretary for Housing. Effective July 18, 1986.

One Executive Assistant to the Deputy Assistant Secretary for Multifamily Housing Projects. Effective July 18, 1986.

Department of the Interior

One Special Assistant to the Director, Fish and Wildlife Service. Effective July 1, 1986.

One Staff Assistant to the Director, Geological Survey. Effective July 3, 1986.

Department of Justice

One Confidential Assistant to the Special Assistant to the Attorney General for Cabinet Affairs. Effective July 7, 1986.

One Confidential Assistant to the Assistant to the Attorney General and Chief of Staff. Effective July 28, 1986.

Two Associate Deputy Attorney Generals to the Deputy Attorney General. Effective July 29, 1986.

One Confidential Assistant to the Associate Deputy Attorney General. Effective July 29, 1986.

Department of Labor

One Special Assistant to the Deputy Under Secretary for International Affairs. Effective July 1, 1986.

One Special Assistant to the Assistant Secretary, Pension and Welfare Benefits Administration. Effective July 21, 1986.

Department of State

One Secretary to the United States Representative to the United Nations. Effective July 8, 1986.

One Public Affairs Adviser to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs. Effective July 21, 1986.

One Secretary (Stenography) to the Ambassador-at-Large for Cultural Affairs. Effective July 29, 1986.

Department of Transportation

One Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective July 24, 1986.

Department of the Treasury

One Special Assistant to the Assistant Secretary for Management. Effective July 1, 1986.

Action

One Staff Director to the Director. Effective July 1, 1986.

One Assistant Director for VISTA and Service Learning Programs to the Associate Director for Domestic and Anti-Poverty Operations. Effective July 16, 1986.

Agency for International Development

One Public Affairs Specialist to the Supervisory Public Affairs Specialist, Bureau for External Affairs. Effective July 2, 1986.

One Confidential Assistant to the Deputy Administrator. Effective July 10, 1986.

One Special Assistant to the Assistant Administrator for Latin America and the Caribbean. Effective July 16 1986.

One Special Assistant to the Deputy Administrator. Effective July 16, 1986.

One Special Assistant to the Assistant Administrator for External Affairs. Effective July 25, 1986.

Arms Control and Disarmament Agency

One Special Assistant to the Assistant Director, Strategic Programs Bureau. Effective July 16, 1986.

Equal Employment Opportunities Commission

One Confidential Assistant to the Director, Office of Communications. Effective July 25, 1986.

Farm Credit Administration

One Private Secretary to a Member. Effective July 10, 1986.

One Executive Assistant to the Chairman. Effective July 18, 1986.

One Deputy Director of Public Affairs to the Director of Congressional and Public Affairs. Effective July 23, 1986.

Federal Home Loan Bank Board

One Staff Assistant to the Chairman. Effective July 22, 1986.

Federal Trade Commission

One Confidential Assistant to the Chairman. Effective July 25, 1986.

General Services Administration

One Special Assistant for Media Relations to the Associate Administrator for Public Affairs. Effective July 14, 1986.

International Trade Commission

One Executive Director to the Chairman. Effective July 15, 1986.

One Staff Assistant to the Chairman. Effective July 15, 1986.

One Staff Assistant (Legal) to a Commissioner. Effective July 23, 1986.

One Confidential Assistant to a Commissioner. Effective July 23, 1986.

Two Staff Assistants (Economics) to a Commissioner. Effective July 23, 1986.

National Transportation Safety Board

One Special Assistant to a Member. Effective July 23, 1986.

Office of Management and Budget

One Secretary to the Deputy Director. Effective July 8, 1986.

Office of Personnel Management

One Speical Assistant to the Associate Director for Administration. Effective July 31, 1986.

Small Business Administration

One Special Assistant to the Administrator. Effective July 23, 1986.

One Special Assistant to the Associate Administrator for Procurement Assistance. Effective July 25, 1986.

United States Tax Court

Two Trial Clerks to a Judge. Effective July 22, 1986.

U.S. Information Agency

One Deputy Chief of Staff and Deputy Counsel to the Director to the Chief of Staff and Counsel to the Director. Effective July 18, 1986.

U.S. Trade Representative

One Deputy Assistant U.S. Trade Representative for Congressional Affairs. Effective July 10, 1986.

One Congressional Affairs Officer to the Assistant U.S. Trade Representative for Congressional Affairs. Effective July 16, 1986.

Authority: 5 U.S.C. 3301, 3302, EO 10577, 3 CFR 1954–1958 Comp., P.218.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 86–19202 Filed 8–25–86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86–8–53; Docket 41961]

Proposed Revocation of the Section 401 Certificate of Airwest International, Inc. d/b/a Air Hawaii

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause, (Order 86–8–53) Docket 41961.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Airwest International, Inc. d/b/a Air Hawaii, issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than September 11, 1986.

ADDRESS: Responses should be filed in Docket 41961 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P–47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366–9721.

Dated: August 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–19289 Filed 8–25–86; 8:45 am]

BILLING CODE 4910-62-M

[Order 86–8–56; Docket 40580]

Proposed Revocation of the Section 401 Certificate of Samoa Inc. d/b/a Samoa Airlines, Inc

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Order to Show Cause, (Order 86–8–56) Docket 40580.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of Samoa, Inc. d/b/a Samoa Airlines, Inc., issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than September 11, 1986.

ADDRESS: Responses should be filed in Docket 40580 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 755-3812.

Dated: August 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19290 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-62-M

[Order 86-8-52; Docket 41893]

Proposed Revocation of the Section 401 Certificate of SEAIR Alaska Airlines, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of order to show cause (Order 86-8-52) Docket 41893.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order revoking the certificate of SEAIR Alaska Airlines, Inc., issued under section 401 of the Federal Aviation Act.

DATES: Persons wishing to file objections should do so no later than September 11, 1986.

ADDRESSES: Responses should be filed in Docket 41893 and addressed to the Documentary Services Division, Department of Transportation, 400 7th Street SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Carol A. Szekely, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-9721.

Dated: August 20, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-19291 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Railroad Administration

[BS-Ap. No. 2576]

Burlington Northern Railroad Co.; Postponement of Public Hearing;

The Federal Railroad Administration (FRA) has postponed the public hearing in Billings, Montana, on the captioned block signal application until September 25, 1986, at 10 a.m. The location of the hearing remains the Parmly Billings Library, Third Floor, at 510 N. Broadway in Billings, Montana.

The postponement became necessary because a principal witness had a scheduling conflict. The hearing had originally been scheduled for September 11, 1986.

In the application that is to be the subject of this hearing, the Burlington Northern Railroad Company has petitioned FRA for approval of the postponed discontinuance of (i) the traffic control signal system from Mobridge, South Dakota, to Hettinger, North Dakota, and (ii) the automatic block signal system from Hettinger, North Dakota, to Terry, Montana. This proceeding is identified as FRA Block Signal Application No. 2576. (See the original hearing notice published July 30, 1986, at 51 FR 27304.)

FRA regrets any inconvenience caused by the postponement of this hearing.

Issued in Washington, DC, on August 18, 1986.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-19162 Filed 8-25-86; 8:45 am]

BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Dept. Circ.—Public Debt Series—No. 29-86]

Treasury Notes of November 15, 1991, Series L-1991

Washington, August 20, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $8,000,000,000 of United States securities, designated Treasury Notes of November 15, 1991, Series L-1991 (CUSIP No. 912827 TZ 5), hereafter referred to as Notes. The notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the notes may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated September 3, 1986, and will accrue interst from that date, payable on a semiannual basis on May 15, 1987, and each subsequent 6 months on November 15 and May 15 through the date that the principal becomes payable. They will mature November 15, 1991, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The notes will be issued only in book-entry form in denomiations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, August 27, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, August 26, 1986, and received no later than Wednesday, September 3, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a one-eighth of one percent increment, which results in an equvalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That stated rate of interest will be paid on all of the notes. Based on such interest rate, the price on each competitive tender allotted will be detemrined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determinaiton of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Wednesday, September 3, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlment date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, August 29, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and loan Note Accounts on or before Wednesday, September 3, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-18624 Filed 8-25-86; 1:42 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

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 4:38 p.m. on Wednesday, August 20, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Mendon State Bank, Mendon, Illinois, which was closed by the Commissioner of Banks and Trust Companies for the State of Illinois on Wednesday, August 20, 1986; (2) accept the bid for the transaction submitted by First Midwest Bank/Quincy, National Association, Quincy, Illionis; and (3) 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;

(B) Consider a recommendation regarding the Corporation's assistance agreement with an insured bank; and

(C) Approve the application of Sherman County Bank, Loup City, Nebraska, for consent to purchase the assets of and assume the liability to pay deposits made in Farwell Credit Union, Farwell, Nebraska, a non-FDIC-insured institution, and for consent to establish the sole office of Farwell Credit Union as a branch of Sherman County Bank.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clark (Comptroller of the Currency), the 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)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 21, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-19328 Filed 8-22-86; 11:59 am]

BILLING CODE 6714-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Tuesday, September 2, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed Federal Reserve Bank salary structure adjustments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 22, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-19373 Filed 8-22-86; 3:59 pm]

BILLING CODE 6210-01-M

3

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 11:00 am, Tuesday, September 16, 1986.

PLACE: National Press Club, 14th and F Street, NW, Washington, DC 20005.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Call meeting to order.
2. Adoption of proposed agenda.
3. Approval of minutes of April 14, 1986 meeting.
4. Discussion of 1987-88 Scholarship Program.
5. Report of Executive Secretary.
6. Resolution to empower Chairman/Executive Secretary to enter/renew contracts, conclude agreements, etc.
7. New business.
8. Discuss and set date, time, and place of Spring Board meeting.
9. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary (202) 395-4831.

Malcolm C. McCormack,

Executive Secretary.

[FR Doc. 19327 Filed 8-22-86; 11:59 am]

BILLING CODE 9500-01-M

4

NATIONAL COUNCIL ON THE HANDICAPPED

Quarterly Meeting

AGENCY: National Council on the Handicapped.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Council on the Handicapped. This notice also describes the functions of the Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (Pub. L. 94-409).

DATES: Sept. 4, 1986, 9:30 a.m. to 5:00 p.m.; Sept. 5, 1986, 9:00 a.m. to 5:00 p.m.; Sept. 6, 1986; 9:00 a.m. to 5:00 p.m.

ADDRESS: Biltmore Plaza Hotel, Kennedy Plaza; Providence, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Andrea Farbman, National Council on the Handicapped, 800 Independence Avenue, SW, Suite 814, Washington, DC 20591, (202) 267-3846, TDD: (202) 267-3232.

The National Council on the Handicapped is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Pub. L. 95-602 in 1978), the

Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. 98–221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute of Handicapped Research (NIHR).

The meeting of the Council shall be open to the public. The proposed agenda includes:

Reports from Chairperson and Executive Director
Prevention of Disability
NCH Draft Section 504 Regulations
Legislative Update
Workplan Update and *Toward Independence* Follow-Up
Reports from the Research, Adult Services, Children's Services, and Public Affairs Committees
NCH's discussion of unfinished and new business
NCH Consumer Forum in conjunction with the Rhode Island State House Conference on Individuals with Disabilities, Private Industry and Service Providers

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on the Handicapped.

Signed at Washington, DC, on August 20, 1986.

Lex Frieden,

Executive Director.

[FR Doc. 86–19365 Filed 8–22–86; 3:22 pm]

BILLING CODE 9539–39–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 25, September 1, 8, and 15, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of August 25

Thursday, August 28

2:00 p.m. Affirmation Meeting (Public Meeting) (if needed)

Week of September 1—Tentative

Wednesday, September 3

10:00 a.m. Discussion of Pending Investigations (Closed—Ex. 5 & 7)
2:00 p.m. Briefing on IAEA Chernobyl Meeting (Open/Closed to be Determined)

Thursday, September 4

2:00 p.m. Discussion/Possible Vote on Kerr-McGee Sequoyah Facility (Public Meeting)
3:30 p.m. Affirmation/Discussion and Vote (Public Meeting)

a. Comanche Peak Construction Permit Extension (*Postponed* from August 6)

Friday, September 5

10:00 a.m. Discussion/Possible Vote on Full Power Operating License for Perry–1 (Public Meeting)

Week of September 8—Tentative

Thursday, September 11

2:00 p.m. Meeting with the Advisory Committee on Reactor Safeguards on Standardization Policy Statement (Public Meeting)
3:30 p.m. Affirmation Meeting (Public Meeting) (if needed)

Week of September 15—Tentative

Wednesday, September 17

2: 00 p.m. Continuation of 8/5 Quarterly Source Term Briefing (Public Meeting)

Thursday, September 18

2:00 p.m. Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
3:30 p.m. Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker, (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

August 21, 1986.

[FR Doc. 86–19374 Filed 8–22–86; 3:59 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
August 26, 1986

Part II

Department of Labor

Office of Federal Contract Compliance Programs

41 CFR Part 60-250

Amendment of Definition of Vietnam Era Veteran; Final Rule

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60-250

Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era; Amendment of the Definition of Vietnam Era Veteran

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: This regulation incorporates statutory changes in the definition of "veteran of the Vietnam era" as that definition relates to Federal contractors' and subcontractors' affirmative action obligations with respect to disabled and Vietnam era veterans. The regulation amends the current definition by deleting the 48-month post-service limitation period for eligibility, and by substituting a coverage cut-off date of December 31, 1991.

EFFECTIVE DATE: September 25, 1986.

FOR FURTHER INFORMATION CONTACT: Leonard J. Biermann, Director, Division of Policy, Planning and Review, Office of Federal Contract Compliance Programs, Room C-3324, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: The Veterans' Rehabilitation and Education Act Amendments of 1980 (Pub. L. 96-466) amended numerous laws relating to veterans' benefits. Section 508 of Pub. L. 96-466 amends 38 U.S.C. 2011, the definitional section applicable, *inter alia*, to veterans' affirmative action coverage under the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 U.S.C. 2012), which requires nonexempt Federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

Prior to the enactment of Pub. L. 96-466, eligibility under 38 U.S.C. 2012 as a "veteran of the Vietnam era" was limited to a 48-month period following a veteran's discharge or release from military service. In Pub. L. 96-466, Congress substituted a coverage cut-off date of December 31, 1991, in place of the previous 48-month post-service limitation. Regulations issued by the Office of Federal Contract Compliance Programs (OFCCP) at 41 CFR Part 60-250 implement 38 U.S.C. 2012. The regulation published today amends OFCCP's definition of "veteran of the Vietnam era," at 41 CFR 60-250.2, to make it consistent with Pub. L. 96-466.

Waiver of Proposed Rulemaking

This rule is a nondiscretionary, ministerial action which merely incorporates, without change, a statutory amendment into pre-existing regulations. Publication in proposed form serves no useful purpose, and therefore is unnecessary within the meaning of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). We, therefore, find good cause to waive notice of proposed rulemaking.

Executive Order 12291

The Secretary of Labor has determined that this is not a major rule as defined in Excutive Order 12291, and thus a regulatory impact analysis is not required.

Paperwork Reduction Act

Because this rule does not contain information collection requirements, it is not subject to approval by the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 41 CFR Part 60-250

Administrative practice and procedure, Civil rights, Employment, Equal employment opportunity, Government contracts, Government procurement, Investigations, Veterans.

Dated: Signed this 21st day of August 1986 at Washington, D.C.

William E. Brock,

Secretary of Labor.

Susan R. Meisinger,

Deputy Under Secretary for Employment Standards.

Joseph N. Cooper,

Director, Office of Federal Contract Compliance Programs.

PART 60-250—[AMENDED]

For the reasons set forth above, 41 CFR Part 60-250 is amended as set forth below.

1. The authority citation for Part 60-250 is revised to read as follows:

Authority: 38 U.S.C. 2011 and 2012; 29 U.S.C. 793; Executive Order 11758 (39 FR 2075, January 15, 1974).

2. All other authority citations following sections 41 CFR 60-250.2 and 41 CFR 60-250.29 are removed.

3. In § 60.250.2, the definition "Veteran of the Vietnam era" is revised as follows:

§ 60-250.2 Definitions.

* * * * *

"Veteran of the Vietnam era" means a person who (1) served on active duty for a period of more than 180 days, any part of which occurred between August 5, 1964, and May 7, 1975, and was discharged or released therefrom with other than a dishonorable discharge, or (2) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975. No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

[FR Doc. 86-19295 Filed 8-25-86; 8:45 am]

BILLING CODE 4510-27-M

federal register

Tuesday
August 26, 1986

Part III

The President

Proclamation 5517—Suspension of Cuban Immigration

Federal Register
Vol. 51, No. 165
Tuesday, August 26, 1986

Presidential Documents

Title 3—

The President

Proclamation 5517 of August 22, 1986

Suspension of Cuban Immigration

By the President of the United States of America

A Proclamation

In light of the May 20, 1985, statement of the Government of Cuba that it had decided "to suspend all types of procedures regarding the execution" of the December 14, 1984, immigration agreement between the United States and Cuba, thereby disrupting normal migration procedures between the two countries, and in light of the continuing failure of the Government of Cuba to resume normal migration procedures with the United States while at the same time facilitating illicit migration to the United States, I have determined that it is in the interest of the United States to suspend entry into the United States as immigrants by all Cuban nationals, with the exceptions noted below, pending the restoration of normal migration procedures between the two countries.

NOW, THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, including Section 212(f) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f)) ("the Act"), having found that the unrestricted entry into the United States as immigrants by Cuban citizens would, except as provided in Section 2, be detrimental to the interests of the United States, do proclaim that:

Section 1. Entry of Cuban nationals as immigrants is hereby suspended, except as noted in Section 2.

Sec. 2. The suspension of entry as immigrants contained in Section 1 shall not apply: (a) to Cuban nationals applying for admission to the United States as immediate relatives under Section 201(b) of the Act (8 U.S.C. 1151(b)) and special immigrants described in Section 101(a)(27)(A) of the Act (8 U.S.C. 1101(a)(27)(A)); (b) to Cuban nationals applying for admission into the United States as preference immigrants under Section 203(a) of the Act (8 U.S.C. 1153(a)) at United States consular posts designated by the Secretary of State for the processing of Cuban nationals, where the applicant can demonstrate that he or she departed Cuba pior to the date of this proclamation, has remained outside Cuba since that date, and otherwise qualified for preference immigrants status; and (c) in such other cases or categories of cases as may be designated from time to time by the Secretary of State or his designee.

Sec. 3. This proclamation shall be effective immediately and shall remain in effect until such time as the Secretary of State, after consultation with the Attorney General, determines that normal migration procedures with Cuba have been restored. Any such determination by the Secretary of State shall be published in the **Federal Register**.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of August, 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 eleventh.

Ronald Reagan

[FR Doc. 86-19491
Filed 8-25-86; 12:41 pm]
Billing code 3195-01-M

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Vol. 51, No. 165

Tuesday, August 26, 1986

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