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Monday
October 20, 1986

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: November 18 at 9:30 a.m.

WHERE: National Archives Theater, 8th and Pennsylvania Avenue NW., Washington, DC

RESERVATIONS: Laurice Clark, 202-523-3419.

NEW YORK, NY.

WHEN: December 5 at 10:00 a.m., Room 305A, 26 Federal Plaza, New York, NY

RESERVATIONS: Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212-264-4810.

PITTSBURGH, PA.

WHEN: December 8 at 1:30 p.m.,

WHERE: Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA

RESERVATIONS: Kenneth Jones or Lydia Shaw
Pittsburgh: 412-644-3456
Philadelphia: 215-597-1707, 1709

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Presidential Documents

Title 3—

The President

Executive Order 12569 of October 16, 1986

Management of the Compact of Free Association With the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau

By the authority vested in me as President by the Constitution and laws of the United States, including the Compact of Free Association (the Compact) and Public Law 99-239, (the Act), it is ordered as follows:

Section 1. *Responsibility of the Secretary of State.* The Secretary of State shall conduct the government-to-government relations of the United States with the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (the "Freely Associated States"), including any subdivisions, officials or persons thereof, and may delegate or allocate such of his authority under this Order to such other United States officials as he may from time to time deem desirable. The authority of the Secretary of State shall include, consistent with Article V of Title One of the Compact and section 105(b)(1) of the Act, the establishment and maintenance of representative offices in the Freely Associated States and supervision of the United States representatives and their staff. The Secretary also shall provide, in accordance with applicable law, for appropriate privileges, immunities, and assistance to representatives to the United States designated by the Governments of the Freely Associated States, together with their officers and staff. In accordance with applicable law and the provisions of this Order, the Secretary also shall have the authority and responsibility to take such other actions as may be necessary and appropriate to ensure that the authorities and obligations of the United States set forth in the Compact and its related agreements and in the laws of the United States as they relate to the conduct of government-to-government relations with the Freely Associated States are carried out. The Secretary shall provide from appropriations made to the Department of State such funds as may be necessary to carry out the provisions of this Order in relation to the activities of the Department of State.

Sec. 2. *Responsibility of the Secretary of the Interior.* The Secretary of the Interior shall be responsible for seeking the appropriation of funds for and, in accordance with the laws of the United States, shall make available to the Freely Associated States the United States economic and financial assistance appropriated pursuant to Article I of Title Two of the Compact; the grant, service, and program assistance appropriated pursuant to Article II of Title Two of the Compact; and all other United States assistance appropriated pursuant to the Compact and its related agreements. The Secretary shall coordinate and monitor any program or any activity by any department or agency of the United States provided to the Freely Associated States and shall coordinate and monitor related economic development planning. This Section shall not apply to services provided by the Department of Defense to the Freely Associated States or to activities pursuant to Section 1 of this Order, including activities under the Peace Corps Act.

Sec. 3. *Interagency Group on Freely Associated State Affairs and the Office of Freely Associated State Affairs.*

(a) There is established an Interagency Group on Freely Associated State Affairs for the purpose of providing guidance and oversight with respect to the establishment and implementation of policy concerning the Compact and United States relations with the Freely Associated States.

(b) The Interagency Group shall consist of the Secretary of State or his designee, who shall chair the Group, and of the principal officers or their designees from the Departments of the Interior, Defense, Commerce, Energy, and Justice, the Organization of the Joint Chiefs of Staff, the Office of Management and Budget, the National Security Council, and such other departments and agencies as may from time to time be appropriate.

(c) The Interagency Group shall make such recommendations as it shall deem appropriate to the President, through the Assistant to the President for National Security Affairs, concerning United States relations with the Freely Associated States. The Interagency Group also shall provide such guidance as it deems appropriate to departments and agencies delegated authority by this Order concerning administration of laws with respect to the Freely Associated States.

(d) If any department or agency charged by this Order with implementation of the Compact or other laws of the United States with respect to the Freely Associated States concludes that noncompliance sanctions pursuant to section 105(g) of the Act are appropriate, it shall make appropriate recommendations to the Interagency Group. The Interagency Group shall consider these recommendations and report its findings to the President for his review in making that determination.

(e)(1) There shall be in the Department of State an Office of Freely Associated State Affairs to conduct United States relations with the Freely Associated States and carry out related matters, as the Secretary of State shall direct or delegate, and provide appropriate support to the Interagency Group.

(2) The Office shall be headed by a Director designated by the Secretary of State, to whom the Secretaries of State, Defense, and the Interior may, to the extent permitted by law, delegate any or all of their respective authorities and responsibilities as described in this Order, including the authority to supervise the United States representatives referred to in Section 4 of this Order. The Director shall serve as Executive Secretary of the Interagency Group.

(3) Personnel additional to that provided by the Secretary of State may be detailed to the Office by the Executive departments and agencies that are members of the Interagency Group, and by other agencies as appropriate. Executive departments and agencies shall, to the extent permitted by law, provide such information, advice, and administrative services and facilities as may be necessary for the fulfillment of the functions of the Office.

Sec. 4. *United States Representatives to the Freely Associated States.* The United States Representative assigned to a Freely Associated State in accordance with Article V of Title One of the Compact shall represent the Government of the United States in an official capacity in that Freely Associated State, and shall supervise the actions of any Executive department or agency personnel assigned permanently or temporarily to that Freely Associated State.

Sec. 5. *Cooperation among Executive Departments and Agencies.* All Executive departments and agencies shall cooperate in the effectuation of the provisions of this Order. The Interagency Group and Office of Freely Associated State Affairs shall facilitate such cooperative measures. Nothing in this Order shall be construed to impair the authority and responsibility of the Secretary of Defense for security and defense matters in or relating to the Freely Associated States.

Sec. 6. *Delegation to the Secretary of the Interior.* The following authorities are delegated to the Secretary of the Interior:

(a) Reporting to the Congress on economic development plans prepared by the Government of the Federated States of Micronesia and the Government of the Marshall Islands, pursuant to sections 102(b) and 103(b) of the Act;

(b) The determination required by section 103(e) of the Act concerning the qualifications of the investment management firm selected by the Government of the Marshall Islands;

(c) Reporting to the Congress with respect to the impact of the Compact of Free Association on the United States territories and commonwealths and on the State of Hawaii, pursuant to section 104(e)(2) of the Act; and

(d) Causing an annual audit to be conducted of the annual financial statements of the Government of the Federated States of Micronesia and the Government of the Marshall Islands, pursuant to section 110(b) of the Act.

Sec. 7. *Delegation to the Secretary of State.* The following authorities are delegated to the Secretary of State:

(a) Reporting to the Congress on crimes in the Federated States of Micronesia and the Marshall Islands which have an impact upon United States jurisdictions, pursuant to sections 102(a)(4) and 103(a)(4) of the Act;

(b) Submitting the certification and report to the Congress for purposes of section 5 of the Fishermen's Protective Act of 1967, pursuant to section 104(f)(3) of the Act; and

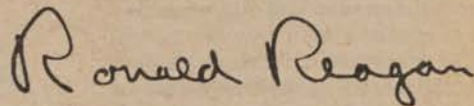
(c) Reporting, with the concurrence of the Secretary of Defense, to the Congress on determinations made regarding security and defense, pursuant to section 105(q) of the Act.

Sec. 8. *Supersession and Saving Provisions.*

(a) Subject to the provisions of Section 9 of this Order, prior Executive orders concerning the former Trust Territory of the Pacific Islands are hereby superseded and rendered inapplicable, except that the authority of the Secretary of the Interior as provided in applicable provisions of Executive Order No. 11021, as amended, shall remain in effect, in a manner consistent with this Order and pursuant to section 105(c)(2) of the Act, to terminate the trust territory government and discharge its responsibilities, at which time the entirety of Executive Order No. 11021 shall be superseded.

(b) Nothing in this Order shall be construed as modifying the rights or obligations of the United States under the provisions of the Compact or as affecting or modifying the responsibility of the Secretary of State and the Attorney General to interpret the rights and obligations of the United States arising out of or concerning the Compact.

Sec. 9. *Effective Date.* This Order shall become effective with respect to a Freely Associated State simultaneously with the entry into force of the Compact for that State.



THE WHITE HOUSE,
October 16, 1986.

[FR Doc. 86-23810
Filed 10-17-86; 10:26 am]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 91, 161 and 162

[Docket No. 86-091]

Accreditation of Veterinarians and Origin Health Certificates; Correction

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: The Animal and Plant Health Inspection Service is correcting errors in a final rule entitled "Accreditation of Veterinarians and Origin Health Certificates" which was published in the Federal Register on May 12, 1986 (see 51 FR 17321).

FOR FURTHER INFORMATION CONTACT: Dr. Robert E. Wagner, Interstate Inspection and Compliance Staff, VS, APHIS, USDA, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8684.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service published a final rule entitled "Accreditation of Veterinarians and Origin Health Certificates" (see 51 FR 17321) which concerns, among other things, the accreditation of veterinarians and suspension of such accreditation. This notice corrects one paragraph of the final rule, which contained two words which were not intended (the word "who" was used where "whose" was intended, and the word "reaccreditation" was used where "reinstatement" was intended).

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

1. Paragraph (c) of § 161.1 is revised to read as follows:

§ 161.1 Requirements for accreditation.

* * * * *

(c) A veterinarian whose accreditation has been suspended (other than a summary suspension that is changed to a revocation as the result of an adjudicatory proceeding) will be automatically reinstated as an accredited veterinarian upon the completion of the suspension, except that such veterinarian shall be required to pass an examination administered by the Service as a condition of reinstatement if the suspension was for six months or more.

* * * * *

Done at Washington, DC, this 14th day of October, 1986.

John K. Atwell,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc 86-23597 Filed 10-17-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 309

[Docket No. 60969-6169]

Financial Assistance Requirements; Project Modification

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: The purpose of this amendment is to conform the statement of EPA's policy on project modification to guidelines established by the General Accounting Office on change of scope by putting into regulatory language that which has been actual EDA practice. The rule change provides standards and states that EDA will not allow project modification which would constitute a change of scope.

DATES: Effective Date: October 20, 1986. Comments by: December 19, 1986.

ADDRESS: Send comments to James F. Marten, Deputy Chief Counsel for Operations and Administration, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7009, Washington, DC 20230, (202) 377-5441.

FOR FURTHER INFORMATION CONTACT: James F. Marten, Deputy Chief Counsel for Operations and Administration, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7009, Washington, DC 20230, (202) 377-5441.

SUPPLEMENTARY INFORMATION: EDA's regulation on the modification of approved projects is found at 13 CFR 309.26. The regulation consists of two parts: rules for the modification of public works projects (paragraph a) and rules for the modification of business loan and guarantee projects (paragraph b).

The introductory text of paragraph (a)(3) is amended to state that change of scope modifications to a project funded in a prior fiscal year may not be approved.

Change of scope modifications, to be determined on a case by case basis, consist of changes in project need, purpose, or scope (community served and nature of the project). New paragraph (a)(3)(i) provides that EDA will not allow modifications which substantially alter the project. Existing paragraphs (a)(3) (i) through (iv) are renumbered as (a)(3) (ii) through (v) to accommodate this new restriction. Consistent with EDA's change of scope policy, renumbered paragraph (a)(3)(ii) no longer authorizes the Assistant Secretary to allow a change in the community or economic development purpose of the project.

The reason for the amendment to the introductory text of paragraph (a)(3), the addition of new paragraph (a)(3)(i) and the modification of renumbered paragraph (a)(3)(ii) is to put into regulatory format, EDA's guidance to recipients regarding what constitutes an acceptable project modification. With these changes, EDA's policy on project modification, which is in conformance with Decisions of the Comptroller

General on change of project scope is now part of EDA's regulatory scheme.

The rules on modifications of business loan and guarantee projects are revised to follow those for public works projects. The introductory text to paragraph (b)(3) is revised to explain EDA's change of scope policy and the list of unacceptable project changes in paragraph (a) as modified by this amendment, is now added to paragraph (b).

Another change to this regulation is the deletion from the introductory text of paragraph (a)(1) of a reference to public works projects under the authority of Title II, Chapter 4 of the Trade Act of 1974, as amended (Trade Act). That program is now administrated by the International Trade Administration (ITA). No projects were approved pursuant to it during the period of EDA's administration. A similar reference in the introductory text of paragraph (b)(1) to Title II, Chapter 4 projects also is deleted. The reference to projects under Title II, Chapter 3 of the Trade Act in the introductory text of paragraph (b)(1) is modified to note that these rules apply only to projects approved prior to September 30, 1981, since ITA administers this program for projects approved thereafter.

Under Executive Order 12291, the Department must judge whether a regulation is "major" within the meaning of section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or 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.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has to be or will be prepared.

Because this rule relates to grants, benefits, or contracts, it is exempt from all requirements of section 553 of the Administrative Procedure Act (APA)(5 U.S.C. 553).

No other law requires that notice and opportunity for comment be given for the rule.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management and Budget, that dispensing with notice and opportunity for comment, is consistent with the Administrative Procedure Act (APA) and all other relevant laws.

However, because the Department is interested in receiving comments from those who will benefit from the amendment, this rule is being issued as interim final. Public comments on the interim final rule are invited and should be sent to the address listed in the "**ADDRESS**" section above.

Comments received by December 19, 1986 will be considered in promulgating a final rule.

Since notice and an opportunity for comment are not required to be given for this rule under section 553 of the APA (5 U.S.C. 553) or any other law, under section 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

Because this rule is exempt from the requirements of section 553 of the APA, it can be and is being made immediately effective upon publication.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511).

List of Subjects in 13 CFR Part 309

Community development, Grant programs—community development, Loan programs—community development, Penalties.

For the reasons set out in the preamble, Title 13, Chapter III is amended as set forth below.

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. The authority citation for Part 309 is revised to read as follows:

Authority: Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1-105, DOC Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 309.26 is amended by revising paragraphs (a)(1) introductory text, (a)(3), (b)(1) introductory text and (b)(3), to read as follows:

§ 309.26 Project Modification.

(a) *Public works projects.* (1) Proposed modifications in public works project receiving assistance under sections 101, 201, 304, and 403 of the Act, and Titles IX and X of the Act must comply with the following requirements.

* * * * *

(3) A change of scope modification to a project which was funded in a prior fiscal year can not be approved. Change of scope modifications consist of changes in project need, purpose and scope (community served and nature of the project). EDA is under no obligation to accept proposed project changes and may choose to deobligate the project funds. The following project changes, as determined on a case by case basis, will not be accepted:

(i) Changes which would substantially alter the project.

(ii) Changes in the economic or community development purpose of the project.

(iii) Changes in the target population which will benefit from the project.

(iv) Limitations in the accessibility of project facilities to the target population.

(v) Changes in the general geographic location (i.e., city, community, Indian Reservation, Redevelopment Area) of the project.

(b) *Business development loan and guarantee projects.*

(1) Proposed modifications in loan and guarantee projects receiving assistance under sections 202 and 304 of the Act, Title IX of the Act, and Title II, Chapter 3 of the Trade Act of 1974 (for projects approved prior to September 30, 1981) must comply with the following requirements.

* * * * *

(3) A change of scope modification to a project which was funded in a prior fiscal year may not he approved. Change of scope modifications consist of changes in project need, purpose and scope (community), served and nature of the project). EDA is under no obligation to accept proposed changes and may choose to deobligate the project's funds. The following changes will not be accepted:

(i) Changes which would substantially alter the project.

(ii) Changes in the economic or community development purpose of the project.

(iii) Changes in the target population which will benefit from the project.

(iv) Limitations in the accessibility of project facilities to the target population.

(v) Changes in the general geographic location (i.e., city, community, Indian Reservation, Redevelopment Area) of the project.

Dated: October 15, 1986.

Orson G. Swindle, III,

Assistant Secretary for Economic Development.

[FR Doc. 86-23607 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-24-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 2

Official Seal; Authorization To Redelegate Authorization To Affix

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: This rule revises Commission regulation 2.2(b) to authorize the Secretary to redelegate to the Deputy Secretary the authorization to affix the Seal to Commission documents and Materials.

EFFECTIVE DATE: October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Jean A. Webb at 202-254-6314.

SUPPLEMENTARY INFORMATION: Commission regulation 2.2(b) states that all Commission officials designated in paragraph (a) of this section, except the Secretary of the Commission, may redelegate this authority. In the interest of efficiency and timeliness of Commission actions needing the Commission Seal, this revision authorizes the Secretary of the Commission to redelegate this authority to the Deputy Secretary. The Commission finds that since the revision to regulation 2.2(b) has no effect upon a member of the public, this amendment will become effective immediately upon publication in the **Federal Register**. The Commission has determined that this amendment to regulation 2.2(b) relates solely to agency organization, procedure, and practice. Therefore, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, which generally require notice of proposed rule making and provide other opportunities for public participation, are inapplicable.

Similarly, the provisions of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, do not apply. *See* 5 U.S.C. 601(2).

List of Subjects in 17 CFR Part 2

Seal and insignia.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular, section 2(a)(11) of the Commodity Exchange Act, 7 U.S.C. 4a(j), the Commission hereby amends Chapter I of title 17 of the Code of Federal Regulations to read as follows:

PART 2—OFFICIAL SEAL

1. The authority citation for Part 2 is revised to read as follows:

Authority: 7 U.S.C. 4a(j).

§ 2.2 [Amended]

2. Part 2 is amended by revising § 2.2(b) to read as follows:

* * * * *

(b) The officials named in paragraph (a) of this section, may redelegate, and authorize redelegation of this authority, except that the Secretary may redelegate this authority only to the Deputy Secretary.

Issued in Washington, DC, on October 14, 1986.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-23582 Filed 10-17-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 256

Outer Continental Shelf Minerals and Rights-of-Way Management, General

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: The rule amends the regulation regarding lease sales to require publication in the **Federal Register** of a notice of availability in lieu of a proposed notice of sale, thereby reducing annual publication costs to the Minerals Management Service (MMS).

EFFECTIVE DATE: The rule becomes effective on November 19, 1986.

FOR FURTHER INFORMATION CONTACT: John Mirabella; Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091; Telephone (703) 648-7816, (FTS) 959-7816.

SUPPLEMENTARY INFORMATION: Currently, the proposed notice of sale is published in the **Federal Register.** Copies are also made available by MMS to lessees or other interested parties free of charge upon request. Therefore, publication of a notice of availability in the **Federal Register** is sufficient.

In the **Federal Register** Notice of July 22, 1986 (51 FR 26268), the MMS solicited comments on a proposed rule amending § 256.29(c) by requiring the publication in the **Federal Register** of a notice of availability in lieu of publishing the proposed notice of sale. One comment was received which supported the change, and one comment was received which objected to the change. The objection was a concern that the lack of the proposed notice of sale itself in the **Federal Register** would lead to such a delay in obtaining a copy of the sale notice that comments could not be submitted within the comment period.

As noted earlier in the preamble, MMS regional offices maintain extensive mailing lists of affected States, environmental and other special interest groups, and various companies who have requested a copy of the proposed notice. The recipients receive the mailed copy at approximately the same time as the notice is published in the **Federal Register.** The MMS has and will continue to maintain these mailing lists of any interested parties.

Since these parties usually have a copy of the proposed notice of sale in their possession at approximately the time of publication in the **Federal Register,** MMS feels that continued publication is not necessary. Any person, group, or entity not currently one the mailing list for a given Region or Regions is invited to submit a request to the appropriate Region(s), or this office, in writing. All groups making such a request will be included on the appropriate mailing list.

The Department of the Interior (DOI) has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI also determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author: The principal author of this document is Mario Rivero, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Oil and gas exploration, Pipelines, Public lands-mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

Dated: September 19, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 256 is amended as follows:

1. The authority citation for Part 256 continues to read as follows:

Authority: Secretarial Order 3071, Amendment No. 1, May 10, 1982, and the Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629.

§ 256.29 [Amended]

2. In § 256.29(c) the phrase "a notice of its availability shall" is added after the phrase "any affected State and."

[FR Doc. 86-23654 Filed 10-17-86; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 3

[CGD 86-041]

Changes to Marine Inspection Zones and Captain of the Port Zones, Louisville, Kentucky and Cincinnati, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule deletes the Marine Inspection and Captain of the Port Zones for Cincinnati, Ohio, and expands the zones for Louisville, Kentucky to cover the area formerly covered by Cincinnati. This change is required to accommodate a change in Coast Guard organization, replacing the Marine Safety Office (MSO) in Cincinnati with a Marine Safety Detachment (MSD). This reorganization is necessary to increase the overall efficiency, quality, and effectiveness of Coast Guard marine safety functions in the region.

EFFECTIVE DATE: October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant Michael V. Franchini, Project Manager, Office of Marine Safety, Security and Environmental Protection, telephone 202-267-0493. Normal working hours are between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not prepared for this regulation. These amendments are matters relating to agency organization and are exempt from the notice of proposed rulemaking requirements in 5 U.S.C. 553(b). Since this rule has no substantive effect, good cause exists to make it effective in less than 30 days after publication, under 5 U.S.C. 553(d). The rulemaking merely changes Marine Inspection and Captain of the Port Zone boundaries to conform with changes in internal organization. There will be no effect on the public, since the MSD in Cincinnati will perform all marine safety functions formerly performed by the MSO.

Drafting Information

The principal persons involved in drafting this rulemaking are Lieutenant Commander Ellis H. Davison, II, Project Manager, of the Office of Marine Safety, Security and Environmental Protection; Commander Thomas B. Rodino, Chief, Marine Planning and Budgeting Branch, Second Coast Guard District; and Lieutenant Sandra R. Sylvester, Project Counsel, of the Office of Chief Counsel.

Discussion

Marine Safety Offices perform the functions delegated to the Coast Guard Captain of the Port and the Officer in Charge, Marine Inspection, within zones designated in 33 CFR Part 3. The Coast Guard has conducted an evaluation of the distribution of Marine Safety Offices in the Second Coast Guard District. This evaluation takes into account many factors, including personnel considerations, workload, and commercial activity on the Western Rivers. In Cincinnati, Ohio, the workload does not warrant a full-time or full-scale Marine Safety Office. The MSO will be replaced by a Marine Safety Detachment (MSD). The MSD will be under the Commanding Officer of the Marine Safety Office in Louisville, Kentucky. Captain of the Port and Marine Inspection functions within the former MSO Cincinnati zone will continue to be performed by personnel working out of MSD Cincinnati. The change will not affect the public.

This reorganization will improve the use of manpower by redistributing the excess command overhead to satisfy workload shortages elsewhere. The Commandant of the Coast Guard has concluded that the disestablishment of the Marine Safety Office at Cincinnati, Ohio, and the redesignation of the Cincinnati unit as a Marine Safety Detachment is necessary for improved overall efficiency and effectiveness in carrying out Coast Guard marine safety functions.

Regulatory Evaluation

This final rule is exempt from the provisions of Executive Order 12291 since it pertains to matters of agency organization as provided in section 1(a)(3) of the Order. It is considered to be nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. Coast Guard marine safety activities in the area will not be affected by this rulemaking. The Marine Safety Detachment at Cincinnati, Ohio, will carry out the functions previously performed by the Marine Safety Office in Cincinnati, Ohio.

Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 3

Marine safety, Organization and functions (Government agencies).

PART 3—[AMENDED]

In consideration of the preceding, Part 3 of Title 33 of the Code of Federal Regulations is amended as follows:

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

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

§ 3.10-20 [Removed]

2. Section 3.10-20 is removed.

3. Section 3.10-35 is revised to read as follows:

§ 3.10-35 Louisville Marine Inspection Zone and Captain of the Port Zone.

(a) The Louisville Marine Inspection Office and the Louisville Captain of the Port Office are located in Louisville, Kentucky.

(b) The Louisville Marine Inspection Zone and the Louisville Captain of the Port Zone are comprised of: That part of Indiana south of 41° N. latitude; and that part of Ohio south of 41° N. latitude and west of Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, and Scioto Counties; that part of Illinois north of Pope and Hardin Counties, east of Williamson, Franklin, Jefferson, Marion, Fayette, Effingham, Shelby, Moultrie, Piatt, McLean, and Livingston Counties, and south of 41° N. latitude; and in Kentucky: Todd, Logan, Simpson, Allen, Warren, Barren, Metcalfe, Muhlenberg, Butler, Edmonson, Hart, Green, Taylor, Adair, Casey, Lincoln, Webster, Hopkins, McLean, Ohio, Grayson, Henderson, Daviess, Hancock, Breckenridge, Meade, Hardin, Larue, Nelson, Washington, Marion, Anderson, Mercer, Boyle, Woodford, Jessamine, Garrard, Fayette, Clark, Madison, Estill, Powell, Lee, Bullitt, Spencer, Jefferson, Shelby, Franklin, Scott, Oldham, Henry, Owen, Trimble, Carroll, Montgomery, Bath, Rowan, Bourbon, Nicholas, Fleming, Harrison, Robertson, Mason,

Grant, Pendleton, Bracken, Gallatin, Boone, Kenton, and Campbell Counties, that part of Lewis County south and west of a line drawn from the point of intersection of Scioto and Adams Counties and the Ohio River to the point of intersection of Carter, Greenup, and Lewis Counties; and that part of Union County north of a line drawn from the point of intersection of Gallatin and Hardin Counties and the Ohio River to the point of intersection of Union, Webster, and Henderson Counties.

Dated: September 5, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 86-23638 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Parts 100 and 165

[CGD 86-060]

Safety and Security Zones

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary rules issued.

SUMMARY: This document gives notice of temporary safety zones, security zones, and special local regulations. Periodically the Coast Guard must issue safety zones, security zones, and special local regulations for limited periods of time in limited areas. Safety Zones are established around areas where there has been a marine casualty or when a vessel carrying a particularly hazardous cargo is transiting a restricted or congested area. Security zones are temporarily established in response to a risk to national security present in a particular area. Special local regulations are issued to assure the safety of participants and spectators of regattas and other marine events.

DATES: The following list includes safety zones, security zones, and special local regulations that were established between July 1, 1986 and September 30, 1986 and have since been terminated. Also included are several zones established earlier but inadvertently omitted from the last published list.

ADDRESS: The complete text of any temporary regulations may be examined at, and is available on request from, Executive Secretary, Marine Safety Council (G-CMC), U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Novak, Deputy Executive Secretary, Marine Safety Council at (202) 267-1477.

SUPPLEMENTARY INFORMATION: The local Captain of the Port must be immediately responsive to the safety needs of the waters within his jurisdication; therefore, he has been delegated the authority to issue these regulations. Since Marine events and emergencies usually take place without advance notice or warning, timely publication of notice in the **Federal Register** is often precluded. However, the affected public is informed through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is frequently provided by Coast Guard patrol vessels enforcing the restrictions imposed in the zone to keep the public informed of the regulatory activity. Because mariners are notified by Coast Guard officials on scene prior to enforcement action, **Federal Register** notice is not requred to place the special local regulations, security zone, or safety zone in effect. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To discharge this legal obligation without imposing undue expenses of the public, the Coast Guard publishes a periodic list of these temporary special local regulations, security zones, and safety zones. Permanent safety zones are not included in this list. Permanent zones are published in their entirety in the **Federal Register** just as any other rulemaking. Temporary zones are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

Non-major safety zones, special local regulations, and security zones have been exempted from review under E.O. 12291 because of their emergency nature and temporary effectiveness.

The following regulations were placed in effect temporarily during the period July 1, 1986 through September 30, 1986 unless otherwise indicated:

Docket No.	Location	Type	Date
1-86-04	Marina Bay 100	Special Local Regulation	July 19, 1986.
1-86-10	Great Kennebec River	do	July 5, 1986.
COTP Providence, RI, Reg. 86-12	Narragansett Bay	Safety Zone	July 23, 1986.
COTP Providence, RI, Reg. 86-13	do	do	Aug. 7, 1986.
COTP Providence, RI, Reg. 86-14	do	do	Aug. 21, 1986.
COTP Providence, RI, Reg. 86-07	do	do	July 1, 1986.
COTP Providence, RI, Reg. 86-15	do	do	Aug. 30, 1986.
COTP Boston, MA, Reg. 86-08	Boston Inner Harbor	do	July 4, 1986.
COTP Boston, MA, Reg. 86-16	do	do	Sept. 15, 1986.
2-86-05	Mississippi River, Mile 697.0	Special Local Regulation	July 2, 1986.
2-86-07	Ohio River, Mile 128.5	do	July 4, 1986.
2-86-08	Mississippi River, Mile 519.0	do	July 4, 1986.
2-86-10	Ohio River, Mile 307.5	do	July 26, 1986.
2-86-11	Allegheny River, Mile 11.0	do	July 26, 1986.
2-86-12	Ohio River, Mile 66.0	do	July 12, 1986.
2-86-13	Ohio River, Mile 220.0	do	Aug. 9, 1986.
2-86-16	Mississippi River, Mile 813.0	do	July 26, 1986.
2-86-17	Mississippi River, Mile 854.8	do	July 26, 1986.
2-86-18	Ohio River, Mile 556.0	do	July 3, 1986.
2-86-18	Ohio River, Mile 556.0	do	July 4, 1986.
2-86-20	Mississippi River, Mile 177.0	do	July 3, 1986.
2-86-21	Mississippi River, Mile 856.0	do	July 19, 1986.
2-86-22	Ohio River, Mile 505.5	do	Aug. 23, 1986.
2-86-23	Ohio River, Mile 792.0	do	July 11, 1986.
2-86-24	Kanawha River, Mile 58.0	do	Aug. 30, 1986.
2-86-25	Allegheny River, Mile 44.0	do	Aug. 23, 1986.
2-86-26	Beaver River, Mile 0.0	do	Aug. 15, 1986.
2-86-27	Ohio River, Mile 483.0	do	Aug. 10, 1986.
2-86-28	Allegheny River, Mile 0.0	do	July 31, 1986.
2-86-29	Missouri River, Mile 731.0	do	July 26, 1986.
2-86-30	Ohio River, Mile 355.5	do	Aug. 30, 1986.
2-86-31	Ohio River, Mile 602.0	do	Sept. 6, 1986.
2-86-33	Arkansas River, Mile 308.5	do	Sept. 6, 1986.
COTP Louisville, KY, Reg. 86-01	Ohio River, Mile 603.5	Safety Zone	Apr. 27, 1986.
COTP Louisville, KY, Reg. 86-02	Ohio River, Mile 597.0	do	June 8, 1986.
COTP Louisville, KY, Reg. 86-03	Ohio River, Mile 602.0	do	June 28, 1986.

Docket No.	Location	Type	Date
COTP Louisville, KY, Reg. 86-04	Ohio River, Mile 603.5	do	July 4, 1986.
COTP Louisville, KY, Reg. 86-05	Ohio River, Mile 608.0	do	July 4, 1986.
COTP Louisville, KY, Reg. 86-06	Ohio River, Mile 603.5	do	July 19, 1986.
COTP Louisville, KY, Reg. 86-07	Ohio River, Mile 603.5	do	Sept. 1, 1986.
COTP Louisville, KY, Reg. 86-08	Ohio River, Mile 602.0	do	Sept. 5, 1986.
COTP Memphis, TN, Reg. 86-09	Arkansas River, Mile 115	do	June 15, 1986.
COTP Memphis, TN, Reg. 86-10	Mississippi River, Mile 734.7	do	June 21, 1986.
COTP Memphis, TN, Reg. 86-11	Mississippi River, Mile 734.7	do	July 4, 1986.
COTP Memphis, TN, Reg. 86-12	Arkansas River, Mile 300.0	do	July 4, 1986.
COTP Memphis, TN, Reg. 86-13	McKellar Lake, Mile .5	do	Aug. 14, 1986.
COTP Memphis, TN, Reg. 86-14	Mississippi River, Mile 736.0	do	Sept. 5, 1986.
COTP Memphis, TN, Reg. 86-15	Mississippi River, Mile 665.0	do	Aug. 19, 1986.
COTP Memphis, TN, Reg. 86-16	Mississippi River, Mile 818.0	do	Sept. 10, 1986.
COTP Memphis, TN, Reg. 86-17	Mississippi River, Mile 816.0	do	Sept. 13, 1986.
COTP Memphis, TN, Reg. 86-18	do	do	Sept. 16, 1986.
COTP Memphis, TN, Reg. 86-19	do	do	Sept. 18, 1986.
COTP Memphis, TN, Reg. 86-20	do	do	Sept. 21, 1986.
COTP Memphis, TN, Reg. 86-21	Mississippi River, Mile 725.0	do	Sept. 20, 1986.
COTP Memphis, TN, Reg. 86-22	Mississippi River, Mile 816.0	do	Sept. 24, 1986.
COTP Paducah, KY, Reg. 86-03	Mississippi River, Mile 910.0	do	Sept. 11, 1986.
COTP St. Louis, MO, Reg. 86-04	Illinois River, Mile 162.3	do	July 4, 1986.
COTP Huntington, WV, Reg. 86-04	Ohio River, Mile 184.2	do	Aug. 16, 1986.
COTP St. Louis, MO, Reg. 86-03	Mississippi River, Mile 758.0	do	June 11, 1986.
COTP Pittsburgh, PA, Reg. 86-02	Ohio River, Mile 10.0	do	May 29, 1986.
3-86-21	New Jersey Offshore, Grand Prix	Special Local Regulation	July 23, 1986.
3-86-30	Burlington, VT	Safety Zone	July 3, 1986.
3-86-34	Philadelphia, PA	do	July 6, 1986.
3-86-36	Upper New York Bay	do	July 1, 1986.
3-86-38	New London Harbor, CT	do	July 12, 1986.
3-86-39	Hudson River, Hoboken, NJ	do	June 28, 1986.
3-86-40	Liberty Island, NY	do	June 28, 1986.
3-86-41	Hudson River, NY	Security Zone	July 2, 1986.
3-86-42	Upper New York Bay, NY	do	July 4, 1986.
3-86-44	do	do	July 1, 1986.
3-86-45	do	do	July 4, 1986.
3-86-48	Marcus Hook, PA	Safety Zone	July 10, 1986.
3-86-52	Burlington, NJ	do	July 26, 1986.
3-86-53	Riverhead, LI	do	Aug. 6, 1986.
3-86-57	Hudson River, Albany, NY	do	Sept. 15, 1986.
3-86-58	Upper New York Bay, NY	do	Sept. 13, 1986.
3-86-61	Delaware River	do	Sept. 10, 1986.
3-86-62	Upper New York Bay, NY	Security Zone	Sept. 22, 1986.
3-86-63	East River, NY, NY	do	Sept. 22, 1986.
3-86-64	Riverhead, LI	Safety Zone	Sept. 30, 1986.
COTP Buffalo, NY, Reg. 86-01	Lake Erie, PA	do	Aug. 16, 1986.
COTP Buffalo, NY, Reg. 86-03	Erie Harbor, PA	do	Aug. 21, 1986.
COTP Buffalo, NY, Reg. 86-04	Lake Ontario, Sodus Bay, NY	do	Sept. 6, 1986.
5-86-04	Elizabeth River, VA	Special Local Regulation	July 27, 1986.
5-86-05	do	do	July 4, 1986.
5-86-07	Susquehanna River, MD	do	Aug. 2, 1986.
5-86-17	Inner Harbor, Baltimore, MD	do	July 4, 1986.
5-86-20	do	do	Aug. 8, 1986.
COTP Baltimore, MD, Reg. 86-06	Severn River and Annapolis Harbor	Security Zone	June 8, 1986.
COTP Hampton Roads, VA, Reg. 86-08	James River	Safety Zone	Sept. 22, 1986
COTP Hampton Roads, VA, Reg. 86-09	do	do	Sept. 25, 1986.
COTP Hampton Roads, VA, Reg. 86-10	Elizabeth River	do	Aug. 26, 1986.
7-86-25	Sarasota Bay, FL	do	July 6, 1986.
7-86-26	Sundays of Haulover/Tel Tec 100	Special Local Regulation	July 19, 1986.
7-86-33	I.C.W. Miami River Entrance, FL	Security Zone	July 23, 1986.
7-86-37	Ft. Lauderdale Jaycees Raft Race	Special Local Regulation	Sept. 7, 1986.
COTP San Juan, PR, Reg. 86-39	San Juan Harbor, PR	Security Zone	Aug. 28, 1986
COTP Savannah, GA, Reg. 86-30	Savannah River	Safety Zone	July 5, 1986.
COTP Mobile, AL, Reg. 86-14	Bayou La Batre Channel	do	June 22, 1986.
COTP Mobile, AL, Reg. 86-15	Back Bay Channel, MS	do	June 13, 1986.
COTP Mobile, AL, Reg. 86-16	Panama City, FL	Security Zone	July 6, 1986.
COTP Mobile, AL, Reg. 86-17	Pensacola Bay, FL	Safety Zone	July 4, 1986.
COTP Mobile, AL, Reg. 86-18	Pascagoula River, MS	do	Sept. 6, 1986.
COTP Mobile, AL, Reg. 86-19	Panama City, FL	Security Zone	Aug. 10, 1986.
COTP Mobile, AL, Reg. 86-20	do	do	Sept. 7, 1986.
COTP Houston, TX, Reg. 86-06	Houston Ship Channel	Safety Zone	May 31, 1986.
COTP Houston, TX, Reg. 86-07	do	do	June 2, 1986.
COTP Houston, TX, Reg. 86-08	Greens Bayou, TX	do	June 6, 1986.
COTP Houston, TX, Reg. 86-09	Houston Ship Channel	do	June 16, 1986.
COTP Houston, TX, Reg. 86-10	Greens Bayou, TX	do	June 12, 1986.
COTP Houston, TX, Reg. 86-11	Houston Ship Channel	do	June 25, 1986.
COTP Houston, TX, Reg. 86-12	Greens Bayou, TX	do	July 31, 1986.
COTP Houston, TX, Reg. 86-13	Houston Ship Channel	do	Aug. 5, 1986.
COTP New Orleans, LA, Reg. 86-04	I.C.W. Mile 107.5	do	June 8, 1986.
COTP New Orleans, LA, Reg. 86-05	Battleship WISCONSIN, Mississippi River	do	Aug. 14, 1986.
COTP Port Arthur, TX, Reg. 86-01	G.I.W.W., Mile 266	do	June 20, 1986.
COTP Port Arthur, TX, Reg. 86-02	Beaumont, TX	Security Zone	July 15, 1986.
9-86-0[illegible]	Chicago Park, Lake Michigan	Special Local Regulation	July 13, 1986.
9-86-08	Milwaukee, WI	do	July 3, 1986.
9-86-12	Grand Haven, MI	do	Aug. 9, 1986.
9-86-14	Cleveland, OH	do	Aug. 28, 1986.
9-86-15	Catawba Island, Lake Erie	do	July 5, 1986.
9-86-16	Duluth Harbor, MN	do	July 4, 1986.
9-86-17	Huron, OH	do	July 13, 1986.
9-86-18	Detroit River, MI	do	July 2, 1986.
9-86-19	Niagara River, Tonawanda, NY	do	Sept. 13, 1986
9-86-20	Maumee River, Toledo, OH	do	Aug. 30, 1986.
9-86-21	Sandusky Bay, Lake Erie	do	Aug. 2, 1986.
9-86-23	Maumee River, Toledo, OH	do	Sept. 1, 1986.
COTP Cleveland, OH, Reg. 86-001	Ashtabula, OH	Safety Zone	Sept. 13, 1986

Docket No.	Location	Type	Date
11-86-10	Santa Monica, CA	Special Local Regulation	July 11, 1986.
11-86-12	Oceanside, CA	do	July 4, 1986.
COTP San Diego, CA, Reg. 86-10	San Diego Bay	Safety Zone	July 21, 1986.
COTP San Diego, CA, Reg. 86-11	do	do	July 31, 1986.
COTP San Diego, CA, Reg. 86-12	do	Security Zone	Aug. 11, 1986.
COTP San Diego, CA, Reg. 86-13	do	Safety Zone	Sept. 24, 1986.
COTP LA/LB, CA, Reg. 86-19	Port of Long Beach, CA	do	June 26, 1986.
COTP LA/LB, CA, Reg. 86-20	Port of Los Angeles, CA	do	July 8, 1986.
COTP LA/LB, CA, Reg. 86-21	do	do	July 18, 1986.
COTP LA/LB, CA, Reg. 86-22	do	do	July 7, 1986.
COTP LA/LB, CA, Reg. 86-23	do	do	Aug. 15, 1986.
COTP LA/LB, CA, Reg. 86-24	Long Beach Pilot Area	do	Sept. 21, 1986.
COTP LA/LB, CA, Reg. 86-25	Long Beach Explosive Loading Area K-4	do	Sept. 26, 1986.
COTP San Francisco, CA, Reg. 86-03	San Francisco Bay, CA	do	July 4, 1986.
COTP San Francisco, CA, Reg. 86-05	do	do	Oct. 10, 1986.
COTP San Francisco, CA, Reg. 86-07	do	Security Zone	Oct. 11, 1986.
13-86-04	Elliott Bay, Seattle, WA	Special Local Regulation	July 4, 1986.
13-86-08	Commencement Bay, Tacoma, WA	do	July 4, 1986.
13-86-09	Lake Washington, Seattle, WA	do	July 20, 1986.
13-86-012	Columbia River at Hood River, OR	do	Sept. 1, 1986.
COTP Honolulu, HI, Reg. 86-05	Mamala Bay, Oahu, HI	Safety Zone	Sept. 21, 1986.
COTP Southeast Alaska, Reg. 86-02	Sitka Sound, AK	do	Aug. 4, 1986.

Dated: October, 14, 1986.

J.H. Parent,

Captain, U.S. Coast Guard, Executive Secretary, Marine Safety Council.

[FR Doc. 86-23637 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD3 85-86]

Safety Zone Regulations; Northville Industries Offshore Platform, Riverhead, Long Island, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone around the Northville Industries Offshore Platform, Riverhead, Long Island, Now York. This zone is needed to protect vessels from the possible dangers and hazards associated with a Liquid Petroleum Gas (LPG) Carrier, while it is moored at the Northville Industries Offshore Platform. Entry into this area will be prohibited unless authorized by the Captain of the Port, Long Island Sound.

EFFECTIVE DATE: November 19, 1896.

FOR FURTHER INFORMATION CONTACT: LT Deens, Captain of the Port, Long Island Sound (203) 773-2464.

SUPPLEMENTARY INFORMATION: On May 22, 1986 the Coast Guard published a notice of proposed rule making in the **Federal Register** for these regulations (51 FR 18803). Interested persons were requested to submit comments. One comment supporting the Safety Zone was received. This final rule is, therefore, unchanged from the rule as proposed. It is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of part 165.

Drafting Information

The drafters of this regulation are Lieutenant H.C. Deens, Project Officer for the Captain of the Port, and Ms. M.A. Arisman, Project Attorney, Third Coast Guard District Legal Office.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary since the theory and practice of establishing a safety zone around an LPG vessel has been in effect for a few years. The maritime community in the area is accustomed to planning vessel movement around scheduled LPG vessel Safety Zones with minimum economic impact. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

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

Final Regulations

PART 165—[AMENDED]

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

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

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

2. Section 165.305 is added to read as follows:

§ 165.305 Northville Industries Offshore Platform, Riverhead, Long Island, New York-saftey zone.

(a) The following area is established as a safety zone during the specified condition:

(1) The waters within a 500 yard radius of the Northville Industries Offshore Platform, Long Island, New York, 1 mile North of the Riverhead shoreline at 41°00"N, 072°38" W, while a Liquefied Petroleum Gas (LPG) vessel is moored at the Offshore Platform. The Safety Zone remains in effect until the LPG vessel departs the Offshore Platform.

(b) The general regulations governing safety zone contained in 33 CFR 165.23 apply.

(c) The Captain of the Port will notify the maritime community of periods during which this safety zone will be in effect by providing notice of scheduled moorings at the Northville Industries Offshore Platform of LPG vessels via Marine Safety Information Radio Broadcast.

Dated: October 15, 1986.

D. H. Lyon,

Commander, U.S. Coast Guard, Captain of the Port, Long Island Sound, CT.

[FR Doc. 86-23642 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Department of the Army

35 CFR Part 253

Panama Canal Employment System

AGENCY: Department of the Army, Defense.

ACTION: Final rule.

SUMMARY: The Panama Area Personnel Board, designated by the Secretary of the Army, is updating its regulations to reflect routine changes, such as editorial or correction of wording.

EFFECTIVE DATE: October 20, 1986.

ADDRESS: Department of the Army, Office of the Assistant Secretary of the Army (CW), Washington, DC 20310.

FOR FURTHER INFORMATION CONTACT: LTC Ken Dunn, Office of the Assistant Secretary of the Army (CW), Washington, DC 20310, Tel. (202) 695-0482.

SUPPLEMENTARY INFORMATION: Because this rule pertains to personnel of agencies covered by these regulations, it is not necessary to issue a notice of proposed rulemaking under 5 U.S.C. 553.

List of Subjects in 35 CFR Part 253

Administrative practice and procedure, Employment, Government employees, Panama Canal.

Adoption of Amendments

Accordingly, effective as indicated above, the following amendments to Title 35, Code of Federal Regulations are adopted:

PART 253—[AMENDED]

1. The authority citation for Part 253 continues to read as follows:

Authority: 5 U.S.C. 5102, E.O. 12173, 12215.

§ 253.8 [Amended]

2. Section 253.8 is amended by revising paragraph (b)(6) to read as follows:

* * * * *

(b) * * *

(6) Positions in the Panama Canal Commission and the incumbents thereof, if a substantial portion of the duties and responsibilities are performed in the United States. All of the rights and privileges which are provided by applicable laws and regulations for citizens of the United States employed in the competitive service, except Title 5 U.S. Code, Chapter 43 pertaining to performance appraisal, are extended to the incumbents of such positions, other than the Secretary and the Assistant to the Secretary for Congressional Affairs of the Panama Canal Commission.

* * * * *

Dated: October 9, 1986.

William R. Gianelli,

Chairman, Panama Area Personnel Board.

[FR Doc. 86-23600 Filed 10-17-86; 8:45 am]

BILLING CODE 3710-02-M

VETERANS ADMINISTRATION

38 CFR Part 26

Environmental Effects of VA Actions

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration (VA) is revising 38 CFR Part 26, Environmental Effects of VA Actions. The intent is to simplify requirements to prepare an Environmental Assessment or Environmental Impact Statement, and to shorten the regulations by deleting procedural guidelines. These regulations are a policy document for the VA.

EFFECTIVE DATE: October 20, 1986.

FOR FURTHER INFORMATION CONTACT: Dennis T. Gerdovich, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC, 20420 (202) 233-3316/3371.

SUPPLEMENTARY INFORMATION: On pages 17656 to 17659 of the **Federal Register** of May 14, 1986, there was published a Notice of Proposed Rulemaking to 38 CFR Part 26 to be followed to comply with the requirements of section 102(2) of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321-4370a); Executive Order 11514, March 5, 1970, "Protection and Enhancement of Environmental Quality (as amended by Executive Order 11991, May 24, 1977); and the implementing regulations issued by the Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508.

No comments were received during the comment period which closed June 23, 1986. Therefore, these regulations will become effective upon the date of publication.

The existing regulations were both a policy document and procedural guidelines. The revised regulations provide policy guidance for the departments and staff offices to assist in compliance with environmental laws and regulations. Procedural guidelines will be promulgated within the VA separately for each department.

The final regulations have been reviewed pursuant to Executive Order 12291, Federal Regulation, and have been found to be nonmajor. The regulations will not affect the public or private sectors as major rules. They will not have an annual effect on the economy of $100 million or more, and will not cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions, nor will they have other significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator has certified that these regulations will not have a significant economic impact on any small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that the regulations will affect only the Agency's internal handling of matters relating to compliance with the NEPA. Pursuant to 5 U.S.C. 605(b), these regulations are, therefore, exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

There is no Federal Domestic Assistance number for these regulations.

List of Subjects in 38 CFR Part 26

Environmental impact statements.

Approved: September 26, 1986.

Thomas K. Turnage,

Administrator.

38 CFR Part 26, Environmental Effects of VA Actions, is revised to read as follows:

PART 26—ENVIRONMENTAL EFFECTS OF VA ACTIONS

Sec.

26.1 Issuance and purpose.
26.2 Applicability and scope.
26.3 Definitions.
26.4 Policy.
26.5 Responsibilities.
26.6 Environmental documents.
26.7 VA environmental decision making and documents.
26.8 Assistance to applicants.
26.9 Information on and public participation in VA environmental process.

Authority: 42 U.S.C. 4321-4370a; E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977.

§ 26.1 Issuance and purpose.

The purpose of this part is to implement the National Environmental Policy Act (NEPA) of 1969 as amended (42 U.S.C. 4321-4370a), in accordance with regulations promulgated by the Council of Environmental Quality (CEQ Regulations, 40 CFR Parts 1500-1508), and Executive Order 11514, March 5, 1970, as amended by Executive Order 11991, May 24, 1977. This part shall provide guidance to officials of the Veterans Administration (VA) on the application of the NEPA process to agency activities. (42 U.S.C. 4321-4370a)

§ 26.2 Applicability and scope.

This part applies to the VA, its departments and staff offices. (42 U.S.C. 4321–4370a)

§ 26.3 Definitions.

(a) "United States" means all States, territories, and possessions of the United States and all waters and air space subject to the territorial jurisdiction of the United States. The territories and possessions of the United States include the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(b) "VA elements," for the purposes of this part, means the Department of Medicine and Surgery, the Department of Veterans Benefits, the Department of Memorial Affairs and the Office of Construction.

(c) Other terms used in this part are defined in CEQ Regulations, 40 CFR Part 1508 (42 U.S.C. 4321–4370a).

§ 26.4 Policy.

(a) The VA must act with care in carrying out its mission of providing services for veterans to ensure it does so consistently with national environmental policies. Specifically, the VA shall ensure that all practical means and measures are used to protect, restore, and enhance the quality of the human environment; to avoid or minimize adverse environmental consequences, consistently with other national policy considerations; and to attain the following objectives;

(1) Achieve the fullest possible use of the environment, without degradation, or undesirable and unintended consequences;

(2) Preserve historical, cultural, and natural aspects of our national heritage, while maintaining, where possible, an environment that supports diversity and variety and individual choice;

(3) Achieve a balance between the use and development of resources, within the sustained capacity of the ecological system involved; and,

(4) Enhance the quality of renewable resources while working toward the maximum attainable recycling of nonrenewable resources.

(b) VA elements shall:

(1) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the NEPA and CEQ Regulations;

(2) Prepare concise and clear environmental documents which shall be supported by documented environmental analyses:

(3) Integrate the requirements of NEPA with agency planning and decision-making procedures;

(4) Encourage and facilitate involvement by affected agencies, organizations, interest groups and the public in decisions which affect the quality of the human environment; and,

(5) Consider alternatives to the proposed actions which are encompassed by the range of alternatives discussed in relevant environmental documents, and described in the environmental impact statement (42 U.S.C. 4321–4370a).

§ 26.5 Responsiblities.

(a) The Director of the Office of Environmental Affairs shall:

(1) Be responsible to coordinate and provide guidance to VA elements on all environmental matters;

(2) Assist in the preparation of environmental documents by VA elements; and, where more than one VA element, or Federal, State, or local agency is involved, assign the lead VA element or propose the lead Federal, State or local agency to prepare the environmental documents;

(3) Recommend appropriate actions to the Administrator on those environmental matters for which the Administrator has final approval authority;

(4) Assist in resolution of disputes concerning environmental matters within the VA, and among the VA and other Federal, State and local agencies;

(5) Coordinate preparation of VA comments on draft and final environmental impact statements of other agencies;

(6) Serve as the VA's principal liaison to the CEQ, the Environmental Protection Agency, the Office of Management and Budget, and other Federal, State, and local agencies on VA environmental actions; and

(7) Prepare appropriate supplemental guidance on implementation of these regulations.

(b) The VA General Counsel shall provide legal advice and assistance in meeting the requirement of NEPA, the CEQ Regulations and these regulations.

(c) The heads of each VA element shall:

(1) Adopt procedures to ensure that decisions are made in accordance with NEPA, the CEQ Regulations and these regulations; and

(2) Be responsible to prepare environmental documents relating to programs and proposed actions by their elements, when required by these regulations (42 U.S.C. 4321–4370a).

§ 26.6 Environmental documents.

(a) *Environmental Impact Statements.* The head of each VA element shall include a detailed written statement "in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environmental." NEPA 102(2), 42 U.S.C. 4332(2) *see* CEQ Regulations, 40 CFR Part 1502. An environmental impact statement shall be prepared in accordance with the following procedures:

(1) Typical Classes of Action Which Normally Do Require Environmental Impact Statements:

(i) Proposed legislation (CEQ Regulation, 40 CFR 1508.17);

(ii) Acquisition of land in excess of 10 acres for development of a VA medical center facility;

(iii) Acquisition of land in excess of 50 acres for development of a VA national cemetery; and

(iv) Promulgation of policies which substantially alter agency programs and which have a significant effect on the quality of the human environmental.

(2) Specific Criteria for Typical Classes of Action Which Normally Do Require Environmental Impact Statements:

(i) Probable significant degradation of historic or cultural resources, park lands, prime farmlands, designated wetlands or ecologically critical areas;

(ii) An increase in average daily vehicle traffic volume of at least 20 percent on access roads to the site or the major roadway network;

(iii) Probable conflict with Federal, State, or local environmental protection laws or requirements;

(iv) Probable threat or hazard to the public, or the involvement of highly uncertain risks to the environment;

(v) Similarity to previous actions that required an environmental impact statement; and

(vi) Probable conflict with, or significant effect on, local or regional zoning or comprehensive land use plans.

(b) *Categorical Exclusions.* A categorical exclusion is a "category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect in procedures adopted by a Federal Agency in implementation of these regulations . . . and for which, therefore, neither an environmental assessment (see suparagraph (c), *infra*) or an environmental impact statement is required." CEQ Regulations, 40 CFR 1508.4.

(1) Typical Classes of Action Which Normally Do Not Require Either an Environmental Impact Statement or an Environmental Assessment:

(i) Repair, replacement, and new installation of primary or secondary electrical distribution systems;

(ii) Repair, replacement, and new installation of components such as windows, doors, roofs; and site elements such as sidewalks, patios, fences, retaining walls, curbs, water distribution lines, and sewer lines which involve work totally within VA property boundaires;

(iii) Routine VA grounds and facility maintenance activities;

(iv) Procurement activities for goods and services for routing facility operations maintenance and support;

(v) Interior construction or renovation;

(vi) New construction of 75,000 gross square feet or less;

(vii) Development of 20 acres of land or less within an existing cemetery, or development on acquired land of five acres or less;

(viii) Actions which involve support or ancillary appurtenances for normal operation;

(ix) Leases, licenses, permits, and easements;

(x) Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances or other similar causes;

(xi) VA policies, actions and studies which do not significantly affect the quality of the human environment;

(xii) Preparation of regulations, directives, manuals or other guidance that implement, but do not substantially change, the regulations, directives, manuals, or other guidance of higher organizational levels or another Federal agency; and

(xiii) Actions, activities, or programs that do not require expenditure of Federal funds.

(2) Specific Criteria for Typical Classes of Action Which Normally Do Not Require Either an Environmental Impact Statement or an Environmental Assessment;

(i) Minimal or no effect on the environment;

(ii) No significant change to existing environmental conditions;

(iii) No significant cumulative environmental impact; and

(iv) Similarity to Actions previously assessed with a finding of no significant impact.

(3) Extraordinary Circumstances That Must Be Considered by a VA Element Before Categorically Excluding a Particular Agency Action;

(i) Greater scope or size than normally experienced for a particular categorical exclusion;

(ii) Actions in highly populated or congested areas;

(iii) Potential for degradation, although slight, or existing poor environmental conditions;

(iv) Use of unproven technology

(v) Potential presence of an endangered species, archeological remains, or other protected resources; or

(vi) Potential presence of hazardous or toxic substances.

(c) *Environmental assessments.* If the proposed action is not covered by paragraph (a) or (b) of this seciton, the responsible official (head of the VA element) will prepare an environmental assessment (CEQ Regulations, 40 CFR 1508.9). Based on the environmental assessment, the official shall determine whether it is necessary to prepare an environmental impact statement, or to prepare a finding of no significant impact (CEQ Regulations, 40 CFR 1508.13).

(1) Typical Classes of Action Which Normally Do Require Environmental Assessments. But Not Necessarily Environmental Impact Statements:

(i) Acquisition of land of 10 acres or less for development of a VA medical facility;

(ii) Acquisition of land from 5 to 50 acres for development of a VA national cemetery; and,

(iii) New construction in excess of 75,000 gross square feet;

(2) Specific Criteria for Typical Classes of Action Which Normally Do Require an Environmental Assessment:

(i) Potential minor degradation of environmental quality;

(ii) Potential cumulative impact on environmental quality;

(iii) Presence of hazardous or toxic substances;

(iv) Potential violation of pollution abatement laws;

(v) Potential impact on protected wildlife or vegetation;

(vi) Potential effects on designated prime farmlands, wetlands, floodplains, or ecologically critical areas;

(vii) Alteration of stormwater runoff and retention;

(viii) Potential dislocation of persons or residences;

(ix) Potential increase of average daily vehicle traffic volume on access roads to the site by 10 percent or more but less than 20 percent, or which alters established traffic patterns in terms of location and direction;

(x) Potential threat or hazard to the public, or highly uncertain risks to the environment;

(xi) Potential conflicts with Federal, State, or local environmental protection laws or requirements;

(xii) Potential conflict with, or significant impact on, official local or regional zoning or comprehensive land use plans; and,

(xiii) Overloading of public utilities with insufficient capacity to provide reliable service and for average and peak periods (42 U.S.C. 4321–4370a).

§ 26.7 VA environmental decision making and documents.

(a) Relevant environmental documents shall accompany other decision documents as they proceed through the decision-making process.

(b) The major decision points for VA actions, by which time the necessary environmental documents must be completed, are as follows:

(1) *Leases.* Prior to execution of lease agreement.

(2) *Grants.* Prior to notification of grant award.

(3) *Policy.* Prior to final approval of a policy which substantially alters agency programs and which affects the human environment.

(4) *Legislative proposals.* Included in any recommendation or report to Congress on a legislative proposal which would affect the environment. The document must be available in time for Congressional hearings and deliberations.

(5) *Major, minor, minor miscellaneous delegated projects, and non-recurring maintenance projects.* Prior to contract award for working drawings or prior to in-house initiation of working drawings. If the Administrator or designee makes a finding of compelling need, working drawings may commence prior to completion of the environmental compliance process. However, this will not preclude completion of environmental compliance prior to construction.

(6) *Land acquisition for development.* Prior to the Administrator's acceptance of custody and accountability (for Federal lands), or acceptance of offer to donate or contract for purchase (for private lands).

(c) Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the VA must act in accordance with CEQ Regulations, 40 CFR 1506.11 (42 U.S.C. 4321–4370a).

§ 26.8 Assistance to applicants.

(a) The CEQ Regulations (40 CFR 1501.2(d)) provide for advising of private applicants or other non-Federal groups

when VA involvement in a particular action is reasonably foreseeable. Such foreseeable actions involve application to a VA element by private persons, States, and local agencies and pertain primarily to permits, leases, requests for financial assistance, grants, and related actions involving the use of VA real property.

(b) VA involvement may be reasonably foreseeable when the following actions are initiated by non-Federal groups:

(1) Easements and rights-of-way on VA land;

(2) Petroleum, grazing, and timber leases;

(3) Permits, license, and other use agreements or grants of real property for use by non-VA groups; and,

(4) Application for grants-in-aid for acquisition, construction, expansion or improvement of state veterans' health care facilities or cemeteries.

(c) Public notices or other means used to inform or solicit applicants for permits, leases, or related actions will describe the environmental documents, studies or information foreseeably required for later action by VA elements and will advise of the assistance available to applicants by the VA element.

(d) When VA owned land is leased or otherwise provided to non-VA groups, the VA element affected will initiate the NEPA process pursuant to these regulations.

(e) When VA grant funds are requested by a State agency, the VA element affected will initiate the NEPA process and ensure compliance with the VA environmental program. The environmental documents prepared by the grant applicant shall assure full compliance with State and local regulations as well as NEPA before the proposed action is approved. (42 U.S.C. 4321–4370a).

§ 26.9 Information on and public participation in VA environmental process.

(a) During the preparation of environmental documents, the responsible VA element shall include the participation of environmental agencies, applicants, State and local governments and the public to the extent practicable and in conformance with CEQ Regulations. Information or status reports on environmental documents shall be provided to interested persons upon request.

(b) Notice of availability or filing requirements vary, depending on the type of environmental documents requested. Specific requirements and procedures are defined for each VA element.

(c) For those actions relating specifically to the Administrator of Veterans Affairs, the Office of Environmental Affairs, or a VA element, information is available by writing to the Director, Office of Environmental Affairs, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. (42 U.S.C. 4321–4370a).

[FR Doc. 86–23601 Filed 10–17–86; 8:45 am]
BILLING CODE 8320-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 604 and 651

[Docket No. 60599-6141]

Northeast Multispecies Fishery

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

ACTION: Interim rule; notice of OMB Control number.

SUMMARY: This rule makes effective a section in the interim rule implementing the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) by confirming the OMB Control Number for its Information Collection Requirements (ICR). The Office of Management and Budget (OMB) has approved ICR for the exempted fishery programs (EFP) described in the FMP. The intent is to announce the effectiveness of the EFP program.

EFFECTIVE DATE: Sections 604.1, 651.4(n), 651.21(b)(3)(iii), and 651.22 are effective concurrent with the FMP from September 19, 1986, until September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Peter D. Colosi, Jr. (Multispecies Plan Coordinator), 617–281–3600, ext. 252.

SUPPLEMENTARY INFORMATION: On August 20, 1986 (51 FR 29642), NOAA published an interim rule implementing the FMP, effective September 19, 1986. On August 21, 1986, OMB approved the ICR of § 651.22 Exempted fisheries programs. This notice informs the public of the approval under OMB control number 0648–0016 for the duration of the interim rule and confirms the effectiveness of §§ 651.4(n), 651.21(b)(3)(iii), and 651.22. This is the same OMB control number that was previously approved for § 651.22 under the Interim Groundfish Plan, which the FMP has superseded; however, the FMP added new ICR to this section and also added a request for certification in new §§ 651.4(n) and 651.21(b)(3) which needed OMB approval under the Paperwork Reduction Act.

(16 U.S.C. 1801 *et seq.*)

Dated: October 14, 1986.

Carmen J. Blondin,
Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

NOAA amends 50 CFR Part 604 as set forth below:

PART 604—[AMENDED]

1. The authority citation for Part 604 continues to read as follows:

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

2. The table in § 604.1 is amended by adding "(a) through (m)" to "§ 651.4" and by adding two lines following it, to read as follows:

§ 604.1 OMB control numbers assigned under the Paperwork Reduction Act.

* * * * *

50 CFR Part or section where the information collection requirement is located	Current OMB control No. (all numbers begin 0648-)
* * * * *	
§ 651.4 (a) through (m)	-0097
§ 651.4(n)	-0016
§ 651.21(b)(3)	-0016
* * * * *	

[FR Doc. 86–23628 Filed 10–17–86; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 202
Monday, October 20, 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 Crop Insurance Corporation

7 CFR Part 436

[Doc. No. 3614S]

Tobacco (Guaranteed Production Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby proposes to revise and reissue the Tobacco (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 436), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Change the method of calculating the insured's share of an indemnity on crops transferred before harvest; (2) provide for insurance coverage by type; (3) extend the end of the insurance period for certain types of tobacco; (4) change the method of calculating total production to count; (5) provide for use of a proportional value on damaged tobacco in adjusting for quality without determination of a price factor; (6) add a definition for "Average value per pound"; and (7) redefine the "Market price" definition. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than November 19, 1986 to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is July 1, 1991.

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 businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Our current policy and loss adjustment procedure provides that any appraised production damaged by insurable causes can be adjusted for quality. This adjustment is determined through the adjuster's estimation of the proportional value of the damaged tobacco to the value of undamaged tobacco.

Once the proportional relationship is established, conversion to a price for comparison to the price of undamaged tobacco is required. The prices are then adjusted to appraised production to count through the automated indemnity calculation process using the price factor determined from the prices. A major reason for this complex process is to assure the mathematical accuracy of the price factor by removing the calculation from the adjuster's responsibility.

To simplify this process, it is proposed that the proportional value relationship be used without the determination of a price factor. Under this approach, the adjuster will continue to establish the appraised production of unharvested marketable (gross pounds) tobacco without regard to quality. The proportional value of the tobacco, as a percentage of the value of normal tobacco, is then determined. This percentage (not to exceed 100 percent) is multiplied times the appraised production. The result will be the appraised production

The advantages to this approach are:

1. The insured knows the final amount of appraised production to count when the claim is completed.

2. The quality adjustment process is easier to understand because it is no longer necessary to establish a price for unharvested tobacco (in an uncured condition) using a pricing system for harvested tobacco (in a cured or semi-cured condition).

3. Automated claims processing is simplified with the elimination of the adjustment for quality for appraised production from the computer system.

4. Claims preparation is simplified because fewer entries are required on the claim.

It is proposed that all quality of appraised production be determined in accordance with this procedure.

Other than minor changes in language and format, the other principal changes in the Tobacco (Guaranteed Production Plan) policy are:

1. *Section 2.a.*—Revise to allow insurance coverage by types of tobacco thereby permitting insureds to produce other types of tobacco which they may not wish to insure. The different types of tobacco are sufficiently distinguished to prevent production crossover.

2. *Section 2.c.*—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits

indemnities to the insurable interest at the time of loss.

3. *Section 4.b.*—Remove. The reduction in production guarantee provision for unharvested acreage is contained in Section 9.e.(3)(c).

4. *Section 7.e.*—Change the end of the insurance period date for certain types of tobacco.

5. *Section 9.e.(1)(a)*—Change the method of calculating total production to count by using an average value for the entire unit as opposed to separate loads or sales.

6. *Section 17.*—Add a definition for "Average value per pound" to clarify its use in Section 9.

Section 17.j.—Delete (1)(b) and (2)(a), and redesignate the remaining subsections accordingly.

Amend the "Market price" definition to permit the use of the "average price support" for specific types of tobacco and an alternate "season average price" when a price support is not in effect. The use of the "average price support" was the basis on which these types of tobacco were adjusted under the previous dollar plan of insurance. Its continued use will provide for an accurate and more easily administered loss adjustment procedure.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, 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 436

Crop insurance, Tobacco (Guaranteed Production Plan).

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Tobacco (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 436), effective for the 1987 and succeeding crop years, to read as follows:

PART 436—TOBACCO (GUARANTEED PRODUCTION PLAN) CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.
436.1 Availability of the guaranteed plan of tobacco crop insurance.
436.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
436.3 OMB control numbers.
436.4 Creditors.
436.5 Good faith reliance on misrepresentation.
436.6 The contract.
436.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75.430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§ 436.1 Availability of the guaranteed plan of tobacco crop insurance.

Insurance shall be offered under the provisions of this subpart on tobacco in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 436.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for tobacco which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 436.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 436.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 436.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the tobacco insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing

§ 436.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 436.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the tobacco crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's

determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Tobacco (Guaranteed Production Plan) Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Guaranteed Production Plan of Tobacco—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9.e.(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good tobacco farming practices;

(3) The failure or breakdown of irrigation equipment or facilities;

(4) The failure to follow recognized good tobacco irrigation practices;

(5) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(6) Any cause not specified in subsection 1.a. as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be any of the following tobacco types which you elect, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table:

Flue Cured

Type 11A
Type 11B
Type 12
Type 13
Type 14

Fire Cured

Type 21
Type 22
Type 23

Burley

Type 31

Maryland

Type 32

Dark Air

Type 35
Type 36
Type 37

Cigar Filler

Type 41

Cigar Binder

Type 51
Type 52
Type 54
Type 55

Cigar Wrapper

Type 61

b. The acreage insured for each crop year will be tobacco planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured tobacco at the time of planting. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Which is destroyed, it is practical to replant to tobacco, and such acreage is not replanted;

(4) Initially planted after the final planting date set by the actuarial table unless you agree, in writing, on our form to coverage reduction;

(5) Planted to tobacco of a discount variety under the provisions of the tobacco price support program;

(6) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table;

(7) Designated as uninsurable by the actuarial table; or

(8) Planted for experimental purposes.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good tobacco irrigation practice.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. The practice; and

c. Your share on the date of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tobacco planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report.

If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, production, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date for submitting applications for the crop year as established by the actuarial table.

d. You must furnish a report of production to us for the previous crop year prior to the sales closing date for the subsequent crop year as established by the actuarial table. If you do not provide the required production report, we will assign a yield for the crop year for which the report is not furnished. The production report or assigned yield will be used to compute your production history for the purpose of determining your guarantee for the subsequent crop year. The yield assigned by us will be 75 percent of the yield assigned for the purpose of determining your guarantee for the present crop year. If you have filed a claim for the previous crop year, the yield determined in adjusting your indemnity claim will be used as your production report.

5. Annual premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the

premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-fourth percent (1-¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the tobacco policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. The following dates immediately after the normal harvest period:

(1) Types 11 and 12 ... November 30;
(2) Type 13 ... October 31;
(3) Type 14 ... October 15;
(4) Type 36 ... February 28;
(5) Types 21, 31, 35 and 37 ... March 15;
(6) Types 22 and 23 ... April 15;
(7) Type 32 ... May 15;
(8) All other types ... April 30.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs. Insured acreage may not be put to another use until we have appraised the tobacco and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) For any unit of tobacco other than types 11, 12, 13, or 14, if probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested tobacco (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) Notice must be given immediately if any insured tobacco is destroyed or damaged by fire during the insurance period.

(5) If tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice must be given to allow us 5 days to inspect the cured tobacco prior to its sale or other disposition.

(6) For any unit of tobacco of types 11, 12, 13, or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed, notice of loss must be given to us upon completion of harvest. The tobacco stalks must not be destroyed until we give consent.

(7) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco is completed on the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the tobacco which is not to be harvested.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the tobacco on the unit;

(2) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of tobacco on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of tobacco to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in pounds) to be counted for a unit will include all harvested and appraised production.

(1) Harvested production which, due to insurable causes, has a value less than the market price for tobacco of the same type, will be adjusted by:

(a) Dividing the average value per pound of the harvested production by the recognized market price per pound; and

(b) Multiplying that product by the number of pounds of such damaged harvested tobacco.

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be given the opportunity:

(a) To inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of; and

(b) At our option to obtain additional offers on your behalf.

(3) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or put to another use without our prior written consent; and

(c) Not less than 35 percent of the production guarantee per acre for all other unharvested acreage.

(4) We may make an appraisal of not less than the guarantee per acre for any acreage of tobacco types 11, 12, 13, or 14 on which the stalks have been destroyed prior to our consent.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tobacco becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(6) The amount of production of any unharvested tobacco may be determined on the basis of field appraisals conducted after the end of the normal harvest period.

(7) If you elect to exclude hail and fire as insured causes of loss and the tobacco is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. We have a policy of paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us We will, in no instance, be liable for the payment of damages, attorney's fees,

or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date the tobacco is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this subsection, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all tobacco produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Alabama; Florida; Georgia; Surry, Wilkes, Caldwell, Burke, and Cleveland Counties, North Carolina and all North Carolina counties east thereof; and South Carolina.	Mar. 31
All other North Carolina counties and all other states.	Apr. 15

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of guaranteed tobacco crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "Average value per pound" means the total value of all harvested production from the unit divided by the harvested pounds.

d. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by an ASCS farm serial number for the county but physically located in another county within the state.

e. "Crop year" means the period within which the tobacco is normally grown and is designated by the calendar year in which the tobacco is normally harvested.

f. "Harvest" means the completion of cutting or priming of tobacco on any acreage from which at least 20 percent of the production guarantee per acre shown by the actuarial table is cut or primed.

g. "Insurable acreage" means the land classified as insurable by us snd shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Loss ratio" means the ratio of indemnity to premium.

j. "Market price":

(1) For types 11, 12, 13, 14, 21, 22, 23, 31, 35, 36, 37, 54, and 55, means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program less any no-net cost assessment for the type. If for any crop year a price support for the insured type is not in effect, we will use the season average price in the belt or area through the day tobacco sales are completed on any unit or part thereof which is harvested; and

(2) For types 32, 41, 51, 52, and 61, means the season average price for the applicable type of tobacco. Such price will be the season average price for the current crop year for any unit or part thereof which is harvested.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever

applicable, a State or a political subdivision or agency of a State.

l. "Planting" means transplanting the tobacco plant from the bed to the field.

m. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

n. "Tenant" means a person who rents land from another person for a share of the tobacco or a share of the proceeds therefrom.

o. "Unit" means all insurable acreage of an insurable type of tobacco in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with the Appeal Regulations (7 CFR Part 400, Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on September 17, 1986.

Peter F. Cole,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-23494 Filed 10-17-86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Proposed Change in Minimum Size Requirement and Dancy Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would increase the minimum size requirement for Dancy tangerines from size 210 (2 4/16 inches) to size 176 (2 6/16 inches) shipped from the production area to any point in the continental United States, Canada, or Mexico. Smaller tangerines generally tend to be less flavorful than larger tangerines and are discounted when shipped in volume with larger sizes. This can have a price depressing effect on larger, more flavorful tangerines. This action is expected to result in the smaller Dancy tangerines being left on the trees longer to be shipped later in the season after they have attained further size and improved flavor.

DATE: Comments must be received by October 30, 1986.

ADDRESS: Comments should be sent to: Docket Clerk, Room 2085, South Building, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material should be submitted and they shall be available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

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

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601-674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 95 handlers of Florida citrus subject to regulation under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida. In addition, there are approximately 99 producers in the production area. The majority of handlers and producers may be classified as small entities.

Pursuant to the requirements set forth in the RFA, the Administrator of AMS has considered the economic impact on small entities. This proposed rule would increase the minimum size requirement for Dancy tangerines which may be shipped from the production area from size 210 (2 4/16 inches) to size 176 (2 6/16 inches).

Smaller tangerines are often not as flavorful as larger sizes early in the season and generally do not provide the same level of consumer satisfaction. In addition, when ample supplies of larger sizes of tangerines are available for shipment, disposition of the smaller sizes can be accomplished only at a substantial price discount. This tends to depress the market for all sizes and adversely impacts grower returns. This proposal is expected to result in Dancy tangerines being left on the tress longer to attain further growth and improved flavor in the interest of producers and consumers.

In 1986-87, fresh Dancy tangerine shipments are expected to total 500,000 boxes, compared with 446,000 boxes in 1985-86, and 380,000 boxes in 1984-85. Only about 56 percent of the Dancy tangerine crop was shipped fresh in 1985-86; most of the balance was shipped for processing. These percentages are based on the portion of the crop that attained size 210 and larger during the marketing season. The Florida Citrus Administrative Committee estimated that about 7 percent of the 1986-87 season fresh Dancy tangerine shipments would be size 210's in the absence of this proposed rule. Size 210 Dancy tangerines comprised about 7.3 percent of the fresh shipments in 1985-86, 8.1 percent in 1984-85, and 5.9 percent in 1983-84. Hence, the size 210's generally account for a relatively small proportion of total fresh Dancy tangerine shipments.

Furthermore, while the proposed regulation would not permit shipment of size 210 Dancy tangerines outside the production area to any point in the continental United States, Canada, or Mexico, not all of the 210's would be subject to regulation. For example, shipments within the production area or to charitable institutions, relief agencies, commercial processors, and certain gift packages and minimum quantities as well as shipments for animal feed would not be subject to this proposed regulation.

It is not anticipated that the proposed rule, if adopted, will impose any significant additional costs on growers

or handlers. Any additional costs to handlers and growers of implementing this regulation would be offset by the benefits derived from improved returns to growers and handlers in the production area while at the same time providing fresh markets with a ready supply of slightly larger, more flavorful Dancy tangerines.

This proposal is being issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Act. These actions were recommended unanimously by the Citrus Administration Committee. The committee works with USDA in administering the marketing agreement and order program.

Florida Citrus Regulation 6 (7 CFR 905.306) was issued on a continuing basis (46 FR 60170; December 8, 1981) subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Florida Citrus Regulation 6 was last amended for Dancy tangerines effective January 9, 1984 (49 FR 1467; January 12, 1984). Section 905.30(a) provides that no handler shall ship between the production area and any point outside that area in the continental United States, Canada, or Mexico, certain varieties of citrus unless the variety meets the applicable minimum grade and size requirements. For Dancy tangerines shipped on or after August 20, 1984, the minimum grade is U.S. No. 1 and the minimum size is size 210 ($2\frac{4}{16}$ inches).

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

This proposed action would, effective October 31, 1986, increase the minimum size requirement of Florida Dancy tangerines from size 210 ($2\frac{4}{16}$ inches) to size 176 ($2\frac{5}{16}$ inches). The proposal to change the minimum size requirement reflects the committee's and the Department's appraisal of the need to increase the size requirement applicable to domestic shipments of Dancy tangerines. This proposal recognizes the current supply and demand for such fruit and is necessary to prevent smaller, less flavorful tangerines from entering fresh markets.

This proposal would prevent the shipment of smaller size tangerines early in the season which can have a price depressing effect on larger, more flavorful tangerines. Smaller tangerines tend to be less flavorful than larger tangerines and generally do not provide the same level of consumer satisfaction. Ample supplies of larger size Dancy tangerines are expected to be available to meet market needs this year. Total Florida tangerine production is expected to increase over last year's level by 10 percent and fresh shipments, estimated at 1.2 million boxes, are expected to increase by nearly 14 percent. In addition, competing specialty citrus varieties from Florida, including Temples, tangelos, and K-early citrus are also expected to show an increase in production with fresh shipments estimated to increase about 13 percent. When heavy volumes of small tangerines are shipped with larger sizes in years of ample supply, the small sizes are discounted in the marketplace and this tends to depress the market for all sizes.

In addition, per capita fresh citrus consumption declined slightly during last year. It is anticipated that there will be an increase in per capita consumption during the 1986–87 season primarily due to increased citrus production.

This proposal is expected to result in Dancy tangerines being left on the trees longer to attain further growth and improved flavor. The smaller Dancy tangerines will mature but need to be left on the tree longer to develop acceptable flavor.

The proposed rule would also delete obsolete dates and references to minimum diameter and grade for Dancy tangerines which appear in Table I of § 905.306(a).

The 1986–87 Dancy tangerine harvest is about to begin. Therefore, a 10 day comment period is determined to be adequate so that the proposed rule, if adopted, may be implemented as early as possible in 1986–87 season.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. The provisions of § 905.306 would be amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 40.

(a) * * *

TABLE I.

Variety	Regulation period	Minimum grade	Diameter (in.)
(1)	(2)	(3)	(4)
*	*	*	*
Tangerines: Dancy......	On or after Oct. 31, 1986.	U.S. No. 1....	$2\frac{5}{16}$
*	*	*	*

* * * * *

Dated: October 16, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–23692 Filed 10–16–86; 12:25 pm]

BILLING CODE 3410-02-M

7 CFR Part 911

Limes Grown in Florida; Proposed Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would permit lime handlers to make export shipments in 4 kilogram containers. Competition from foreign shippers using similar sizes in European markets has made this container necessary. Adoption of this container will allow U.S. shippers to compete more favorably in certain European markets.

DATE: Comments due November 19, 1986.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under

Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

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

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

It is estimated that 26 handlers of Florida limes under the Florida Lime Marketing Order will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities. This proposal would add a new size container for export shipments of limes grown in the production area. A 4 kilogram container would be added to the list of containers presently permitted for shipments of limes. Permitting handlers to use the new size for export shipments will help handlers remain competitive with shippers from other countries who use the same size containers. It is the Department's view that adding an additional container size for export shipments will not increase costs for lime handlers.

Marketing Order No. 911 regulates the handling of limes grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Lime Administrative Committee, established under the order, is responsible for its local administration.

At a public meeting on May 14, 1986, the committee recommended adding a new container to be used only for export shipments. The new container would have inside dimensions of 7¾ by 11 by 5⅞ inches and contain 4 kilograms (between 8 and 9 pounds) of limes. Foreign shippers, notably those from Brazil, tend to adjust or change container sizes as the market price of limes changes. This can place U.S. shippers at a competitive disadvantage if they cannot use a container similar to those used by other shippers. The addition of the 4 kilogram container will make it easier for U.S. exporters to compete in certain European markets with shippers from other lime producing areas using the 4 kilogram container.

Since publication of Part 911 in Title 7 of the January 1, 1986, issue of the Code of Federal Regulations, Section 911.329 of the regulations has been amended at 51 FR 27517 (August 1, 1986) and 51 FR 32924 (September 17, 1986).

List of Subjects in 7 CFR Part 911

Marketing agreements and orders, Limes, Florida.

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 911 continues to read as follows:

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

2. Section 911.329 is hereby amended by adding a new (a)(2)(ix) as follows:

§ 911.329 Lime regulation 27.

(a) * * *

(2) * * *

(ix) Containers with inside dimensions of 7¾ by 11 by 5⅞ inches; except that any such container shall contain not less than 8 nor more than 9 pounds net weight of limes and shall be for export shipments only.

* * * * *

Dated: October 10, 1986.

Thomas R. Clark,

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

[FR Doc. 86-23658 Filed 10-17-86; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

[Docket No. 85-112]

9 CFR Part 94

Importation of Meat and Animal Products Imported From Countries With Rinderpest, etc.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend 9 CFR Part 94 by restricting inspection of imported, cooked meat from ruminants or swine which originates in countries where foot-and-mouth disease or rinderpest exists to ports of arrival at defrost facilities specifically approved for this purpose by the Deputy Administrator, Animal and Plant Health Inspection Service (APHIS). This restriction appears to be necessary to help prevent the introduction of foot-and-mouth disease and rinderpest into the United States.

DATE: Written comments must be received on or before December 19, 1986.

ADDRESSES: Written comments should be submitted to Steven R. Poore, Acting Assistant Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket No. 85-112. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.)

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 805, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations) prohibit or restrict importation into the United States of certain animals, meat, and animal byproducts. The regulations are designed to prevent introduction into the United States of foot-and-mouth disease, rinderpest, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease.

Present § 94.4(b) sets forth the conditions under which a person may import cooked meat (except for meat sterilized by heat in hermetically sealed containers) from ruminants or swine which originates in any country where foot-and-mouth disease or rinderpest exists. One of these conditions is that such meat "shall have been heated to such an extent that, upon inspection, the meat will have a thoroughly cooked appearance throughout." Thoroughly cooked meat poses no threat of disseminating foot-and-mouth disease or rinderpest. There are two problems with this provision, however. First, it does not stipulate where inspection shall be performed. Thus, under the present regulations, it is possible for cooked meat from ruminants or swine which originates in a country where foot-and-mouth disease or rinderpest exists to arrive at one port in the United States and be shipped to another location within the United States before it is inspected. Pilferage, loss, or container damage during shipping may result in such uninspected meat introducing foot-and-mouth disease or rinderpest into the United States. Second, the provision

does not stipulate who shall inspect the meat or the facility in which the meat shall be inspected. Thus, there is a risk that the meat may be incorrectly appraised and, even after inspection, introduce foot-and-mouth disease or rinderpest into the United States.

This document proposes to revise present § 94.4(b) by adding a requirement that cooked meat (except for meat sterilized by heat in hermetically sealed containers) from ruminants or swine which originates in any country where foot-and-mouth disease or rinderpest exists be inspected at ports of arrival in defrost facilities specifically approved for this purpose by the Deputy Administrator. (Defrost facilities would be specified because such cooked meat is shipped frozen.)

Currently, the Food Safety and Inspection Service (FSIS) of the United States Department of Agriculture employs inspectors at 17 U.S. ports of arrival to check imported, frozen, cooked meat for compliance with the Federal Meat Inspection Act. The inspectors check the meat at defrost facilities approved by FSIS, pursuant to 9 CFR Part 301 *et seq.* APHIS has proposed, and FSIS has agreed, to have FSIS inspectors at FSIS approved defrost facilities perform the inspection of imported, cooked meat which would be required if this proposed rule is adopted. This cooperative arrangement would enable the United States Department of Agriculture to use existing resources to reduce the threat of foot-and-mouth disease and rinderpest to the United States.

FSIS approved defrost facilities wishing to handle imported, cooked meat for inspection which would be required by this document would request separate, additional approval from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service. To obtain and maintain approval from the Deputy Administrator, such defrost facilities would have to be at a port of arrival and have equipment and procedures to enable inspectors to determine whether meat is thoroughly cooked. Requiring cooked meat under § 94.4(b) to be inspected at ports of arrival at defrost facilities specifically approved for this purpose by the Deputy Administrator should prevent undercooked meat from leaving port areas and introducing foot-and-mouth disease and rinderpest into the United States.

This document also would revise the regulations to clarify the restrictions on the importation of ruminants and swine and the fresh, chilled, or frozen meat from ruminants or swine which originates in or is shipped from any country where foot-and-mouth disease or rinderpest exists. Present § 94.1(b) prohibits the importation of such animals and meat except as provided in Title 9, Part 92, for wild ruminants and wild swine, and except as provided in § 94.1(c) for such meat which originates in countries free of foot-and-mouth disease and rinderpest but which transits or enters a port of any country where foot-and-mouth disease or rinderpest exists while en route to the United States. This proposal would add a third exception for cooked or cured meat from countries where foot-and-mouth disease or rinderpest exists, as provided in § 94.4. Further, this proposal would add a fourth exception for ruminants and swine imported into the United States through the Harry S. Truman Animal Import Center from countries in which foot-and-mouth disease or rinderpest exists.

This document also would establish a new § 94.0, "Definitions"; and add two footnotes to § 94.4. New footnote 2 would explain where to obtain the names and addresses of defrost facilities approved by the Deputy Administrator and the conditions for approval of such facilities. New footnote 3 would explain where to obtain the conditions for FSIS approval of defrost facilities.

Miscellaneous

This document would make certain nonsubstantive changes in the regulations for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule has been reviewed in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Cooked meat derived from ruminants or swine which originates in countries where foot-and-mouth disease or rinderpest exists is imported into the United States from South America. Such meat is shipped frozen in refrigerated containers aboard ships and arrives in the United States for FSIS inspection at the following 17 ports: Boston, Mass.; Charleston, S.C.; Chicago, Ill.; Gulfport, Miss.; Houston, Tex.; Jacksonville, Fla.; Los Angeles, Calif.; Miami, Fla.; New Orleans, La.; New York, N.Y.; Norfolk, Va.; Philadelphia, Pa.; San Francisco, Calif.; Seattle, Wash.; Takoma, Wash.; Tampa, Fla.; and Wilmington, Del. Such cooked meat from South America has been shipped to these same ports for over 10 years. Thirty-five defrost facilities located in these ports are approved by FSIS to receive this meat for inspection. All 35 defrost facilities meet the standards which would be required if this proposed rule is adopted.

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

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

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 94

African swine fever, Animal diseases, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Rinderpest, Swine vesicular disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, it is proposed to amend the regulations in 9 CFR Part 94 as follows:

1. The authority citation would continue to read:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. In Part 94, a new § 94.0 would be added to read as follows:

§ 94.0 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section.

Deputy Administrator. The Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other Veterinary Services official authorized to act in the Deputy Administrator's stead.

FSIS Inspector. An individual authorized by the Administrator, Food Safety and Inspection Service, United States Department of Agriculture, to perform the function involved.

Operator. The person responsible for the day-to-day operations of a facility.

Thoroughly cooked. Heated so that the flesh and juices have lost all red or pink color.

3. In § 94.1, the section heading and paragraph (b) would be revised to read as follows:

§ 94.1 Countries where foot-and-mouth disease or rinderpest exists; importations prohibited.

* * * * *

(b) The importation of any ruminant or swine or any fresh, chilled, or frozen meat of any ruminant or swine [1] which originates in any country where foot-and-mouth disease or rinderpest exists, as designated in paragraph (a) of this section, or which enters a port in or otherwise transits a country in which foot-and-mouth disease or rinderpest exists, is prohibited: (1) Except as provided in Part 92 of this chapter for wild ruminants and wild swine; (2) except as provided in Part 92 of this chapter for the importation of ruminants and swine through the Harry S. Truman Animal Import Center; (3) except as provided in paragraph (c) of this section for meat of ruminants or swine which originates in countries free of foot-and-mouth disease and rinderpest but which enters a port or otherwise transits a country where foot-and-mouth disease or rinderpest exists; and (4) except as provided in § 94.4 for cooked or cured meat from countries where foot-and-mouth disease or rinderpest exists.

* * * * *

4. In § 94.1, a new footnote 1 would be added to read:

[1] Importation of such animals and meat includes the bringing of such animals or meat within the territorial limits of the United States on a means of conveyance for use as sea stores or for other purposes.

5. In § 94.4, paragraph (b)(3) would be redesignated (b)(4).

6. In § 94.4, the section heading and paragraphs (b) through (b)(2) would be revised, and a new paragraph (b)(3) would be added to read as follows:

§ 94.4 Cured or cooked meats [1] from countries where foot-and-mouth disease or rinderpest exists.

* * * * *

(b) The importation of cooked meat from ruminants or swine originating in any country where foot-and-mouth disease or rinderpest exists, as designated in § 94.1, is prohibited unless the following conditions are met:

(1) All bones have been completely removed in the country of origin.

(2) The meat has been thoroughly cooked in the country of origin.

(3) The meat is inspected by a FSIS inspector at a port of arrival in a defrost facility approved by the Deputy Administrator [2] and the meat is found to be thoroughly cooked.

(i) Request for approval of any defrost facility shall be made to the Deputy Administrator. The Deputy Administrator will approve a defrost facility only under the following conditions: (A) The defrost facility has equipment and procedures which permit FSIS inspectors to determine whether meat is thoroughly cooked; (B) The defrost facility is located at a port of arrival; and (C) The defrost facility is approved by the Food Safety and Inspection Service, United States Department of Agriculture.[3]

(ii) The Deputy Administrator may deny approval of any defrost facility if the Deputy Administrator determines that the defrost facility does not meet the conditions for approval. If approval is denied, the operator of the defrost facility shall be informed of the reasons for denial and be given an opportunity to respond. The operator shall be afforded an opportunity for a hearing with respect to any disputed issues of fact. The hearing shall be conducted in accordance with rules of practice which shall be adopted for the proceeding.

(iii) The Deputy Administrator may withdraw approval of any defrost facility as follows: (A) When the operator of the defrost facility notifies the Deputy Administrator in writing that the defrost facility no longer performs the required services; or (B) When the Deputy Administrator determines that the defrost facility does not meet the conditions for approval. Before the Deputy Administrator withdraws approval from any defrost facility, the operator of the defrost facility will be informed of the reasons for the proposed withdrawal and be given an opportunity to respond. The operator shall be afforded a hearing with respect to any disputed issues of fact. The hearing shall be conducted in accordance with rules of practice which shall be adopted for the proceeding. The Deputy Administrator shall remove a defrost facility from the list of approved defrost facilities if the approval of such defrost facility is withdrawn. * * *

[2] The names and addresses of approved defrost facilities and conditions for approval may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, DC 20250.

[3] Conditions for the approval of any defrost facility by the Food Safety and Inspection Service, United States Department of Agriculture, may be obtained from the Import Inspection Division, International Programs, Food Safety and Inspection Service, United States Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, this 14th day of October 1986.

John K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-23596 Filed 10-17-86; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 31, 32, and 33

[Docket No. PRM-30-55]

Withdrawal of Petition for Rulemaking by the State of New Jersey

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking: Withdrawal.

SUMMARY: The Commission is withdrawing, at the petitioner's request, a petition for rulemaking that was filed by the State of New Jersey. In the petition, dated May 31, 1977, the State of New Jersey had requested that the Commission amend its regulations in 10 CFR Parts 30, 31, 32, and 33 for the purpose of adopting new national standards for the users of radioactive byproduct materials.

DATE: The petition is withdrawn as of October 20, 1986.

ADDRESSEES: Copies of the petitioner's letters of request and withdrawal are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of these letters may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington DC 20555.

FOR FURTHER INFORMATION CONTACT: Richard P. Grill, Office of Nuclear

Regulatory Research, U.S. Nuclear Regulatory Commission, telephone (301) 443-7670.

SUPPLEMENTARY INFORMATION: In a **Federal Register** notice published on August 11, 1977 (42 FR 40791), the Commission announced the receipt of and requested comments on a petition for rulemaking (PRM-30-55 filed by the State of New Jersey. The petitioner requested that the Commission amend its regulations in Parts 30, 31, 32, and 33 in order to establish new national standards applicable to users of radioactive byproduct materials. Specifically, the petitioner requested that the Commission take the following actions which would, in the opinion of the petitioner, reduce public exposure to radioactive substances emitted from byproduct material facilities (e.g., major radiopharmaceutical manufacturing plants): (1) Establish criteria to qualify the "as low as reasonably achievable" emissions reduction policy for major facilities using byproduct materials from man-made fission reactions and require existing plants to meet these criteria, (2) Establish siting criteria for these facilities that would form a basis for evaluating the acceptability of new plant locations in terms of radiation doses to the public, and (3) Require new and existing byproduct facilities to develop and implement offsite environmental surveillance programs to provide information on levels of radioactivity in the environment around these facilities.

After reviewing the original reasons for the petition and the current state of the particular byproduct material facility that was the primary cause of concern, the petitioner believes that the previously existing situation has been resolved. In addition, the petitioner believes that the proposed amendments to 10 CFR Part 20 address the more general concerns of the petitioner. Therefore, by letter dated May 13, 1986, the petitioner requested that the petition be withdrawn.

The NRC has reached similar conclusions. Specifically, with regard to item (1), emissions from radioactive byproduct materials facilities historically have been only a very small fraction of their license release limits. Further, experience has shown that reducing releases below these levels is not practical. Hence regulatory "ALARA" limits established could be expected to be at, or near, the range of actual emissions. In addition, establishing a separate ALARA criterion for each of the hundred of individual manufacturing processes would not be practical. Item (2) on establishing siting criteria is moot in that few, if any, new applications for licenses for byproduct materials facilities are expected. If they are received, the siting issues can be handled better on a case by case basis, rather than by rulemaking. Item (3) on requiring offsite environmental surveillance programs is impractical and unnecessary because, while the very low levels of routine emissions can be detected by sensitive instrumentation at the points of release, such as facility stocks, these levels of emission would not be reliably detectable in the environment offsite of the dilution in the atmosphere.

The NRC thus agrees that the petition be withdrawn.

Dated at Bethesda, Maryland, this 29th day of September 1986.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 86-23669 Filed 10-17-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 86-AWA-58]

Proposed Alteration and Establishment of Jet Routes-Expanded East Coast Plan

Correction

In FR Doc. 86-22013, beginning on page 34651, in the issue of Tuesday, September 30, 1986, make the following corrections:

1. On page 34652, second column, under "The Proposal", first paragraph, second line from the bottom, "7400.bB" should read "7400.6B".

2. On the same page, third column, first paragraph, last line, "15" should read "14".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Application and Closing Out of Offsetting Long and Short Positions; Exception

AGENCY: Commodity Futures Trading Commission.

ACTION: Petition for rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has received a petition for rulemaking requesting that the Commission amend § 1.46 of its regulations, 17 CFR 1.46 (1986), to provide an additional exception to the general rule pertaining to the application, and closing out, by a futures commission merchant ("FCM") of offsetting long and short commodity futures or option positions in a customer account or option customer account. The additional exception requested by the petitioner would apply to purchases and sales of commodity futures or option contracts made in separate accounts owned by one customer, provided that, among other things, the trading for such accounts is directed by two or more persons acting independently, each of which is directing the trading of a separate account. The Commission has decided to request comment on the proposed rule amendment as suggested by the petitioner, with certain modifications.

DATE: Comments must be submitted on or before December 19, 1986.

ADDRESS: Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Attention: Secretariat. Refer to Rule 1.46.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Michael A. Watkins, Attorney-Advisor, Division of Trading and Markets, at the address listed above. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 1.46(a) of the Commission's regulations generally requires that an FCM close out a customer's or option customer's previously-held short or long commodity futures or option position if an offsetting purchase or sale is made for such customer's or option customer's account, and that an FCM furnish promptly to such customer or option customer a purchase-and-sale statement showing the financial result of the transactions involved. Section 1.46(b) generally provides that if the short or long position in the account of such customer or option customer immediately prior to the offsetting purchase or sale is greater than the quantity purchased or sold, the FCM must apply the offsetting purchase or sale to the oldest portion of the previously-held short or long position, unless the customer or option customer specifically instructs otherwise. There are currently five exceptions to § 1.46.[1]

[1] Five types of transactions are exempt from the requirements of paragraphs (a) and (b) of § 1.46, generally: (1) Purchases or sales of commodity options held by commercial interests in the

Continued

The petitioner requests that the Commission establish an additional exception to the requirements of paragraphs (a) and (b) of § 1.46 for purchases or sales of commodity futures or option contracts made in separate accounts owned by one customer, provided that, among other things, (1) the trading for such accounts is directed either by two or more persons acting independently, each of which is directing the trading of a separate account, or (2) the trading is directed pursuant to two or more separate and distinct trading systems, each of which determines the trading of a separate account. The petitioner states that an exception to the mandatory offset requirement would (1) be consistent with the purposes of § 1.46, (2) afford customers necessary flexibility in selecting and implementing diversified trading strategies, and (3) benefit futures commission merchants ("FCMs") by reducing the burden of identifying and offsetting customer positions in multiple accounts.

II. Petition Excerpts

Excerpts from the petition are set forth below.

Commodity Futures Trading Commission

In the Matter of CFTC Regulation § 1.46. Petition For Amendment Of A Rule Pursuant to Regulation § 13.2

Petition is hereby made to the Commodity Futures Trading Commission ("CFTC"), on good cause shown, to amend CFTC Regulation § 1.46, 17 CFR 1.46 (1986), so that separate accounts owned by one customer may be excepted from the operation of Regulation § 1.46 provided that trading in the customer's accounts is either (i) controlled and directed by independent persons or (ii) controlled and directed pursuant to separate and distinct trading systems.

Statement of Interest

Petitioner is a futures commission merchant ("FCM") handling the accounts of many thousands of customers. Regulation § 1.46 imposes undue burdens on our operations and adversely affects the accounts of our customers.

We believe that an exception to the regulation for separate accounts owned by one customer wherein trading is controlled by different persons or pursuant to different trading systems must, in fairness, be adopted. The exception would be consistent with the purposes of the regulation while affording customers necessary flexibility in selecting and implementing diversified trading strategies. Such an exception would also benefit FCMs by lightening the huge burden imposed on them to ferret out and offset customer positions in multiple accounts.

History of Regulation § 1.46

With limited exceptions, Regulation § 1.46 provides that an FCM may not allow a customer to maintain simultaneous long and short positions in the same future of the same commodity on the same contract market; all such positions must be offset against one another. As noted by the CFTC, the purposes of the regulation are to ensure customer protection by requiring that an FCM promptly furnish a customer with a purchase and sale statement reflecting the result of offsetting transactions and to ensure accurate reporting of open interest. 46 FR 61140, 61141 (December 15, 1981).

The regulation was initially adopted on December 18, 1948 by the Commodity Exchange Authority [the Commission's predecessor, an agency within the Department of Agriculture]. It was based on Chicago Board of Trade ("CBT") rule 1910 (now Rule 465.02) adopted in 1948. The CBT rule was intended to prevent persons controlling customer accounts from concealing losses from their customers.

On May 11, 1984, the CFTC amended the regulation to permit an FCM not to offset opposite positions taken by a commodity pool maintaining two or more accounts managed by separate trading advisors. The CFTC found this amendment consistent with achieving the purposes of Regulation § 1.46. 49 FR 19969, 19971 (May 11, 1984). The CFTC also stated that the amendment would benefit pool participants by affording them the advantages of diversified trading strategies. *Id.* at 19969.

Effect of Regulation § 1.46

The regulation as amended relieves the burden on FCMs with respect to commodity pool accounts and benefits commodity pool participants. However, the regulation ignores the plight of individual investors who desire trading flexibility and FCMs who desire to accommodate their customers and comply with CFTC regulations.

In today's market customers constantly seek different trading methods to enhance the performance of their portfolios. The CFTC's view would unnecessarily hamper the ability of a speculator to diversify among several trading techniques in order to limit his exposure by maintaining multiple accounts at one FCM.

Customers may want to establish multiple accounts to diversify trading strategies and commodities traded or to test and prove various trading systems. A customer might be knowledgeable with respect to metals trading and therefore wish to trade his own account. That same customer might want to give discretion to a third party to trade all markets for him in a separate account. Under the current regulation, the FCM would have to offset positions in the account traded by the customer against positions in the account traded by the third party. This result would obtain regardless of the specific intent of the customer to separate his assets and diversify his trading. The regulation would not take into account the purposes or timing of transactions so that, for example, futures positions initiated by the customer and intended as part of futures/physicals transactions might be closed by positions in another account placed by an independent manager who knew nothing of the customer's trades. Thus, the strategies of both the customer and the manager would be thwarted.

Similarly, a customer might wish to test particular trading systems by establishing separate accounts for each system. Even if the systems were as independent and unrelated as a fundamental system and a moving average system, trades in one would offset trades in the other. The results would give the customer no idea of the real performance of either system.

If the CFTC believes it is appropriate for a trader to maintain accounts at two FCMs, it is certainly illogical not to permit that trader to maintain those same accounts at one FCM. Whether the accounts are maintained at one or two FCMs, there would be no adverse impact on open interest and reports should be identical. Further, if the trader is an employee of the FCM, he will generally be contractually prohibited from opening an account at a different FCM.

Moreover, it is impossible to monitor or to compile actual performance by such after-the-fact meddling. Actual performance is required to be presented in CFTC-mandated disclosure documents. However, a trader with two separate trading systems who intends to become a trading advisor would be unable to comply with CFTC regulations with respect to actual performance. The actual results of a trading system permit prospective investors to evaluate the system's merit. Presentation of anything instead of actual performance makes evaluation more difficult.

Purpose of Regulation § 1.46

The proposed amendment is consistent with both stated purposes of the regulation as set forth by the CFTC. First, the proposed amendment would not adversely affect customer protection. No losses would be hidden from the customer as a result of not offsetting positions in his accounts. The customer would receive both confirmations of

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underlying commodity, where such purchases or sales are determined by the contract market to be economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise pursuant to rules of the contract market which have been adopted in accordance with the requirements of § 1.61(b) (17 CFR 1.61(b) (1986)) and approved by the Commission pursuant to Section 5a(12) of the Act; (2) Purchases or sales constituting "bona fide hedging transactions" as defined in § 1.3(z) of the Commission's regulations (17 CFR 1.3(z) (1986)); (3) Sales during the delivery period of a futures contract for the purpose of making delivery on the contract during such delivery period if such sales are accompanied by appropriate documentation (*see* § 1.46(d)(3)); (4) Purchases or sales made in separate accounts of a commodity pool, provided that the trading for such pool is directed by two or more unaffiliated commodity trading advisors acting independently, each of which is directing the trading of a separate trading account (*see* § 1.46(d)(4)); and (5) Purchases or sales made by a leverage transaction merchant constituting cover of its obligations to leverage customers and made in accordance with §§ 31.18(a) and 31.12(b) of the Commission's regulations (17 CFR 31.18(a), 31.12(b) (1986)) (*see* § 1.46(d)(5)). Purchases or sales closed out during the same day (commonly known as "in-and-out trades" or "day trades") are exempt from the requirements of § 1.46(b) concerning application of an offsetting purchase or sale to the oldest portion of the previously-held short or long position (*see* § 1.46(c)).

each transaction in each account and purchase and sale statements reflecting the results of all offsetting transactions in each account. Accounts would be separately margined and accounted for. Consequently, as a result of not offsetting pursuant to Regulation § 1.46, the customer would have a far more accurate picture of his equity as well as of the results of his selected trading strategies or systems.

Second, the proposed amendment would not adversely affect reports of open interest. So long as the FCM reports the customer's net positions by account, there can be no distortion of open interest. Each open position in one account will at some time have to be liquidated and therefore is properly reported as open. Further, the proposed amendment includes a prohibition against transferring open positions between accounts to avoid any possible inaccuracy or distortion in reporting open interest.

(End of Excerpts From Petition)

III. Commission Views

Based upon its experience with § 1.46(d)(4) regarding separate accounts of commodity pools, which was adopted approximately two years ago, the Commission believes that there may be merit to this petition. The Commission further believes that any exception to Commision Rule 1.46 for accounts of individuals should be similar to that already adopted for accounts of commodity pools. The revisions to the petitioner's suggested amendment are intended to provide that symmetrical treatment. The major modification which the Commission proposes to make to the petitioner's suggested amendment is to limit the exception to those situations where trading decisions are being made by two or more unaffiliated persons. The new exception would therefore not be applicable where either the account owner himself, or a person directing trading for the account owner, established separate accounts to be traded according to "different systems." The petitioner presented no standards by which an FCM could determine whether trading decisions made by the same person for different accounts had been arrived at independently of all trading decisions made for the other separate account or accounts. The Commission believes that, without such standards, an FCM would find it very difficult to determine when the exception would apply, and enforcement of the rule would likewise be complicated. If any commenters wish to address this issue, the Commission requests that they set forth with particularity standards to determine whether different trading decisions made by the same person for different accounts have been arrived at independently.

The petitioner stated that "the affiliation of a trading manager is irrelevant if he is acting independently of those with whom he is affiliated. Therefore, we think the requirement of nonaffiliation is unnecessary." The Commission disagrees and believes that an essential element of independent action is nonaffiliation. Accordingly, the proposed § 1.46(d)(6) contains a nonaffiliation requirement, just as is the case for § 1.46(d)(4). As the Commission stated when it adopted § 1.46(d)(4), to meet the nonaffiliation requirement neither trader can control the other directly or indirectly, nor can both traders be under the common control, either direct or indirect, of another entity. *See, e.g.*, 17 CFR 1.3(y)(2) (vii) and (viii) (1986).[2] The Commission believes that two associated persons of the same FCM could not be deemed to be unaffiliated, but specifically requests comment on that point.

The Commission does not believe that the suggested amendment would adversely affect customer protection, since one of the principal purposes of § 1.46, to require that an FCM promptly furnish a customer or option customer with a purchase-and-sale statement showing the financial result of offsetting transactions made for the customer's or option customer's account, will be fulfilled. If a customer himself directs trading for his own account, an FCM must promptly furnish such customer the purchase-and-sale statement required by § 1.46 with respect to each separate account for which the customer himself directs trading.[3] In addition, an FCM must promptly furnish such customer, as required by § 1.33 of the Commission's regulations, both a confirmation statement and a monthly statement which shows clearly, *inter alia*, the unrealized net gain or loss on open positions so that, notwithstanding the fact that offsetting positions remain open in several separate accounts, a customer will be informed regarding the overall net equity or net deficit in each separate account. Where the trading of an account is directed by a person other than the customer or option customer, the customer must still receive a confirmation of each trade, each purchase-and-sale statement and a monthly statement from the FCM, and the FCM also must promptly furnish such statements to the person directing the trading of the account.[4]

Another purpose of § 1.46 is to ensure accurate reporting of open interest. The Commission previously expressed its concern regarding the accuracy of published open interest calculations in connection with the adoption of an amendment to § 1.46 to provide an additional exception for purchases and sales of commodity futures and commodity option contracts made in separate accounts of a commodity pool where the trading for the commodity pool is directed by two or more unaffiliated commodity trading advisors acting independently, each of which is directing the trading of a separate account. In promulgating that exception to § 1.46, which was also prompted by a petition for rulemaking, the Commission revised that petitioner's suggested amendment to ensure that trades entered into by separate commodity trading advisors acting independently for the account of a commodity pool are offset in an open and competitive manner on or subject to the rules of a contract market and not by means of a "transfer trade," *i.e.*, simply by means of an entry on the books of an FCM for the purpose of transferring existing trades from one account to another carried by the FCM whether no change in ownership is involved.[5] Similarly, in these circumstances, the Commission believes that to permit the transfer of trades between the separate accounts owned by a customer would cast doubt upon the "independece" of such separate accounts. The petitioner has incorporated those safeguards in his proposed amendment and, therefore, the Commission believes that the safeguards contained in the petitioner's proposed amendment will ensure that each separate account will accurately reflect the results of trading with respect to such separate account. Furthermore, the Commission recognizes that because each account will be traded separately and offset separately, the amount of open interest reported for any commodity futures contract or commodity option contract traded by two or more separate accounts will be greater than if all open positions in all separate accounts owned by a customer or option customer were offset against each other. However, the Commission believes that any increase in reported open interest will have no adverse impact since all open positions in each separate account must be offset, on or subject to the rules of a contract market, prior to the delivery date of a futures

[2] *See* 49 FR 19969 n.5 (May 11, 1984).

[3] 17 CFR 1.46(a)(4) (1986).

[4] 17 CFR 1.33(d) (1986). Rule 1.33(d)(3) further provides that the duplicate statements requirements shall not apply to an account controlled by the spouse, parent or child of the customer for whom such account is carried.

[5] 49 FR 19969, 19970 (May 11, 1984).

contract or the exercise date of a commodity option contract.[6]

The Commission wishes to emphasize that although the proposed amendment will permit any person who directs trading for separate, controlled accounts,[7] to maintain in each separate account a position in the same commodity futures contract or commodity option contract, all such positions in all separate controlled accounts shall be aggregated and considered by an FCM as a single account for reporting purposes under Part 17 of the Commission's regulations [8] and in determining compliance with speculative position limits established by a contract market under § 1.61 of the Commission's regulations.

Furthermore, an FCM carrying multiple accounts for the same customer where the trading for at least one of those accounts is directed by the FCM or an associated person ("AP") thereof may rely upon the additional exception provided by the proposed amendment only after the FCM has furnished the customer with a written statement disclosing that a customer who has multiple accounts with different persons directing the trading of those accounts may have offsetting long and short positions which, if held open, may result in the charging of additional fees and commissions and the payment of additional margin, although the offsetting positions will result in no additional market gain or loss. In this connection, the Commission is further proposing that the FCM also must furnish the customer quarterly a consolidated account statement for all separate accounts carried by the FCM. The account statement must be in the form of a Statement of Income (Loss) and a Statement of Changes in Net Asset Value, and set forth essentially the same information required to be furnished by a commodity pool operator pursuant to Commission rule 4.22(a) (1) and (2).[9] The Commission believes that such modifications should be proposed because, under the new exception to § 1.46, offsetting contracts maintained in separate accounts would not be closed out and any gain in one contract would be reduced by a loss of the same amount in the other contract.

However, a customer may experience a net loss with respect to such offsetting positions because of extra fees, commissions and margin requirements.[10] The Commission believes that a customer should be advised of this fact before authorizing an FCM or an AP thereof to direct trading in a separate account and is therefore proposing a separate disclosure to this effect. Further, the Commission believes that the customer should receive periodic reports with respect to the profitability of the separate accounts treated as a whole in order to asess properly the value of maintaining such accounts.

Although the Commission is proposing both the disclosure and reporting requirements, the Commission is specifically requesting comment on whether its regulatory purposes may be achieved if only one of the proposed modifications is adopted.

Finally, the petitioner's suggested amendment included a concluding paragraph requiring the customer to provide the FCM with written confirmation that his multiple accounts would be traded in accordance with the other provisions of the suggested amendment. The Commission believes that it may be appropriate for those persons directing trading for such accounts to give a similar writtten confirmation to the FCM, and the proposed amendment contains such a provision.

IV. Related Matters

A. Paperwork Reduction Act

There are no information collection requirements under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) contained in § 1.46. The Commission has notified the Office of Management and Budget of the amendments contained in this release.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The direct impact of the proposed amendment to Rule 1.46 affects FCMs, which have the obligation generally to close out offsetting positions and issue a purchase-and-sale statement. The Commission has previously determined that futures commission merchants should not be considered small entities for purposes of the RFA. Specifically, the Commission found that with respect to FCMs, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of a small entity.[11] Accordingly, the requirements of the RFA to not apply to FCMs. Therefore, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), the Chairman certifies that the proposed rule amendment will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact the proposed rule amendment may have on small entities.

List of Subjects in 17 CFR Part 1

Offsetting positions, Close-out requirements, Futures Commission merchants, Commodity trading advisors, Commodity futures.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4g, 5 and 8a of the Act, 7 U.S.C. 6g, 7 and 12a (1982), the Commission hereby proposes to amend Chapter I ot Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 145 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a, 13a-1, 13a-2, 16, 19, 21, 23 and 24; 5 U.S.C. 552 and 552b, unless otherwise noted.

2. Section 1.46 is proposed to be amended by adding a new paragraph (d)(6) and a new paragraph (e) to read as follows:

§ 1.46 Application and closing out of offsetting long and short positions.

* * * * *

(d) *Exceptions.* The provision of this section shall not apply to:

* * * * *

(6) Purchases or sales made in separate accounts owned by one customer, *Provided, That:*

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[6] The Commission wishes to note, however, that if the FCM carrying the separate account sought the protection of the bankruptcy laws, the Commission might, in appropriate cases and upon application by the trustee or the affected clearing organization, permit offsetting open contracts to be liquidated, or settlement on such contracts to be made, by transfer trades. 17 CFR 190.04(d) (1986).

[7] 17 CFR 1.3(j) (1986), provides that an account shall be deemed to be controlleld by a person if such person, by power of attorney or otherwise, actually directs trading for such account.

[8] 17 CFR 17.00(b) (1986). *See also* 17 CFR 1801 (a) and (b) (1986); 49 FR 19969, 19971 (May 11, 1984).

[9] 17 CFR 4.22(a) (1) and (2) (1986).

[10] Moreover, an FCM may also retain the interest earned on the additional margin paid by a customer to maintain such offsetting positions.

[11] *See* 47 FR 18618, 18619 (April 30, 1982).

(i) Each person directing trading for one of the separate accounts is unaffiliated with and acts independently from each other person directing trading for a separate account;

(ii) Each person directing trading for one of the separate accounts, unless he is the account owner himself, does so pursuant to a power of attorney;

(iii) Each trading decision made for each separate account is determined independently of all trading decisions made for the other separate account or accounts;

(iv) The purchases and sale for such accounts were executed by open and competitive means on or subject to the rules of a contract market;

(v) No position held for or on behalf of separate accounts traded in accordance with paragraphs (d)(6)(i), (d)(6)(ii), (d)(6)(iii) and (d)(6)(iv) of this section may be closed out by transferring such an open position from one of the separate accounts to another of such accounts; and

(vi) The customer and each person directing trading for the customer provides the futures commission merchant with written confirmation that the trading and the operation of the customer's accounts will be in accordance with paragraphs (d)(6)(i), (d)(6)(ii), (d)(6)(iii), (d)(6)(iv) and (d)(6)(v) of this section.

(e) With respect to the exception from the provisions of this section set forth in paragraph (d)(6) of this section, if a futures commission merchant that carries the separate accounts of a customer, or if an associated person of such futures commission merchant, directs trading for one of the separate accounts:

(1) The futures commission merchant must first furnish the customer with a written statement disclosing that, if held open, offsetting long and short positions in the separate accounts may result in the charging of additional fees and commissions and the payment of additional margin, although offsetting positions will result in no additional market gain or loss; and

(2) The futures commission merchant must prepare and furnish to the customer within 30 days of the end of each calendar quarter a consolidated account statement for all separate accounts of the customer carried by the futures commission merchant, which shall be presented in the form of a Statement of Income (Loss) and a Statement of Changes in Net Asset Value for that quarter.

(3) The portion of the account statement in the form of a Statement of Income (Loss) must separately itemize the following information:

(i) The total amount of realized net gain or loss on commodity interest positions liquidated during the reporting period;

(ii) The change in unrealized net gain or loss on commodity interest positions during the reporting period;

(iii) The total amount of net gain or loss from all other transactions in which the separate accounts engaged during the reporting period;

(iv) The total amount of all brokerage commissions during the reporting period;

(v) The total amount of other fees for commodity interest and other investment transactions during the reporting period; and

(vi) The total amount of all other expenses incurred or accrued by the separate accounts during the reporting period.

(4) The portion of the account statement in the form of a Statement of Changes in Net Asset Value must separately itemize the following information:

(i) The net asset value of the separate accounts as of the beginning of the reporting period:

(ii) The total amount of additions to the separate accounts made during the reporting period;

(iii) The total amount of withdrawals from the separate accounts for the reporting period;

(iv) The total net income or loss of the separate accounts during the reporting period; and

(v) The net asset value of the separate accounts as of the end of the reporting period.

Issued in Washington, DC, on October 15, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-23625 Filed 10-17-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rule amends the regulations to delete the requirement for a monthly report of operations under 30 CFR 250.93 and adds the requirement for a report of cessation of production for leases in their extended term which have ceased production. The deletion of the requirement for the monthly report of operations will avoid duplication with information available in the Oil and Gas Operations Report (OGOR) under 30 CFR 216.54 and other available sources. The additional requirement for a report when leases go off production is necessary to provide the Minerals Management Service (MMS) with timely information so approval can be given to lessees for drilling or workover operations only on valid leases.

DATE: Comments must be received or postmarked no later than November 19, 1986.

ADDRESS: Comments should be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646, Room 6A110; Reston, Virginia 22091; Attention: Norman J. Hess.

FOR FURTHER INFORMATION CONTACT: Norman J. Hess, Telephone: (703) 648-7816, (FTS) 959-7816.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 7, 1986 (51 FR 8168), MMS published a final rule requiring submission of the OGOR. The OGOR includes information concerning production on the lease. This information duplicates much of the information contained in the monthly report of operations. Other information contained in the monthly report of operations is available to MMS through other means. The OGOR was intended as a replacement for the monthly report of operations. Therefore, MMS is proposing that the requirement for the monthly report of operations be deleted.

The OGOR is due 45 days after the end of the month being reported (as opposed to 20 days for the monthly report of operations). This delay in the identification of leases which are no longer producing is critical because the term of a lease which is beyond its primary term, in the absence of a suspension of operations, can be extended only if a drilling or workover operation is initiated within 90 days of last production (or of the last workover or drilling operation). Therefore, following cessation of production, MMS can approve the initiation of a workover or drilling operation only if less than 90 days have elapsed since production on the lease has ceased. Otherwise, the lease would have terminated.

To provide the timely information needed for MMS to assure that leases are still active prior to approval of drilling or workover operations, a partial report is needed in advance of the OGOR. The MMS is proposing to require the lessee to submit such a report within

15 days after the end of the first month in which production ceases. This report would include the date the last productive well ceased production and the number of the well.

The Department of the Interior (DOI) has also determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million. The cost of compliance with the new requirement for a report when a lease goes off production will be less than the cost of compliance with the requirement of submission of the monthly report of operations.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

This rule does not contain information collection requirements wnich require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author: The document was prepared by John Mirabella, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations; Oil and gas exploration, Penalties, Pipelines, Public lands-mineral resources, Reporting and recordkeeping requirements.

Dated: September 9, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, the proposal to amend 30 CFR Part 250 is as follows:

1. The authority citation for Part 250 continues to read as follows:

Authority: Outer Continental Shelf Lands Act 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

2. Part 250 is amended by removing § 250.93, Monthly report of operations.

3. Part 250 is amended by adding a new § 250.93 as follows:

§ 250.93 Report of cessation of production.

When a lease is in its extended term under § 256.37(b), a report snall be submitted when the last well on the lease ceases production. Such a report snall contain the number of the well and the date the last well ceased production and shall be submitted within 15 days after the end of the first month in which production ceases. A report is not required when production resumes within 15 days after the end of the first month in which no production occurs.

[FR Doc. 86-23655 Filed 10-17-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

36 CFR Part 7

Buffalo National River, Arkansas; Fishing Regulations

AGENCY: National Park Service, Interior

ACTION: Proposed rule

SUMMARY: The proposed special regulations would allow fishing activities to continue in the traditional manner in accordance with State of Arkansas regulations except when the Superintendent may designate otherwise. It will allow the gigging of rough fish, use of attended trot lines, and noncommercial capture of bait fish, using traps or seines. It will also allow the collection and possession of terrestrial and aquatic insects by hand or hand net for use as bait. It will allow the taking of frogs, turtles and crayfish by traditional methods as designated by the Superintendent. These traditional activities were no longer allowed after April 30, 1984, when the new regulations for the National Park Service became effective. The activities authorized by these regulations will not have adverse impacts on the species involved or on other species of wildlife.

DATE: Written comments, suggestions, or objections will be accepted until November 19, 1986.

ADDRESS: Comments should be directed to: Superintendent, Buffalo National River, Post Office Box 1173, Harrison, Arkansas 72602-1173.

FOR FURTHER INFORMATION CONTACT: Alec Gould, Superintendent, Buffalo National River, Telephone: (501) 741-5443.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations authorize recreational fishing methods that are now prohibited by the general regulations. In order to relax restrictions on fresh water recreational fishing, the proposed regulations apply fishing methods that are allowed under State laws as appropriate. They allow visitors to Buffalo National River to continue the traditional, recreational activities that have occurred along the Buffalo River for many years. These activities are consistent with the purposes for which the park was established and will not, in the opinion of the National Park Service, have an adverse impact on the ecosystem, other species of wildlife or the reproductive potential of the species involved. These activities were legitimate recreational activities until the revised general regulations of the National Park Service became effective on April 30, 1984.

This regulation will allow the use of trot lines and limb lines along the river as long as the owner of these lines is present in the area and the lines are not placed in a manner hazardous to canoeists and are removed when the owner leaves. It will also allow the continued use of seines and minnow traps to capture native bait fish for bait. This will help prevent the introduction of exotic fish species into the river since most commercial bait fish dealers do not sell native minnows. It will not allow commercial bait fish operations to operate within the park. They will also authorize the capture of crayfish and both terrestrial and aquatic insects for use as bait, and the gigging of rough fish as defined by State regulations. Visitors will also be permitted to capture frogs, turtles and crayfish for personal consumption as well. Conditions for collection of insects will restrict capture techniques to hand capture or the use of hand nets. Similar restrictions will be applied to the capture of crayfish which can be captured by hand, hand-held net or seine or by baited hand lines. Neither insects, frogs, turtles nor crayfish can be captured for commercial purposes and the Superintendent may restrict these activities as necessary.

Also, as part of this rulemaking, the National Park Service is redesignating as Paragraph (c) the existing text in § 7.35 that pertains to the use of motors on boats. Although some editorial changes have been made for the purpose of clarification, the regulatory provisions remain the same and do not constitute new provisions for which public comment is being solicited.

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to

participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed regulation to the address noted at the beginnning of the rulemaking.

Drafting Information

The following persons participated in the writing of these regulations: Carl E. Hinrichs, Chief, Resource Management and Visitor Protection; Keith A. Whisenant, Resource Management Specialist, both of Buffalo National River.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are negligible. The regulations do not impose additional costs on individuals using Buffalo National River.

The Service has determined that this proposed rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

a. Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it.

b. Introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it.

c. Conflict with adjacent ownerships or land uses; or

d. Cause a nuisance to adjacent owners or occupants.

Based on this determination, this proposed rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) by Departmental Regulations in 516 DM6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 7

National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed to amend 36 CFR Part 7, Chapter I, as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for 36 CFR Part 7 continues as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

2. By revising § 7.35 to read as follows:

§ 7.35 Buffalo National River.

(a) *Fishing.* (1) Unless otherwise designated by the Superintendent, fishing in a manner authorized under applicable State law is allowed.

(2) The Superintendent may designate times when and locations where and establish conditions under which the digging of bait for personal use is allowed.

(3) The Superintendent may designate times when and locations where and establish conditions under which the collection of terrestrial and aquatic insects for bait for personal use is allowed.

(4) Violating a designation or condition established by the Superintendent is prohibited.

(b) *Frogs, Turtles and Crayfish.* (1) The Superintendent may designate times and locations and establish conditions governing the taking of frogs, turtles and crayfish for personal use.

(2) Violating a designation or condition established by the Superintendent is prohibited.

(c) *Motorized Vessels.* (1) Except for a vessel propelled by a gasoline, diesel or other internal combustion engine with a rating of 10 horsepower or less, operating a motorized vessel from Erbie Ford to the White River is prohibited.

(2) Operating a vessel propelled by a motor is prohibited above Erbie Ford.

(3) The provisions of Paragraph (c) do not apply to a vessel operated for official use by an agency of the United States, the State of Arkansas or one of its political subdivisions.

Dated: September 27, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-23616 Filed 10-17-86; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

43 CFR Parts 3100, 3400, 3470, and 3500

[AA-660-07-4121-02]

Coal Management; General; Provisions and Limitations: Oil and Gas Leasing; Leasing of Solid Minerals Other Than Coal and Oil Shale; Amendments to Incorporate Changes Required by Section 2(a)(2)(A) of the Mineral Leasing Act of 1920

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the existing regulations in 43 CFR Groups 3100, 3400 and 3500 to bring them into compliance with the requirements of section 2(a)(2)(A) of the Mineral Leasing Act of 1920. This section was added to the Mineral Leasing Act by section 3 of the Federal Coal Leasing Amendments Act on August 4, 1976. Section 3 requires that any entity, or any of its affiliates, that holds and has held a Federal coal lease for 10 years beginning on or after August 4, 1976, and who is not producing coal in commercial quantities from each such lease, cannot qualify for issuance of any other lease granted under the Mineral Leasing Act. The cutoff date was extended by the Act of December 19, 1985, from August 4, 1986, to December 31, 1986.

DATE: Comments should be submitted by November 19, 1986. Comments received or postmarked after this date may not be considered in the decisionmaking process on the issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Paul W. Politzer, (202) 343-7722

or

Allen B. Agnew, (202) 343-7722

or

Pamela J. Lewis, (202) 343-7722

SUPPLEMENTARY INFORMATION: Section 2(a)(2)(A) of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 201(a)(2)(A)), which provision

was added to the Mineral Leasing Act by section 3 of the Federal Coal Leasing Amendments Act, is a lessee-qualification requirement which mandates that any entity, or any of its affiliates, that holds and has held a Federal coal lease for 10 years when said entity, or any of its affiliates, is not, except as provided in section 7(b) of the Mineral Leasing Act, producing coal from the lease deposits in commercial quantities, cannot be issued any leases granted under the provisions of the Mineral Leasing Act.

The Bureau of Land Management has published guidelines for the implementation of the provisions of section 2(a)(2)(A) of the Mineral Leasing Act. The proposed guidelines were published in the **Federal Register** on February 15, 1985 (50 FR 6398), with a 60-day comment period. The comment period, in response to public requests, was later extended for an additional 30 days, ending on May 13, 1985. The proposed guidelines generated 21 comments, all of which were given careful consideration during the preparation of the final guidelines. The final guidelines, including a discussion of the comments received, were published in the **Federal Register** on August 29, 1985 (50 FR 35125). The public, in preparing its comments on this proposed rulemaking, is requested to review those guidelines and the preamble to the final guidelines which discusses the comments received and the responses to them. The final guidelines incorporated changes suggested in the comments on the proposed guidelines and advice rendered by the Office of the Solicitor, Department of the Interior, and are consistent with Solicitor's Opinion M-36951 (92 I.D. No. 11), which interpreted section 2(a)(2)(A) of the Mineral Leasing Act.

The Bureau of Land Management has delayed making necessary revisions to Title 43 of the Code of Federal Regulations because of legislation pending in the Congress that would amend section 2(a)(2)(A) of the Mineral Leasing Act. Since the 99th Congress has not taken action to amend section 2(a)(2)(A), the Bureau is initiating, through the publication of this proposed rulemaking, the process of amending the existing regulations in Title 43 of the Code of Federal Regulations to implement the provisions of section 2(a)(2)(A) of the Mineral Leasing Act.

This proposed rulemaking would amend various sections of Parts 3400, 3470 and 3500 of Title 43 of the Code of Federal Regulations. The first change that would be made by the proposed rulemaking is the addition of six terms to § 3400.0–5, terms that are needed in connection with the implementation of section 2(a)(2)(A) of the Mineral Leasing Act.

The new terms that would be added by this proposed rulemaking include provisions regarding control and the three-tiered application of ownership of voting securities. The proposed rulemaking would provide that ownership in excess of 50 percent of any entity is controlling, that ownership of between 20 and 50 percent creates a presumption of control, and that ownership of less than 20 percent does not constitute control. The public is requested to carefully review this provision and comment on whether the percentages used in the proposed rulemaking are appropriate, and if not, provide justification for other percentages of ownership of voting securities.

The proposed rulemaking would revise § 3472.1–2(e) in its entirety. The proposed rulemaking would provide the procedures for determining and certifying lessee-qualification of an entity, or any of its affiliates, under the provisions of section 2(a)(2)(A) of the Mineral Leasing Act.

Finally, the proposed rulemaking would amend §§ 3102.5 and 3502.1 to add the cross-reference to the lessee-qualifications provisions contained in Subpart 3472.

The principal authors of this proposed rulemaking are Allen B. Agnew and Pamela J. Lewis, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The economic impact of this rulemaking is not significant and its impact will fall equally on all affected entities, whether large or small.

This proposed rulemaking contains no information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects

43 CFR Part 3100

Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3400

Administrative practice and procedure, Coal, Government contracts, Intergovernmental relations, Mines, Public lands—mineral resources.

43 CFR Part 3470

Coal, Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3500

Government contracts, Mineral royalties, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351—359) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), it is proposed to amend Part 3100, Group 3100, Parts 3400 and 3470, Group 3400 and Part 3500, Group 3500, all of Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3100—[AMENDED]

1. The authority citation for Part 3100 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35), the Department of the Interior Appropriations Act, Fiscal Year 1981 (Pub. L. 96–514), the Refuge Administration Act of 1966 (16 U.S.C. 668dd–ee), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41).

§ 3102.5 [Amended]

2. Section 3102.5 is amended by removing from where it appears the

phrase "and (d)" and replacing it with the figure "(d)" and by removing the period at the end of "(d)" and adding the phrase "; and (e) in compliance with section 2(a)(2)(A) of the act (See § 3472.1–2(e)). The term 'affiliate' is defined in § 3400.0–5(tt) of this title. A lease issued to any entity, or any of its affiliates, that qualifies under § 3472.1–2(e)(4) of this title shall be subject to the termination provisions of § 3472.1–2(e)(4)(ii) of this title."

PART 3400—[AMENDED]

3. The authority citation for Part 3400 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Multiple Mineral Development Act of 1954 (30 U.S.C. 521–531 et seq.), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.), the Department of Energy Organization Act of 1977 (42 U.S.C. 7101 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

4. Section 3400.0–5 is amended by adding new paragraphs (rr) through (ww) to read:

§ 3400.0–5 Definitions.

* * * * *

(rr) "Bracket" means the timeframe during which a lease is required to be producing in commercial quantities. The time period of a bracket shall not exceed 10 years. The first assigned bracket begins on the date that coal deposits are first produced on or after August 4, 1976. The bracket progresses with the holds and had held requirement of a lease. After a lease becomes subject to the diligence provisions of Part 3480 of this title, the applicable timeframe during which the lease is required to be producing in commercial quantities is that required to satisfy either diligent development requirements or continued operation requirements. The term "bracket," for the purposes of section 2(a)(2)(A) of the Act, applies only to leases issued prior to August 4, 1976, which are not yet subject to the diligence provisions of Part 3480 of this title.

(ss) "Producing," for the purposes of section 2(a)(2)(A) of the Act, means actually severing coal deposits or an ongoing mining operation where coal deposits (for logical mining units, either Federal or non-Federal coal deposits) are actually severed on a daily basis, except on those days when:

(1) Severance is temporarily suspended for such reasons as equipment relocation or repair, overburden removal, or sale of coal from stockpiles; or

(2) Severed coal is being processed, loaded, or transported from the point of severance to point of sale.

(tt) "Affiliate," for the purposes of section 2(a)(2)(A) of the Act, means any person, association, corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation.

(uu) "Controlled by or under common control with," for the purposes of section 2(a)(2)(A) of the Act, based on the instruments of ownership of the voting securities of an entity, or any of its affiliates, means:

(1) Ownership in excess of 50 percent constitutes control;

(2) Ownership of between 20 and 50 percent creates a presumption of control; and

(3) Ownership of less than 20 percent does not constitute control.

(vv) "Arm's-length transaction," for the purposes of section 2(a)(2)(A) of the Act, means the transfer of any interest in a Federal coal lease to an entity, or any of its affiliates, that is in no way affiliated with, or controlled by, or under common control with the transferor.

(ww) "Holds and has held," for the purposes of section 2(a)(2)(A) of the Act, means the cumulative amount of time that an entity, or any of its affiliates, holds any property interest in a Federal coal lease under the Act on or after August 4, 1976. The 10-year period required by section 2(a)(2)(A) of the Act is Federal coal lessee-specific for each Federal coal lease.

PART 3470—[AMENDED]

5. The authority citation for Part 3470 continues to read:

Authority: 30 U.S.C. 181 et seq. and 30 U.S.C. 351–359.

6. Section 3472.1–2(e) is revised to read:

§ 3472.1–2 Special leasing qualifications.

* * * * *

(e)(1)(i) On or after December 31, 1986, no lease shall be issued to any entity, or any of its affiliates, and no existing lease shall be transferred to any entity, or any of its affiliates, that holds and has held for 10 years any lease from which the entity, or any of its affiliates, is not producing the coal deposits in commercial quantities, except as authorized under the advance royalty or suspension provisions of Part 3480 of this title. The authorized officer shall determine compliance with the control provisions of this subpart.

(ii) An entity, or any of its affiliates, seeking to obtain an interest in a lease, shall qualify both on the date of determination of lessee qualifications and on the date the lease is issued.

(iii) Once a lease has been issued to a qualified entity, or any of its affiliates, disqualification at a later date shall not result in surrender of that lease except as provided in paragraph (e)(4) of this section.

(2) An entity, or any of its affiliates, seeking to obtain an interest in a lease shall certify, in writing, that it is in compliance with the Act and the requirements of this subpart. The authorized officer shall determine the control exercised by an entity, or any of its affiliates, based on the written certification. If a lease is issued to an entity, or one of its affiliates, based upon an improper certification of compliance, the authorized officer shall administratively cancel the lease after complying with § 3452.2–2 of this title.

(3) The authorized officer may require an entity, or any of its affiliates, holding or seeking to hold an interest in a lease, to furnish, at any time, further evidence of compliance with the qualifications of this subpart.

(4)(i) An entity, or any of its affiliates, seeking to qualify for lease issuance or transfer shall not be disqualified under the provisions of this subpart if it has one of the following actions pending before the authorized officer for any lease that would otherwise disqualify it under this subpart:

(A) Request for lease relinquishment; or

(B) Application for arm's-length lease assignment; or

(C) Application for approval of a logical mining unit that the authorized officer determines would be producing in commercial quantities on its effective date.

(ii) Once a lease has been issued, or transfer approved, to an entity, or any of its affiliates, who qualify under paragraph (e)(4)(i) of this section, an adverse decision by the authorized officer on the pending action, or the withdrawal of the pending action by the applicant, shall result in termination of the lease or recision of the transfer approval. The possibility of lease termination shall be included as a special stipulation in every lease issued to an entity, or any of its affiliates, who qualify under paragraph (e)(4) of this section.

(iii) The entity, or any of its affiliates, shall not qualify for lease issuance or transfer under paragraph (e)(4)(i) of this section during the pendency of an appeal before the Office of Hearings and

Appeals from an adverse decision by the authorized officer on any of the actions described in paragraph (e)(4)(i) of this section.

(5) As long as an approved logical mining unit is producing in commercial quantities (either Federal or non-Federal coal), the Federal coal leases contained in the logical mining unit shall not disqualify the entity(s), or any of its affiliates, under the provisions of this subpart.

(6) Leases that have been mined out (i.e., all recoverable reserves have been exhausted), as determined by the authorized officer, may be held for such purposes as reclamation without disqualification of the entity, or any of its affiliates, under the provisions of this subpart.

(7) The bracket shall be assigned and may be changed by the authorized officer based on the phase of the ongoing mining operation. An entity, or any of its affiliates, shall not be disqualified under the provisions of this subpart if each lease that the entity, or any of its affiliates, holds is:

(i) Producing and is within its assigned bracket;

(ii) Producing and has produced commercial quantities during the assigned bracket that ends on the date of determination of lessee qualification and the assigned bracket that ends on the date of lease issuance.

(iii) Producing in compliance with the diligent development and continued operation provisions of Part 3480 of this title; or

(iv) Relieved of a producing obligation pursuant to paragraphs (e)(1), (4) or (6) of this section.

* * * * *

PART 3500—[AMENDED]

7. The authority citation for Part 3500 continues to read:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix); sec. 3 of the Act of September 1, 1949 (30 U.S.C. 192c); the Act of June 30, 1950 (16 U.S.C. 508(b)); the Act of June 8, 1926 (30 U.S.C. 291–293); the Act of March 3, 1933, as amended (47 Stat. 1487); sec. 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n et seq.); the Act of November 8, 1968 (16 U.S.C. 460q et seq.); the Act of October 2, 1968 (16 U.S.C. 90c et seq.); the Act of October 27, 1972 (16 U.S.C. 460dd et seq.); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm-2—460mm-4); the Independent Offices Appropriations Act (31 U.S.C. 9701).

6. Section 3502.1 is amended by adding a new paragraph (d) to read:

§ 3502.1 Who may hold leases and permits.

* * * * *

(d) A lease for leaseable minerals shall be issued only to an entity, or any of its affiliates, if it is in compliance with section 2(a)(2)(A) of the Act as provided in § 3472.1–2(e) of this title. The term "affiliate" is defined in § 3400.0–5(tt) of this title. A lease issued to any entity, or any of its affiliates, that qualifies under § 3472.1–2(e)(4) of this title shall be subject to the termination provisions of § 3472.1–2(e)(4)(ii) of this title.

J. Steven Griles,

Secretary of the Interior.

October 6, 1986.

[FR Doc. 86–23657 Filed 10–17–86; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF DEFENSE

48 CFR Parts 201, 225 and 245

Department of Defense Federal Acquisition Regulation Supplement NATO Cooperative Projects

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering a change to the DoD FAR Supplement which would implement section 115 of the International Security and Development Cooperation Act of 1985 (Pub. L. 99–83) and section 1102 of the DoD Authorization Act of 1986 (Pub. L. 99–145).

DATE: Comments on the proposed revisions should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on or before December 19, 1986, to be considered in the formulation of the final rule. Please cite DAR Case 85–225 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L)(M&RS), Room 3C841, The Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Barnett, International Acquisition Directorate, DASD–P(IA) (Pentagon), 202–697–9351.

SUPPLEMENTARY INFORMATION:

A. Background

Public Laws 99–83 and 99–145 provide authority to waive certain statutory requirements that relate to formation of contracts and contractual terms on a case-by-case basis in implementation of cooperative agreements. The objective of cooperative projects is to obtain economies by pooling scarce NATO resources. This proposed rule will provide guidance to DoD contracting components in support of cooperative projects. Principal coverage is in a proposed Subpart 225.79, with ancillary proposed changes in 201.103 and 245.603–71.

B. Regulatory Flexibility Act

This proposed rule is not likely to have a significant economic impact on a substantial number of small entities because the rule is geared to internal changes in contracting procedures when dealing with foreign sources under NATO Cooperative Projects. Comments are solicited on this determination and will be considered by the DAR Council.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) is inapplicable, since no additional information gathering or maintenance of records is being proposed.

List of Subjects in 48 CFR Parts 201, 225 and 245

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Parts 201, 225, and 245 be amended as follows:

1. The authority citation for 48 CFR Parts 201, 225 and 245 continues to read as follows:

Authority: 5 U.S.C. 301, U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.103 [Amended]

2. Section 201.103 is amended by inserting in the second sentence between the word "contracts" and the word "made" the words "by DoD Contracting Activities" and by inserting in the second sentence between the word "sales" and the word "without" the words "or NATO cooperative projects".

PART 225—FOREIGN ACQUISITION

Subpart 225.78 [Reserved]

3. A new Subpart 225.78, marked "RESERVED", is added.

4. A new Subpart 225.79, consisting of sections 225.7900 through 225.7906, is added to read as follows:

Subpart 225.79—North Atlantic Treaty Organization (NATO) Cooperative Projects

Sec.
225.7900 Scope of subpart.
225.7901 Definitions.
225.7902 General.
225.7903 Policy.
225.7904 Procedures.
225.7905 Disposal of Property.
225.7906 Reports.

225.7900 Scope of subpart.

This subpart provides guidance on contractual implementation of NATO cooperative projects entered into under the authority of section 115 of the International Security and Development Cooperation Act of 1985 (Pub. L. 99–83) which amends the Arms Export Control Act, 22 U.S.C. 2751, *et seq.*, and section 1102 of the Department of Defense Authorization Act (Pub. L. 99–145) which adds section 2407 to Title 10, U.S.C.

225.7901 Definitions.

"Cooperative project" means a jointly managed arrangement, described in a written agreement among the parties, which is undertaken in order to further the objectives of standardization, rationalization, and interoperability of the armed forces of North Atlantic Treaty Organization member countries and which provides for:

(a) One or more of the other participants to share with the United States the cost of research and development, testing, evaluation, or joint production (including follow-on support) of certain defense articles;

(b) Concurrent production in the United States and in another member country of a defense article jointly developed in accordance with paragraph of this section (a); or

(c) Procurement by the United States of a defense article or defense service from another member country.

The term "other participant" means a participant in a cooperative project other than the United States.

225.7902 General.

(a) *Cooperative Project Authority.* (1) DoD Components which have been delegated authority to do so may enter into a cooperative project agreement with the North Atlantic Treaty Organization (NATO) or with one or more member countries of that organization in accordance with DoD Directive 5530.3, "International Agreements".

(2) In implementing cooperative project agreements, DoD Components may enter into contracts or incur other obligations on behalf of other participants without charge to any appropriation or contract authorization, in accordance with laws and regulations governing the negotiation of such cooperative project agreements.

(b) *Contracts implementing cooperative projects.* Heads of DoD Components are delegated authority to contract in implementation of cooperative projects, subject to the approvals specified in 225.7905. When contracting in support of cooperative project agreements, certain statutory requirements which relate to the formation of contracts and to contractual terms and conditions may be waived on a case-by-case basis.

225.7903 Policy.

Except to the extent waived under this subpart, contracts implementing cooperative projects will comply with all applicable laws relating to procurement. In addition, all such contracts will be entered into and administered in accordance with normal acquisition and contract administration procedures set forth in the FAR, this supplement and other applicable directives. Waivers of certain procurement laws and regulations, however, may be obtained when required by the terms of a written cooperative project agreement and when approved by the appropriate DoD officials based upon a determination that the waiver is necessary to ensure that the cooperative project will significantly further NATO standardization, rationalization, and interoperability.

225.7904 Procedures.

(a) *Directed subcontracting.* In order to implement work sharing arrangements in cooperative project agreements, the Assistant Secretary of Defense for Acquisition and Logistics (ASD(A&L)) may authorize the direct placement of subcontracts with particular subcontractors. Directed subcontracting is not authorized unless specifically addressed in the cooperative project agreement negotiated as described in 225.7902. In some instances it may not be feasible to name specific subcontractors at the time of conclusion of the agreement but the general provisions for work sharing at the prime and subcontractor level have to be clearly delineated in the agreement in order to provide the necessary authority to carry out such arrangement during the acquisition phase. The agreement itself will provide the necessary authority for inclusion of a contractual provision requiring the prime contractor to place certain subcontracts with particular subcontractors. No separate justification and approval during the acquisition process is required.

(b) *Statutory waivers.* (1) In implementation of cooperative projects, the Deputy Secretary of Defense may waive with respect to contracts or subcontracts placed outside the United States any provision of law that specifically—

(i) Prescribes procedures to be followed in the formation of contracts;

(ii) Prescribes terms and conditions to be included in contracts;

(iii) Prescribes requirements for or preferences to be given to goods grown, produced, or manufactured in the United States or in United States Government-owned facilities or for services to be performed in the United States; or

(iv) Prescribes requirements regulating the performance of contracts.

(2) There is no authority for waivers of—

(i) Any provision of the Arms Export Control Act (22 U.S.C. 2751);

(ii) Any provision of 10 U.S.C. 2304;

(iii) The cargo preference laws of the United States, including the Military Cargo Preference Act of 1904 (10 U.S.C. 2631) and the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)); or

(iv) Any of the financial management responsibilities administrered by the Secretary of the Treasury.

(3) If any such waiver is contemplated under the terms of a cooperative project agreement, a request for the waiver will be forwarded to the Deputy Secretary of Defense through the ASD(A&L). The waiver request must be accompanied by a Determination and Findings for signature by the Deputy Secretary of Defense establishing that the waiver is necessary to further NATO standardization, rationalization, and interoperability significantly. The appproval of the Deputy Secretary of Defense must be obtained prior to a commitment to make such waivers in an agreement or an amendment to such agreement or contract.

225.7905 Disposal of Property.

Property which is jointly acquired by the members of a cooperative project will be disposed in accordance with the procedures established in the agreement or in a manner consistent with the terms of the agreement. (See also 245.603–71.)

225.7906 Reports

Congressional Notification of Designation of Particular Prime Contractors or Subcontractors for Cooperative Projects.

(a) Congressional notification is required whenever there is a DoD determination to award a prime or subcontract to a particular contractor if this determination was not part of the certification made under section 27(f) of the Arms Export Control Act prior to finalization of a cooperative agreement. DoD Components will provide a proposed Congressional notice including the reason for use of the authority to designate a particular contractor or subcontractor to the ASD(A&L) in sufficient time to forward to Congress prior to the time of contract award.

(b) Congressional notification is also required each time a statutory waiver in accordance with 225.7904(b) is exercised if such information was not provided in the certification to Congress prior to finalization of the cooperative agreement. Exercise of the waiver means a contract award or modification which provides for a statutory exception.

PART 245—GOVERNMENT PROPERTY

5. A new section 245.603-71 is added to read as follows:

245.603-71 Disposal of Contractor Inventory for NATO Cooperative Projects.

NATO cooperative project agreements may stipulate provisions for disposal of jointly acquired property without regard to any laws of the United States applicable to the disposal of property owned by the United States. Disposal of such property may include a transfer of the interest of the United States in such property to one of the other governments participating in the cooperative agreement or the sale of such property. Payment for the transfer or sale of any interest of the United States in any such property shall be made in accordance with the terms of the cooperative agreement. In those cases where disposal arrangements are included in the project agreement, disposal will be carried out in accordance with the agreement in lieu of the normal unilateral disposal determinations and procedures dictated by FAR 45.603 and 245.603-70 above.

[FR Doc. 86-23589 Filed 10-17-86; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Part 208

Department of Defense Federal Acquisition Regulation Supplement Federal Supply Schedules

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering a change to the Defense Federal Acquisition Regulation Supplement (DFARS) at 208.404-2(a)(S-70) that would provide contracting officers flexibility in choosing to use optional Federal supply schedules or make open market purchases.

DATE: Comments on the proposed revision should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, on or before November 19, 1986, to be considered in the formulation of the final rule. Please cite DAR Case 86-148 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L)(M&RS), Room 3C841, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, 202/697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

Present coverage at DFARS 208.404-2(a)(S-70) requires the Department of Defense to consider optional schedules as another source of supply. This means that further competition must be sought before purchases are made from General Services Administration's Federal supply schedules which are optional for use by DoD. This proposed revision will permit contracting officers to consider whether further competition obtained under an open market purchase would provide sufficient benefits to offset lower administrative costs and reduced contract placement leadtime associated with making a purchase against an optional Federal Supply Schedule when such schedules are available.

B. Regulatory Flexibility Act Information

The proposed change to DFARS 208.404-2(a)(S-70) does appear to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An initial Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration.

C. Paperwork Reduction Act Information

The proposed rule does contain a reduction in information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 208

Government procurement.

Owen L. Green, III,

Acting Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Part 208 be amended as follows:

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1. The authority citation for 48 CFR Part 208 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 208.404-2 is amended by revising paragraph (a)(S-70) to read as follows:

208.404-2 Optional use.

(a)(S-70) As specified in FAR 8.001(a), optional schedules are preferred sources of supplies and services. Accordingly, contracting officers should make maximum use of optional schedules in meeting requirements for supplies and services. Further competition with respect to optional schedules is not required. However, if, in the contracting officer's judgment, the introduction of competition from nonschedule sources would be in the best interest of the Government in terms of quality, responsiveness or costs, other procedures may be used.

[FR Doc. 86-23588 Filed 10-17-86; 8:45 am]

BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 51, No. 202
Monday, October 20, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Department of Agriculture.

ACTION: Notice of a new system of records.

SUMMARY: Notice is hereby given that the U. S. Department of Agriculture (USDA), in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) proposes to establish a new system of records: USDA/FS-3, Uniform Allowance System. This system of records is a necessary component of a new program utilizing a selected contractor who will manufacture, warehouse, and distribute uniform items to USDA, Forest Service employees entitled to a uniform allowance. Provision of the information contained in this system to the contractor will enable it to operate this program more efficiently and cost effectively.

DATES: Public comments must be received by November 19, 1986. This system shall take effect without further notice on December 19, 1986, unless comments received during the comment period cause a contrary decision. Although the Privacy Act requires only that the portion of the system which describes the "routine uses" of that system be published for comment, USDA invites such comment on all portions of this notice. Any comments should be submitted to the person and address listed under the caption "**FOR FURTHER INFORMATION CONTACT**" section.

ADDRESS: All comments submitted will be available for public inspection during business hours in Room 909 at 1621 North Kent Street, Rosslyn Plaza East, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Sheila M. Venson, Employee Relations and Labor Management Relations Group, Personnel and Civil Rights Staff, USDA, Forest Service, P.O. Box 2417, Washington, DC 20013. Telephone: 703/235-2588 (Not toll-free number).

SUPPLEMENTARY INFORMATION: The purpose of this system of records is to provide the U. S. Department of Agriculture, Forest Service, Personnel and Civil Rights Staff, with a more efficient program of managing those members of the work force who are entitled to a uniform allowance. Certain employees of the Forest Service have been required to wear uniforms since 1906. Employees entitled to uniforms are those who work with forest users and the public and need to be identified as Forest Service employees.

Currently, employees are required to obtain uniforms and receive an advance uniform allowance check from the National Finance Center in New Orleans, Louisiana. Employees have to refund the advance payment if the complete uniform is not obtained within 90 days. There are 12 manufacturing companies that manufacture separate components of the uniform and 10 retail stores that sell parts or all components of the uniform. Nine of the 10 retail stores are located on the west coast and one is located in Ohio. There are no retail stores in the midwestern or southern states for our employees there to have easy access of purchase.

The new system would establish a contract with one vendor in private industry and provide a more efficient payment system for the Forest Service. The selected contractor will be responsible for the manufacture, warehousing, and distribution of all Forest Service uniform items. The contractor will also develop and maintain an automated accounting/fiscal management system to assure that Forest Service funds are being accounted for properly. This system will be coordinated with the National Finance Center and be more cost effective and efficient than the current purchase and payment system.

Under the new system, employees who are required to obtain uniforms would be allocated a certain dollar amount in a charge account system with the selected contract vendor. Therefore, employees would be able to charge and receive all uniform components from one source.

Signed at Washington, DC, on October 9, 1986.

Peter C. Myers,

Acting Secretary.

Privacy Act System of Records USDA/FS-3 Report

The purpose of this system of records is to provide the U. S. Department of Agriculture, Forest Service, Personnel and Civil Rights Staff, with a more efficient program of managing the work force that are entitled to a uniform allowance. Due to the limited number of manufacturers and retailers of uniform items, it is more efficient to contract with one vendor to manufacture, warehouse, and distribute these items to Forest Service employees entitled to a uniform allowance. This system of records, containing information on employees and their entitlement to uniform allowance, is an indispensable component of this program.

The authority for maintaining this system of records is 5 U.S.C. 301; 5 U.S.C. 5901 through 5903; and 7 CFR 2.75.

Use of the system should not result in an infringement of any individual's right to privacy. While information within this system will be utilized by a contract vendor, the contractor will be required to adhere to all Privacy Act safeguards and guidelines. The system will be in full accord with the provisions of the Privacy Act.

Access to the system will be strictly controlled and limited to properly identified authorized employees of the U. S. Department of Agriculture and the contract vendor.

The information will be collected on magnetic tapes (IBM compatible) in the contractor's office and the National Finance Center, Accounting Operations Division. At the National Finance Center, magnetic tape files and disk files are kept in a locked computer room which can be accessed by authorized personnel only. The contractor will develop software application programs that will be restricted to authorized users.

Use of this system will have no effect upon privacy and other personal or property rights of individuals or on the preservation of the Constitutional principles of federalism and separation of powers.

The proposed system is not exempt from any provisions of the Privacy Act.

USDA/FS-3

SYSTEM NAME:

USDA/FS-3, Uniform Allowance System.

SYSTEM LOCATION:

The records in this system are maintained at the USDA, Forest Service Headquarters, P.O. Box 2417, Washington DC 20013; Regional Offices; Forest Supervisor's Offices; National Finance Center, P.O. Box 600000, New Orleans, Louisiana 70160; and Contractor's Office. The addresses of Forest Service Regional Offices and Forest Supervisor's Offices may be found in 36 CFR 200.1, Subpart A, or in the telephone directory of the applicable locality under the heading United States Government, Department of Agriculture, Forest Service. The address of the Contractor may be obtained by writing to Forest Service Headquarters at the above listed address.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

All Forest Service employees entitled to and receiving allowances for uniforms required in their work.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of complete files on advances, accruals, and payments to individuals within the Forest Service for uniform allowances. Information in these files will include the employee's name, social security number, employee location, allowance category(ies), year to date amount of sales, backorders, management code, and current status (active or terminated).

AUTHORITY FOR MAINTENANCE OF SYSTEM:

5 U.S.C. 301, 5 U.S.C. 5901 through 5903; and 7 CFR 2.75.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSE OF SUCH USES:

(1) Information from this system of records developed by the Contractor and the National Finance Center is for Forest Service internal processing purposes in connection with the uniform allowance program.

(2) Disclosure to the Department of Justice for use in litigation when USDA, or any component thereof; or any employee of USDA in his or her official capacity; or any employee of USDA in his or her individual capacity where the Department of Justice has agreed to represent the employee; or the United States, where USDA determines that litigation is likely to affect USDA or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by USDA to be relevant and necessary to the litigation, provided, however, that in each case, USDA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected;

(3) Disclosure in a proceeding before a court or adjudicative body before which USDA is authorized to appear, when USDA or any component thereof; or any employee of USDA in his or her official capacity; or any employee of the USDA in his or her individual capacity where USDA has agreed to represent the employee; or the United States, where USDA determines that litigation is likely to affect USDA or any of its components, is a party to litigation or has an interest in such litigation and USDA determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, USDA determines that disclosure of the records to the court is a use of the information contained in the records that is compatible with the purpose for which the records were collected;

(4) Referral to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, or particular program statute, or by rule, regulation, or order issued pursuant thereto;

(5) To answer Congressional inquiries made at the request of the individual from whose record information is disclosed.

POLICY AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, disk, or other format, as well as on input forms prepared by covered employees which may be stored in file folders.

RETRIEVABILITY:

Records are indexed by name and social security number of individual employees.

SAFEGUARDS:

Records are kept on magnetic tape and disk files. They are kept in a locked computer room and tape library which can only be accessed by authorized personnel utilizing a special access code. File folders are kept in locked file cabinets or in secure areas with access to authorized personnel only.

RETENTION AND DISPOSAL:

Records are retained or disposed of in accordance with the retention periods contained in Forest Service Handbook 6209.11, Records Management Handbook.

SYSTEM MANAGER AND ADDRESS:

Director, Personnel and Civil Rights Staff, USDA-Forest Service, P.O. Box 2417, Washington, DC 20013.

NOTIFICATION PROCEDURE:

Individuals may request information regarding this system of records, or information as to whether the system contains records pertaining to them from the system manager listed in the preceding paragraph. A request for information should contain name, address, and particulars involved (e.g., the date of action giving rise to the inquiry, complaint, etc.).

RECORD ACCESS PROCEDURES:

Individuals may obtain information as to the procedures for gaining access to records in the system which pertain to them by contacting the system manager as set forth in the preceding paragraph. The envelope and letter should be marked "Privacy Act Request."

CONTESTING RECORD PROCEDURES:

Use the same procedures as for record access.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from individuals who request payments of uniform allowances. Information may also be furnished by the employee's supervisor.

[FR Doc. 86-23599 Filed 10-17-86; 8:45 am]
BILLING CODE 3410-11-M

Forest Service

Threemile Timber Sale; Colville National Forest, Pend Oreille County, WA; Environmental Impact Statement; Revision

This notice revises the original Notice of Intent, published in the **Federal Register** of September 27, 1985.

The U.S. Department of Agriculture, Forest Service, will prepare an environmental impact statement for the development of the Threemile timber sale on the Sullivan Lake Ranger District. The environmental impact statement will be prepared in accordance with existing land and resource management plans.

A range of alternatives for timber harvest in the assessment area will be considered. One of the alternatives will be no action. Other alternatives will consider various levels of timber harvest and road construction.

Federal, State and local agencies, potential purchasers, and other individuals or organizations who may be interested in or affected by the decision have been invited to participate in the scoping process. This process includes:

1. Identification of the issues to be addressed.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues, issues covered by previous environmental analysis, and issues not within the scope of this decision.
4. Determination of potential cooperating agencies and assignment of responsibilities.

The Fish and Wildlife Service, Department of Interior, will be invited to participate as a coordinating agency to evaluate potential impacts on threatened and endangered species habitat occurring as a result of this action.

Scoping for this project began in December, 1985, which included public input on issues, concerns and opportunities. A meeting was held in September, 1986 to finalize the preliminary issues, concerns and opportunities. A meeting of the interdisciplinary team will be scheduled for October, 1986 to discuss development of alternatives.

The analysis is expected to take about 5 months. The draft environmental impact statement should be available for public review by June, 1987. The final environmental impact statement should be available by June, 1988.

William D. Shenk, Forest Supervisor of the Colville National Forest, is the responsible official.

Written comments and suggestions concerning the analysis should be sent to William D. Shenk, Forest Supervisor, Federal Building, 695 South Main, Colville, Washington 99114, or to Warren N. Current, District Ranger, Sullivan Lake Ranger District, Metaline Falls, Washington 99153.

Questions about the proposed action and environmental impact statement should be directed to Kim E. Asman, Sale Planner, Sullivan Lake Ranger District, Metaline Falls, Washington 99153 (telephone: (509) 446-2681).

Dated: September 30, 1986.

William D. Shenk,

Forest Supervisor.

[FR Doc. 86-23576 Filed 10-17-86; 8:45 am]

BILLING CODE 3410-11-M

Environmental Impact Statement Cancellation Notice, Colville National Forest, WA

The U.S. Department of Agriculture, Forest Service, will not be preparing an environmental impact statement for the development of the Leola-Sullivan timber sale on the Sullivan Lake Ranger District at this time.

The Notice of Intent, published in the **Federal Register** of September 27, 1985, is hereby rescinded (50 FR 39156).

For further information contact: Kim E. Asman, Sale Planner, Sullivan Lake Ranger District, Metaline Falls, Washington 99153 (telephone: (509) 446-2681).

Dated: September 30, 1986.

William D. Shenk,

Forest Supervisor.

[FR Doc. 86-23577 Filed 10-17-86; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. OEE-3-86]

Export Privileges Affecting Bollinger GmbH, et al.

In the Matter of: Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria; Leopold Hrobsky, Donaufelderstrasse 38, Stg. 4, Apt. 4, 1210 Vienna, Austria; Dietmar Ulrichshofer, with addresses at Kirchenstrasse 1, 3061 Ollersbach, Austria, and c/o Bollinger GmbH, Roseggergasse 34, 1160 Vienna, Austria, and, Vrablicz and Company Steinergasse 11, 1170 Vienna, Austria, Respondents

Order Renewing Temporary Denial of Export Privileges

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368-399 (1986) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. sections 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement to renew an order temporarily denying all United States export privileges to Dietmar Ulrichshofer; Bollinger GmbH, which is owned by Dietmar Ulrichshofer; Leopold Hrobsky; and, Vrablicz and Company (hereinafter collectively referred to as respondents).[1] Ulrichshofer, who is subject to an outstanding indictment in the U.S. District Court for the Central District of California for conspiracy to violate U.S. export controls and is a fugitive from U.S. justice, resides in Ollersbach, Austria; all of the other respondents reside in Vienna, Austria.

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have conspired and acted in concert to violate the Act and the Regulations. The Department has reason to believe that the purpose of the conspiracy is to obtain U.S.-origin goods from third countries for ultimate destination in proscribed countries, without obtaining the required authorization from the Department for such shipments. The Department has reason to believe that respondents have participated in the unauthorized reexport of U.S.-origin commodities, including computer equipment and peripherals, from Austria to proscribed destinations, without authorization from the Department. Indeed, the Department has provided a statement by the U.S. Customs Attache in Austria that his aspect of the investigation to date has revealed that respondent Vrablicz, as recently as August 5, 1986, reexported such commodities to Czechoslovakia, which commodities were "owned" by respondent Bollinger.[2] The Department further shows that a statement given by the Customs Attache indicates that respondents currently have in their possession and control in Vienna, Austria, additional U.S.-origin equipment which requires authorization from the Department to permit its reexport from Austria. The Department has shown that there is a presumption of denial for any request seeking authorization to reexport this U.S.-origin equipment to proscribed destinations and, states that in any event, no such authorization has been requested. Nevertheless, the Department has reason to believe that respondents may

[1] The underlying temporary order of denial in the instant case, Case No. OEE-3-86, was issued on August 12, 1986, and included Betriebs and Finanzierungs and Beratungs GmbH (*sic*), Schulz Strassnitzki Gasse 8, 1090 Vienna, Austria and Karl Heinz Riedel (*sic*), Marc Aurel Strasse 7, 1010 Vienna, Austria as respondents. On October 10, 1986, the Department withdrew its request for renewal of the August 10, 1986, the temporary order of denial, as against Betriebs und Finanzierungs and Beratungs GmhH and Karl Heinz Riedel. Accordingly, those named parties are not subject respondents of this Order.

[2] In a letter to the Deputy Assistant Secretary for Export Enforcement, dated August 28, 1986, counsel for Vrablicz acknowledged that it has carried out shipping services for Bollinger on several occasions, but denied liability, under Austrian law, for any violation of the Export Administration Act or the Regulations.

attempt to reexport these U.S.-origin goods to prosribed destinations.

The Department states that the investigation gives it reason to believe that the violations under investigation were deliberate and covert. The Department has shown that respondents Ulrichshofer and Hrobsky directed sales of commodities covered by the investigation to the Soviet Bloc. Further, since the respondents currently have possession and control of U.S.-origin goods subject to the Act and the Regulations, the Department states that violations are likely to occur again. The Department submits that renewal of the August 12, 1986, temporary denial order naming respondents, with the exception of Betriebs and Finanzienrungs and Beratungs GmbH and Karl-Heinz Riedel, is necessary for the purpose of giving notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.[3]

Therefore, based on the showing made by the Department, I find that renewal of the order temporarily denying export privileges to respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing, because none was requested.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall by returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose or, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 60 days.

VII. In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served upon each respondent and published in the **Federal Register.**

Dated: October 11, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-23611 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-25-M

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[3] In yet another letter to the Deputy Assistant Secretary for Export Enforcement, dated September 29, 1986, respondent Vrablicz, through counsel, denied liability, under Austrian law, and stated that there is "close cooperation and assistance" (presumably between Vrablicz and U.S. authorities) in the clarification of the transactions which gave rise to this Order. It is fitting to note here that whether respondent Vrablicz is culpable under foreign (Austrian) law, is not controlling—even if relevant—on the resolution of the question under consideration, that is, whether renewal of the August 12, 1986 temporary denial order against Vrablicz and certain other respondents "is necessary in the public interest to prevent an imminent violation" of the Act and the Regulations. While cooperation with appropriate U.S. authorities on the part of a respondent of a temporary denial order could have bearing on the issue of "imminent violation", it is not dispositive of the Department's request for renewal of the order. In this regard, the sworn statement of U.S. Customs Attache Urbanski, on August 21, 1986, which was provided by the Department in support of its request for renewal casts doubt on Vrablicz's claim of cooperation. In any event, if the Department (Office of Export Enforcement) should show that *it* is satisfied by any effort of cooperation on the part of Vrablicz *and* that a temporary denial of export privileges is no longer necessary against Vrablicz, this Order could be acccordingly modified.

The MCTL Implementation Technical Advisory Committee; Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held November 19, 1986, 10:00 a.m., Herbert C. Hoover Building, Room 1092, 14th Street and Constitution Avenue, NW., Washington, DC. The Committee advises and assists the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations and provide for continuing review to update the Regulations as needed.

Agenda

1. General License Technical Data (GTDA) Review.
2. Reports to Congress on MCTL Implementation, Export Administration Act (EAA) 1985, (5)(d)4.
a. DOD's Report to Congress.
b. Joint Commerce/DOD Reports to Congress.
3. Report on 1986 accomplishments.
4. Plans for 1987.

Executive Session

5. 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 Administraion, with the concurrence of the delegate of the General Counsel, formally determined on February 19, 1985, 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. 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 public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: (202) 377-4217. For further information or copies of the minutes contact Margaret A. Cornejo 202-377-2583.

Dated: October 15, 1986.

Margaret A. Cornejo,

Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-23659 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DT-M

President's Export Council; International Competitiveness and Productivity Subcommittee; Partially Closed Meeting

A meeting of the President's Export Council will be held November 6, 1986, 10:00 a.m.-11:50 a.m. and 12:00-2:30 p.m. in Room 6802 of the Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. The Council's purpose is to advise the President on matters relating to United States export trade.

Open Session: 10:00 a.m.-11:50 a.m. Presentations by members on competitiveness issues. Discussion of the status of the semiconductor industry in world competition, the role of the subcommittee in addressing the competitiveness problem, and other related issues.

Closed Session: 12:00 p.m.-2:30 p.m. Discussion of matters properly classified under Executive Order 12356, dealing with competitiveness, trade negotiations, trade and economic relations with other countries, and other trade related matters.

A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 552b(c)(1) was approved 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, (202) 377-4217.

The morning session of the meeting will be open to the public with a limited number of seats available. For further information, reservations to attend the meeting, or copies of the minutes, contact Laureen Daly (202) 377-1125.

Dated: October 15, 1986.

Wendy H. Smith,

Director, President's Export Council.

[FR Doc. 86-23613 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DR-N

President's Export Council; Subcommittee on Foreign Trade Practices and Negotiations; Partially Closed Meeting

A meeting of the President's Export Council Subcommittee on Foreign Trade Practices and Negotiations Subcommittee will be held November 5, 1986, 1:00 p.m. to 4:00 p.m., Room 4830, U.S. Department of Commerce, Washington, DC. The Council's purpose is to advise the President on matters relating to United States export trade.

General Session: 1:00 p.m.-2:55 p.m. Discussion of causes of the U.S. trade deficit and recent developments in multilateral trade negotiations.

Executive Session: 2:55 p.m.-4:00 p.m. Discussion of matters properly classified under Executive Order 12356, dealing with trade negotiations and economic relations to Japan and other classified issues.

A Notice of Determination to close meetings or portions of meetings of the Council to the public on the basis of 5 U.S.C. 552b(c)(1) has been approved 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, (202) 377-4217.

For further information or copies of the minutes contact Sylvia Lino (202) 377-1125, Room 3213, U.S. Department of Commerce, Washington, DC 20230.

Dated: October 15, 1986.

Wendy H. Smith,

Director, President's Export Council.

[FR Doc. 86-23612 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DR-M

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration will be held November 7, 1986, 9 a.m. to 3 p.m., Department of Commerce, Herbert Hoover Building, Room 4830, 14th and Constitution Avenue NW., Washington, DC.

The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act as amended that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

General Session: 9:00 a.m.-12:00 noon. Status reports by Ad Hoc Chairman and various developments at Commerce in the International Trade area.

Executive Session: 1:30 p.m.-3 p.m. Discussion of matters properly classified under Executive Order 12356 dealing with matters pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Act of 1979, as amended in 1985. A Notice of Determination to close meetings or portions of meetings of the subcommittee to the public on the basis of 5 U.S.C. 522b(c)(1) was approved October 17, 1985 in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377-4217.

For further information and copies of the minutes, contact Connie White (202) 377-4275.

Dated: October 14, 1986.

Willard A. Workman,

Director, Strategic Planning and Policy Division, Export Administration.

[FR Doc. 86-23614 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DT-M

Georgetown University Hospital; 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 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86-130. Applicant: Georgetown University Hospital, Washington, DC 20007. Instrument: Cerebral Blood Flow Unit with Accessories. Manufacturer: Scan-Detectronic A/S, Denmark. Intended Use: See notice at 51 FR 8691.

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 miniaturized detector electronics for 12-channel measurement of blood flow parameters using radioactive trace materials. The National Institutes of Health advises in its memorandum dated July 11, 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. 86-23660 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council will convene separate public meetings of its advisory bodies as follows:

Permit Review Committee—Will convene October 29, 1986, at 10 a.m., in the Federal Building, 701 C Street, Anchorage, AK, to review the North Pacific Fishery Management Council's methodology for developing the total allowable level of foreign fishing allocation recommendations for 1987. For further information contact Jin H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 274-4563.

Plan Team for the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan—Will convene November 4, 1986, at 10 a.m. at the North Pacific Council's office, 411 West Fourth Avenue, Anchorage, AK, to review new information on the condition of the Bering Sea groundfish resources and to prepare a supplement to the 1986 Resource Assessment Document (RAD). The public meeting may extend into November 5 if necessary. For further information contact Jim Glock, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 telephone: (907) 274-4563.

Dated: October 14, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23583 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Sea World, Inc. (P2R)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216).

1. Applicant: a. Name: Sea World, Inc.

b. Address: 1720 South Shores Road, Mission Bay, San Diego, California 92109.

2. Type of Permit: Public Display.

3. Name and Number of Marine Mammals: Killer whale (*Orcinus orca*), 1.

4. Type of Activity: Importation.

5. Location of Activity: Importation of a captive animal to U.S. from Canada.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written date or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those the Applicant and do not necessarily reflect the view of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Rm. 805, Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Dated: October 14, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-23629 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Special Access Program CBI Export Declaration (Form ITA-370P)

On June 11, 1986, a notice was published in the **Federal Register** (51 FR 21208) which announced the implementation of the Special Access Program under the Caribbean Basin Initiative.

Orders for the Special Access Program CBI Export Declaration (Form ITA-370P) may be placed with the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325 (202/783-3238). The form will be sold for $31 per package of 100. Refer to stock number 003-009-00490-0.

Until the supplies are exhausted, the CBI Export Declaration may be obtained from your nearest U.S. Customs port.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-23608 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of Bangladesh on Category 647/648

October 15, 1986.

On September 28, 1986, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended by Protocols dated December 15, 1977, December 22, 1981 and July 31, 1986, requested the Government of Bangladesh to enter into consultations concerning exports to the United States of certain man-made fiber textile products in Category 647/648, produced or manufactured in Bangladesh.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Bangladesh, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of trousers, slacks and shorts of man-made fibers in Category 647/648, produced or manufactured in Bangladesh and exported to the United States during the twelve-month period which began on September 28, 1986 and extends through September 27, 1987, at a level of 396,333 dozen.

A summary market statement for this category follows this notice.

A description of the cotton, wool and man-made fiber 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).

Anyone wishing to comment or provide data or information regarding the treatment of Category 647/648 under the agreement with Bangladesh, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, 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 20230. 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.

Bangladesh—September 1986 Market Statement

Category 647/648—Man-Made Fiber Trousers

Summary and Conclusions

U.S. imports of Category 647/648 from Bangladesh were 428,466 dozen during the year ending July 1986, over 18 times the 23,296 dozen imported a year earlier. During the first seven months of 1986, imports of Category 647/648 from Bangladesh were 403,136, over 19 times the amount imported during the same period in 1985 and 8 times the amount imported during calendar year 1985.

The market for Category 647/648 has been disrupted by imports. The sharp and substantial increase in imports from Bangladesh has contributed to this disruption.

U.S. Production and Market Share

U.S. production of man-made fiber trousers declined by 5 percent from 40,879 dozen in 1983 to 39,004 dozen in 1985. The U.S. producers' share of this market declined from 76 percent in 1983 to 69 percent in 1985.

U.S. Imports and Import Penetration

U.S. imports of Category 647/648 grew from 13,252 thousand dozen in 1983 to 17,624 thousand dozen in 1985, a 33 percent increase. During the first seven months of 1986, Category 647/648 imports were 13,352 thousand dozen, 27 percent above the 10,549 thousand dozen imported during the same period a year earlier. The ratio of imports to domestic production increased from 32 percent in 1983 to 45 percent in 1985.

Duty Paid Value and U.S. Producer Price

Approximately 50 percent of Category 647/648 imports from Bangladesh entered under TSUSA No. 384.9169—women's, girls' and other infants' man-made fiber shorts, not knit, not ornamented. These shorts entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable shorts.

[FR Doc. 86-23609 Filed 10-17-86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Consultations With the Government of the People's Republic of China on Categories 831 and 833

October 15, 1986.

On September 30, 1986, the United States Government, in accordance with Article 3 of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, as extended by Protocols dated December 15, 1977, December 22, 1981 and July 31, 1986, requested consultations with the Government of the People's Republic of

China with respect to gloves (Category 831) and suit-type coats (Category 833) of silk blends and vegetable fibers, other than cotton, produced or manufactured in China.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the Implementation of Textile Agreements may later establish limits for the entry or withdrawal from warehouse for consumption of textile products in Categories 831 and 833, produced or manufactured in the People's Republic of China and exported to the United States during the twelve-month period which began on September 30, 1986 and extends through September 29, 1987, at levels of 385,584 dozen pairs for Category 831 and 11,210 dozens for Category 833.

A description of the textile categories in terms of T.S.U.S.A. numbes was published in the **Federal Register** on July 29, 1986 (51 FR 27068).

Summary market statements for these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these categories, or to comment on domestic production or availability of textile products included in these categories, 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 20230. Because the exact timing of the consultations is not yet certain, comments should be submited 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.

China—September 1986 Market Statement

Category 831—Silk-Blend and Other Vegetable Fiber Gloves

Summary and Conclusions

U.S. imports of Category 831 from China were 216,975 dozen during the first seven months of 1986, forty-six times the 4,654 dozen imported during the first seven months of 1985. China is the largest supplier of Category 831 accounting for 72 percent of total imports during the year ending July 1986.

Imports of silk-blend gloves and gloves of vegetable fibers other than cotton have increased dramatically in recent years. The predominate blend being imported is ramie/cotton.

Imports of silk-blend and other vegetable fiber gloves compete with domestically produced cotton, wool, and man-made fiber gloves. The U.S. market for cotton, wool, and man-made fiber gloves, Category 331/431/631, has been disrupted by imports. The sharp and substantial increase of Category 831 imports from China is contributing to the disruption of this market.

Import Penetration and Market Share

The ratio of imports to production in Category 331/431/631, cotton, wool and man-made fiber gloves, increased to 129 percent in 1985. The share of this market held by domestic manufacturers dropped to 44 percent in 1985. Imports of Category 831 are contributing to this market disruption.

U.S. imports of Category 831 were 302 thousand dozen in 1985. They increased dramatically in 1986, reaching 301 thousand dozen in the first seven months, 182 percent higher than the January–July 1985 level.

When Category 331/431/631/831 imports are expressed at a 1986 annual rate, the import to production ratio increases to 132 percent and the domestic manufacturers' share of this market falls to 43 percent.

Duty-Paid Value and U.S. Producer Price

Approximately 96 percent of the imports of Category 831 from China during the first seven months of 1986 entered under TSUSA No. 704.4095—woven gloves, of vegetable fiber other than cotton, of preexisting fabric, not ornamented. These gloves entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable gloves.

China—September 1986 Market Statement

Category 833—Silk-Blend and Other Vegetable Fiber Men's and Boys' Suit-type Jackets

Summary and Conclusions

U.S. imports of Category 833 from China were 6,848 dozen during the first seven months of 1986 compared to 2,268 dozen imported during the first seven months of 1985, a 202 percent increase. China is the second largest supplier of Category 833 accounting for 18 percent of total imports during the year ending July 1986.

Imports of silk-blend men's and boys' suit-type jackets and men's and boys' suit-type jackets of vegetable fibers other than cotton have increased dramatically in recent years. The predominate blends being imported are ramie/cotton blends and linen blended with various fibers i.e. silk, ramie and acrylic. In some cases three fibers are blended. Also, a number of silk-blend men's and boys' suit-type jackets are being imported.

Imports of silk-blend and other vegetable fiber men's and boys' suit-type jackets compete with domestically produced cotton, wool, and man-made fiber men's and boys' suit-type jackets. The U.S. market for cotton, wool, and man-made fiber men's and boys' suit-type jackets, Category 333/433/633, has been disrupted by imports. The sharp and sustantial increase of Category 833 imports from China is contributing to the disruption of this market.

Import Penetration and Market Share

The ratio of imports to production in Category 333/433/633, cotton, wool and man-made fiber men's and boys' suit-type jackets, incresed to 49 percent in 1985. The share of this market held by domestic manufacturers dropped to 67 percent in 1985. Imports of Category 833 are contributing to this market disruption.

U.S. imports of Category 833 were 55 thousand dozen in 1985. They increased in 1986, reaching 39 thousand dozen in the first seven months, 29 percent higher than the January–July 1985 level.

When Category 333/433/633/833 imports are expressed at a 1986 annual rate, the import to production ratio increases to 56 percent and the domestic manufacturers, share of this market falls to 64 percent.

Duty-Paid Value and U.S. Producer Price

All of the imports of Category 833 from China during the first seven months of 1986 entered under TSUSA Numbers 381.6987—men's and boys' suit-type jackets, of vegetable fiber other than cotton, not knit, not ornamented; and 381.8682—men's and boys' silk-blend silk-type jackets, not knit, not ornamented. These suit-type jackets entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable suit-type jackets.

[FR Doc. 86–23610 Filed 10–7–86; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Approval of Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520.), the Consumer Product Safety Commission has

submitted to the Office of Management and Budget a request for an extension of the expiration date of a currently approved collection of information requirement contained in the Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205. The collection of information requirement requires manufacturers (including importers) of mowers subject to the standard to keep records to tests they perform to ensure that their mowers comply with the requirements of the standard (§ 1205.34) and to provide certain information on a label concerning the production of the mower (§ 1205.35).

The purposes of the requirement to keep records of the tests are to assure compliance with the standard and to reduce the need for inspections and sample collections to determine the industry's compliance with the standard. The purposes of the labeling requirement are to comply with 15 U.S.C. 2063 and to facilitate corrective actions with regard to defective products.

Information About the Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, DC 20207.

Title of information collection: Safety Standard for Walk-Behind Power Lawn Mowers, 16 CFR Part 1205.

Type of request: Extension of expiration date for currently approved requirement.

Frequency of collection: (1) Records of tests—no frequency specified, but records must show that the certificate of compliance is based on a test of each mower or on a reasonable testing program. (2) Label—one time for each mower produced.

General description of respondents: Manufacturers and importers of walk-behind power lawn mowers.

Estimated number of recordkeepers: 40.

Estimated average nunber of hours per recordkeeper: 390 per year.

Comments: Comments on this proposed collection of information should be addressed to Marina Gatti, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone (202) 395-7340. Copies of the proposed collection of information requirement are available. Copies of the proposed collection of information requirement are available from Francine Shacter, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492-6529.

Dated October 15, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 86-23667 Filed 10-17-86; 8:45 am]

BILLING CODE 6355-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Command and Control Management

ACTION: Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Command and Control Management will meet in closed session on November 3, 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting this Task Force will evaluate progress made since 1978 on selected aspects of Command and Control Management.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 15, 1986.

[FR Doc. 86-23584 Filed 10-17-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Low Observable Technology

ACTION: Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Low Observable Technology will meet in closed session on November 19-20, 1986 at the Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will evaluate low observable technology.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 15, 1986.

[FR Doc. 86-23585 Filed 10-17-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Pacific Command Air Defense

ACTION: Advisory committee meetings.

SUMMARY: The Defense Science Board Task Force on Pacific Command Air Defense, will meet in closed session on December 17, 1986 in the Institute for Defense Analyses Alexandria, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine defense capabilities for shore installations in the Pacific Command and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 15, 1986.

[FR Doc. 86-23586 Filed 10-17-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Strategic Air Defense R&D

ACTION: Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Strategic Air Defense R&D will meet in closed session on November 6-7 and December 11-12, 1986 at the Pentagon, Airlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and

technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will investigate the feasibility of defense against cruise missiles and their delivery platforms.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. 11, (1982)), it has been determined that these DSB Task Force meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

October 15, 1986.

[FR Doc. 86-23587 Filed 10-17-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Library Services and Construction Act; Promulgation of Federal Shares

Sections 8(b)(1) and 7(b)(2) of the Library Services and Construction Act, Pub. L. 84-597, as amended (20 U.S.C. 351 *et seq.*), require the Secretary of Education to promulgate the Federal share for each State and Territory every second fiscal year beginning with fiscal year 1971. Per capita income data from the Department of Commerce for the years 1983, 1984, and 1985 have been used to establish the Federal shares applicable to Titles I and II of the Act. The Federal shares published in the table below are effective for the fiscal years ending September 30, 1988 and September 30, 1989.

(Catalog of Federal Domestic Assistance Program Number 84.034, Library Services—Grants for Public Libraries and 84.154, Public Library Construction)

Dated: October 15, 1986.

Chester E. Finn, Jr.,

Assistant Secretary and Counselor to the Secretary.

State	Federal share (percent)
Alabama	61.48
Alaska	33.33
Arizona	54.12
Arkansas	62.15
California	42.16
Colorado	46.02
Connecticut	35.74
Delaware	48.31
District of Columbia	34.94
Florida	50.22
Georgia	55.18
Hawaii	49.29
Idaho	59.50
Illinois	46.85
Indiana	55.10
Iowa	54.51
Kansas	50.11
Kentucky	60.75
Louisiana	58.01
Maine	57.24
Maryland	43.30
Massachusetts	41.92
Michigan	50.83
Minnesota	49.44
Mississippi	66.00
Missouri	52.43
Montana	58.77
Nebraska	52.70
Nevada	47.43
New Hampshire	46.97
New Jersey	38.51
New Mexico	60.22
New York	42.72
North Carolina	58.30
North Dakota	55.82
Ohio	52.33
Oklahoma	54.86
Oregon	54.12
Pennsylvania	51.32
Rhode Island	49.92
South Carolina	61.62
South Dakota	59.47
Tennessee	59.61
Texas	51.07
Utah	61.80
Vermont	56.70
Virginia	48.01
Washington	49.02
West Virginia	62.61
Wisconsin	52.26
Wyoming	51.67
American Samoa	66.00
Guam	66.00
Puerto Rico	66.00
Trust Territory	100.00
Virgin Islands	66.00
Northern Mariana Islands	66.00

[FR Doc. 86-23605 Filed 10-17-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Restriction of Eligibility for Grant Award, Idaho Innovation Center

AGENCY: Department of Energy.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: In accordance with 10 CFR 600.7(6), eligibility for award of a grant resulting from (PR No. 07-871D10222) will be restricted to the Idaho Innovation Center.

Project Scope: The overall objective of the Idaho Innovation Center is to provide an incubator environment which will foster the commercialization of technologies developed at the Idaho National Engineering Laboratory (INEL) by assisting in the transfer of the INEL technologies to the private sector, universities, and no profit research organizations. Eligibility for the Grant has been restricted to the Idaho Innovation Center because it is the only organized incubator within 200 miles of the INEL and such an incubator environment has been found to be the best way to insure the likelihood of success for emerging INEL technologies.

FOR FURTHER INFORMATION CONTACT: W. C. Drake (208) 526-0775, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402.

Issued at Idaho Falls, Idaho, on October 3, 1986.

H. Brent Clark,

Contracts Management Division.

[FR Doc. 86-23663 Filed 10-17-86; 8:45 am]

BILLING CODE 6450-01-M

National Coal Council; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meetings:

Name: Coal Policy Committee of the National Coal Council

Date and Time: Thursday, November 6, 1986, from 8:30 a.m. to 12 noon

Place: Mandalay Four Seasons Hotel, 221 East Las Colinas Boulevard, Irving, Texas 75039

Contact: Georgia A. Benjamin, U.S. Department of Energy, Office of Fossil Energy (FE-23), Washington, DC 20545, Telephone: 301-353-4718

Purpose of the Meeting: For the Committee to discuss reports to be prepared by the National Coal Council with respect to requests from the Secretary of Energy for advice, information, and recommendations.

Tentative Agenda

- Call to Order by Gerald Blackmore, Chairman.
- Discussion of issues presented by the Secretary for consideration for possible study as well as issues presented by members.
- Discussion of any other business properly brought before the Committee.
- Public Comment—10 Minute Rule.
- Adjournment.

Name: National Coal Council

Date and Time: Friday, November 7, 1986, from 9:30 a.m. to 11:30 a.m.

Place: Mandalay Four Seasons Hotel, 221 East Las Colinas Boulevard, Irving, Texas 75039

Contact: Georgia A. Benjamin, U.S. Department of Energy, Office of Fossil Energy (FE-23), Washington, DC 20545, Telephone: 301-353-4718

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda:

- Call to Order by James McGlothlin, Chairman.

• Remarks by Chairman McGlothlin.
• Remarks by Department of Energy official.
• Report of the Coal Policy Committee.
• Report of the Finance Committee: Presentation of the 1987 Budget.
• Discussion of any other business properly brought before the Council.
• Public Comment—10 Minute Rule.
• Adjournment.

Public Participation: The meetings are open to the public. The Chairmen of the Council and Committee are empowered to conduct the meetings in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council or Committee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Georgia A. Benjamin at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, 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 October 15, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-23664 Filed 10-17-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ES87-1-000 et al.]

Electric Rate and Corporate Regulation Filings; Centel Corp. et al.

Take notice that the following filings have been made with the Commission:

1. Centel Corporation

[Docket No. ES87-1-000]

October 10, 1986.

Take notice that on October 6, 1986, Centel Corporation (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an Order authorizing the issuance of up to $300,000,000 aggregate principal amount of unsecured notes or debentures, up to 3 million shares of common stock, $2.50 par value, of the Applicant and a number of shares of convertible preferred stock of the Applicant which shall be convertible into up to 3 million shares of common stock, $2.50 par value, of the Applicant, as of the date of issuance.

Comment date: November 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER87-3-000]

October 14, 1986.

Take notice that on October 1, 1986, Boston Edison Company (Boston Edison) tendered for filing a proposed tariff to provide for the distribution component of the wheeling required for the delivery of power produced by Qualifying Facilities as defined in § 292.101 (b)(1) of the Commission's regulations. Boston Edison asks that the proposed tariff, which relates to service over facilities rated 14/24 kV, 4kV and at the secondary voltage level, be allowed to become effective December 1, 1986.

Copies of the filing have been served upon the Massachusetts Department of Public Utilities, Acton Hydro Electric Company, a potential QF customer, and the North Attleboro Electric Department which would purchase power from Acton Hydro.

Comment date: October 23, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Louisiana Public Service Commission v. Middle South Services, Inc.

[Docket No. EL86-59-000]

October 14, 1986.

Take notice that on September 26, 1986, the Louisiana Public Service Commission, pursuant to Rule 206 of the rules of practice and procedure of the Federal Energy Regulatory Commission (18 CFR 385.206) filed a Complaint against Middle South Services, Inc. The Louisiana Commission requests that the Commission institute a proceeding under sections 205 and 206 of the Federal Power Act (16 U.S.C 824d and 824e) and decrease the rate of return on equity authorized under the "Agreement among Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service, Inc. and Middle South Services, Inc." which was previously approved, with modifications, by the Commission's Opinion and Order No. 234, 31 FERC ¶ 61,305, issued June 13, 1985.

Comment date: November 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Martin Marietta Aluminum Properties, Inc.

[Docket No. EL87-2-000]

October 10, 1986.

Take notice that on October 7, 1986, Martin Marietta Aluminum Properties, Inc. ("MAPI") filed a request for the Commission to issue a declaratory order confirming that MAPI's application for certification of a cogeneration facility as a qualifying facility, filed in Docket No. QF86-686-000 on April 18, 1986, has been granted by operation of law pursuant to § 292.207(b) (5) of the Commission's regulations, 18 CFR 292.207(b) (5). MAPI submits that the issuance of a declaratory order confirming the applicability and operation of § 292.207(b) (5) to MAPI's application is necessary in light of the Commission's "Order Extending Time for Commission Action", issued September 29, 1986 in Docket No. QF86-686-000.

Comment date: October 23, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power and Light Company

[Docket No. ER86-684-000]

October 14, 1986.

Take notice that on September 29, 1986, GPU Service Corporation (GPU) as Agent for Pennsylvania Electric Company, Metropolitan Edison Company and Jersey Central Power & Light Company (collectively, GPU Companies) tendered for filing as an initial Rate Schedule an Agreement (The Agreement) between GPU and Niagara Mohawk Power Corporation (Niagara Mohawk). The Agreement, dated July 1, 1986, provides for the sale by the GPU Companies or Niagara Mohawk, of energy from their systems ("system energy") that may be available on an hourly, daily, weekly or monthly basis (a "transaction"). GPU states that the timing of transactions cannot be accurately estimated, but that the GPU Companies or Niagara Mohawk would offer to sell such system energy to the other only when it is economical to do so. The Buyer would only accept such offer if it was economical to do so.

Comment date: October 27, 1986, in accordance with Standard Paragraph E at the end of this document.

6. Sierra Pacific Power Company

[Docket No. ER86-655-000]

October 14, 1986.

Take notice that on October 1, 1986, Sierra Pacific Power Company (Sierra) tendered for filing an amendment to its initial rate filing that transmitted the "Transmission Services Agreement" between Sierra and Beowawe Geothermal Power Company (Beowawe) executed August 6, 1986. The amendment provides no changes to the Sierra-Beowawe contract, but only provides more information on the transportation service to be rendered pursuant to that contract.

Comment date: October 23, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Company Services, Inc.

[Docket No. ER86-560-001]

October 14, 1986.

Take notice that on October 1, 1986 Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company (Southern Companies), filed responses to a deficiency letter dated July 28, 1986 in connection with the filing of Service Schedule EP (Economic Energy Participation Schedule) to an interchange contract between Southern Companies and Florida Power & Light Company. The filed responses constitute an amendment to filing in Docket No. ER86-560-000.

Service Schedule EP sets forth the terms, conditions and rates under which Southern Companies agree to transmit economic energy purchased by FPL from certain third party utilities with which Southern Companies have direct Transmission interconnections. SCS requests that the new service schedule be allowed to become effective as soon as possible so as to allow FPL to determine whether additional economic energy transactions can be arranged to the benefit of the customers of all participating parties.

Comment date: October 23, 1986, in accordance with Standard Paragraph E at the end of this noitce.

8. Tucson Electric Power Company

[Docket No. ER87-4-000]

October 14, 1986.

Take notice that on October 2, 1986, Tucson Electric Power Company ("Tucson") tendered for filing an Interchange Agreement between Tucson and State of California, Department of Water Resources ("DWR"). The primary purpose of this Agreement is to provide the terms and conditions relating to the interconnection of the electrical systems of Tucson and DWR and the exchange of capacity, energy and non-firm transmission service between the two systems. Tucson states that services may be provided under two Services Schedules:

1. Amended Service Schedule A—Economy Energy Interchange.

2. Service Schedule B—Non-Firm Transmission Service.

Tucson states that copies of the filing were served upon DWR.

Tucson requests and effective date of December 15, 1986.

Comment date: October 27, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital 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. 86-23647 Filed 10-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-744-000 et al.]

Natural Gas Certificate Filings; El Paso Natural Gas Company et al.

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Company

[Docket No. CP86-744-000]

October 10, 1986.

Take notice that on September 29, 1986, El Paso Natural Gas Company (El Paso), a Delaware Corporation, P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP86-744-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon miscellaneous minor gas sales facilities and the services rendered by means thereof under the certificate issued in Docket No. CP82-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

It is stated that the miscellaneous minor gas sales facilities which El Paso proposed to abandon consist of various size sales taps and/or sales meter stations with associated appurtenances, which permit El Paso to render natural gas service to its various customers. It is stated that the proposed abandonments would not result in or cause any interruption, reduction or termination of natural gas service presently rendered by El Paso to any of its customers. El Paso states that a periodic review of its system, together with the customers' advisements, indicates that there are eleven miscellaneous minor gas sales facilities eligible for abandonment, namely, three sales meters and eight sales taps. El Paso proposes to remove and place in stock the salvable materials and scrap nonsalvable items, without material change in its average cost of service.

Comment date: November 24, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. Tennessee Gas Pipeline Company, A Division of Tenneco Inc.

[Docket No. CP87-8-000]

October 10, 1986.

Take notice that on October 7, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed pursuant to section 7(c) of the Natural Gas Act an application to render an interruptible transportation service for Commonwealth Gas Company (Commonwealth), and to make certain meter station modifications necessary to render the proposed transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that pursuant to the provisions of an agreement, between Applicant and Commonwealth dated September 4, 1986, Applicant has agreed to receive on an interruptible basis, up to 30,000 dt of vaporized liquid natural gas (LNG) per day for the account of Commonwealth at the existing interconnection between Applicant and Commonwealth at Applicant's Hopkinton purchase meter station located in Middlesex County, Massachusetts. Applicant sttes that it will deliver thermally equivalent quantities (less quantities retained for Tennessee's fuel and uses and gas lost

unaccounted for) to Commonwealth at (1) the existing interconnection between Commonwealth and Applicant at Applicant's existing Worcester sales meter station located in Worcester County, Massachusetts, or (2) other mutually agreeable points of interconnection between Applicant and Commonwealth when required by operating conditions.

Applicant also requests authority to make certain modifications at the Hopkinton and Worcester sale meter stations in order to enable Applicant to render the proposed transportation service. Applicant requests authority to replace two 10-inch meter tubes with two 12-inch meter tubes at Worcester sales meter station and to remove an 8-inch turbine meter, to relocate a 12-inch meter tube, to install an 8-inch regulator run, to revise a 20-inch header piping and to install data acquisition facilities at the Hopkinton purchase meter station. Applicant estimates the total cost of these modifications to be 157,000, which will be reimbursed by Commonwealth.

Applicant states that it proposes to charge for this transportation service a quantity charge of 4.44 cents per dt and to retain .5% of the quantities received for transportation for Applicant's fuel and use requirements and gas lost and unaccounted for.

Applicant alleges that Commonwealth requested that the proposed transportation service commence as of November 1, 1986, in order to meet the 1986–1987 winter demand.

Comment date: October 24, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. North East Heat and Light Company and Mercer Gas Company vs. National Fuel Gas Supply Corporation

[Docket No. CP86-746-000]

October 14, 1986.

Take notice that on September 26, 1986, North East Heat & Light Company (North East), 16 North Lake Street, North East, Pennsylvania 16428, and Mercer Gas Company (Mercer), 109 North Diamond Street, Mercer, Pennsylvania 16137, filed in Docket No. CP86-746-000 a joint complaint and request for investigation against National Fuel Gas Supply Corporation (Nationa Fuel), pursuant to § 385.206 of the rules of practice and procedure, 18 CFR 385.206, alleging that, *inter alia:*

(1) National Fuel has violated and is in continuing violation of Section 4(b) of the Natural Gas Act (NGA); (2) National Fuel has acted in a manner contrary to the competitive policies expressed in FERC Order Nos. 436 and 380; and (3) National Fuel has used its franchise in a manner to restrain competition by precluding the complainants from obtaining lower priced natural gas. North East and Mercer request that the Commission initiate an investigation into the past, current and future practices of National Fuel, particularly as they adversely affect the operations of North East and Mercer.

It is stated that North East and Mercer are small, affiliated, local distribution companies operating in western Pennsylvania and that all their natural gas currently is furnished by National Fuel, a large, integrated natural gas company subject to the Commission's jurisdiction. It is further stated that both North East and Mercer are required to purchase their requirements under National Fuel's firm Rate Schedule RQ.

It is complained that National Fuel consistently and repeatedly refused to sell to either North East or Mercer under a form of rate schedule, which would enable North East and Mercer to provide more competitively priced gas to the high-priority consumers dependent upon each of them for service. It is further complained that National Fuel has discriminated against North East, because National Fuel has allowed in excess of twenty companies comparable in size to North East to pay at lower rates than the RQ Rate sought to be collected from North East.

The complainants also state that by refusing to provide interruptible service (or any other service more competitively priced than National Fuel's firm Rate Schedule RQ) to complainants, while providing non-firm service to other customers similarly situated, National Fuel has violated section 4(b) of the NGA. It is alleged that the failure to offer North East and Mercer interruptible service subjects these companies to an undue prejudice or disadvantage in violation of section 4(b) and the continuing refusal of National Fuel to sell natural gas to the complainants at a rate other than its firm Rate Schedule RQ also violates section 4(b) because it is the unlawful maintenance of an unreasonable difference in rates.

It is stated that during 1985, the impact on North East from National Fuel's conduct was an overbilling of approximately $307,256 and the financial impact on Mercer from National Fuel's refusal to make competitively priced gas available was approximately $177,887. In the first six months of 1986, the complainants state that North East's loss was approximately $217,466 and Mercer's loss was approximately $127,727 resulting from National Fuel's unilateral determination not to sell at a rate other than its rate Schedule RQ.

It is further stated National Fuel, in addition to refusing to sell competitively priced natural gas to the complainants, has refused to transport lower priced natural gas which will be used to meet the requirements of North East and Mercer's high-priority customers.

Comment date: Novemer 13, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to

§ 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23648 Filed 10-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-1074-000 et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Babcock & Wilcox Company, Inc., et al.

October 10, 1986.

Comment Date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Babcock & Wilcox Company, Inc.

[Docket No. QF86-1074-000]

On September 18, 1986, Babcock & Wilcox, Inc. (Applicant), of 20 S. Van Buren, Avenue, Baberton, Ohio 44203, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Cambia County, Pennsylvania and will consist of two circulation fluidized bed steam generators and a steam turbine generator. Steam recovered from the facility will be sold to the State of Pennsylvania to provide hot water heating, space heating, laundry and kitchen needs of the Ebensburg Center, a state owned facility. The net electric power production capacity of the facility will be 44 MW. The primary source of energy will be bituminous coal waste. Construction of the facility is scheduled to commence in December 1987.

2. Texaco USA

[Docket No. QF86-1066-000]

On September 16, 1986, Texaco USA (Applicant), of P.O. Box 10269, Bakersfield, California 93389, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Monterey County, California and will consist of two combustion turbine generators and a heat recovery steam generator. Steam recovered from the facility will be used in thermal enhanced oil recovery. The electric power production capacity of the facility will be 49 MW. The primary source of energy will be natural gas. The facility is scheduled to begin operation July 1, 1988.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23649 Filed 10-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-104-002 and CP86-589-000]

Colorado Interstate Gas Co.; Compliance Filing

October 15, 1986.

Take notice that on October 3, 1986, Colorado Interstate Gas Company (CIG) tendered for filing Substitute Original Sheet Nos. 8, 9, and 13 to its FERC Gas Tariff, Original Volume No. 1-A. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the approximate filing fee, which in the instant case was not until October 8, 1986.

CIG states that this filing is in compliance with Ordering Paragraph (D) of the Commission's Order issued September 29, 1986 in Docket Nos. RP86-104-001 and CP86-589-000, which required CIG to refile Original Sheet Nos. 8, 9 and 13 within five days of the issuance of the Order to reflect the elimination of section 7.3. Section 7.3 provided a mechanism by which a firm transportation customer's entitlement to capacity would be reduced to the extent that the capacity was not utilized for a period of time. CIG indicates that its elimination of this section from the referenced tariff sheets is without prejudice to CIG's right to continue to assert in these consolidated proceedings that such a mechanism is properly included in its firm transportation tariff.

CIG requests an effective date of September 5, 1986 for Substitute Original Sheet Nos. 8, 9, and 13. Copies of this filing were sent to each person designated on the official service list in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before October 22, 1986. Protests will be considered by the Commission in determing 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. 86-23650 Filed 10-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-112-017]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 15, 1986.

Take notice that Columbia Gas Transmission Corporation (Columbia Gas), on October 7, 1986, tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective October 2, 1986:

Substitute Original Sheet No. 22C
Substitute Original Sheet No. 22F
Substitute Original Sheet No. 22O
Substitute Original Sheet No. 22Q

Columbia Gas states that these changes are being filed to comply with the Commission's order issued October 2, 1986 in the captioned docket.

It is stated that the tariff sheets submitted contain a notation that the penalty provisions of section 6 of both Columbia Gas' FTS and ITS Rate Schedules have been stayed pending final Commission action on the May 21, 1986 Offer of Statement submitted in Docket No. RP86-15, *et al.*, and that a new section 6A has been added, effective during the interim, to incorporate the applicable penalty provisions from the previously-effective GTS Rate Schedule.

Copies of the filing were served upon the Company's jurisdictional customers, interested state regulatory commissions, and parties to the proceeding.

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 procedures. All such motions or protests should be filed on or before October 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23651 Filed 10-17-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-108-016]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

October 15, 1986.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on October 7, 1986, tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective as of October 2, 1986:

Substitute Original Sheet No. 161
Substitute Original Sheet No. 163
Substitute Original Sheet No. 200
Substitute Original Sheet No. 202

Columbia Gulf states that these changes are being filed to comply with the Federal Energy Regulatory Commission's (Commission) order issued October 2, 1986 in the captioned docket.

It is stated that the tariff sheets submitted contain a notation that the penalty provisions of section 6 of both Columbia Gulf's FTS-1 and ITS-1 Rate Schedules have been stayed pending final Commission action on the May 21, 1986 Offer of Settlement submitted in Docket No. RP86-14, *et al.*, and that a new section 6 has been added, effective October 2, 1986, to incorporate the applicable penalty provisions from the old GTS-1 Rate Schedule.

Copies of the filing were served upon Columbia Gulf's jurisdictional customers, intersted state regulatory commissions, and parties to the proceeding.

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 procedures. All such motions or protests should be filed on or before October 22, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23652 Filed 10-17-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of September 29 Through October 3, 1986

During the week of September 29 through October 3, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Exxon Company U.S.A., 10/1/86, KFA-0053

Exxon Company U.S.A. filed an Appeal of a denial of its Freedom of Information Act request. Exxon had requested documents concerning construction of terms used in Ruling 1975-2. The Director of the Office of Management and Information Systems of the Economic Regulatory Administration denied Exxon's request on the grounds that responsive records could not be located or did not exist. The Office of Hearings and Appeals denied the Appeal, finding that Exxon's original request was overly broad and unreasonably disruptive or burdensome in contravention of 10 C.F.R. 1004.4(c).

Ronald Couch, 10/2/86, KFA-0054

Ronald Couch filed an Appeal from a denial by the Office of Safeguards and Security of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that Couch's request was properly denied because responsive documents do not exist in DOE records. The Appeal was therefore denied.

Request for Exception

McLain Truck Service, Inc., 10/1/86, KEE-0028

McLain Truck Service, Inc. filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Sales Report," Form EIA-821, "Annual Fuel Oil and Kerosene Sales Report," and Form EIA-863, "Petroleum Product Sales Identification Survey." In evaluating the request, the DOE found that the firm had shown that it faced a higher burden in filing the EIA-782B form than other reporting firms, due to a severe reduction in business and staffing. The DOE found that the viability of the firm was threatened, and thus that the burden of completing the final six forms it was required to file outweighed the interest of the nation in the survey data. DOE also excused the firm from the requirement to file Form EIA-821 for 1985, based on EIA's statement that firms are not required to file both EIA-821 and EIA-863. Finally, the DOE found that McLain did not experience a burden in filing Form EIA-863 sufficient to outweigh the public interest in obtaining the survey data. Accordingly, exception relief from filing Form EIA-863 was denied.

Motions for Discovery

Apache Oil Company, Inc., 9/29/86, KRD-0001

Apache Oil Company, Inc. filed a Motion for Discovery in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm on April, 30, 1985. In the PRO, the Economic Regulatory Administration (ERA) alleges that Apache charged prices for regular, premium and unleaded motor gasoline that exceeded the Maximum Lawful Selling Prices (MLSP) set forth in 10 C.F.R. $ 212.93. In its Motion for Discovery, Apache sought: (i) ERA's production of all documents pertaining to, discussing, or reflecting ERA's or DOE's policy of selecting the "nearest comparable outlet " establishing a "new market," establishing the "first sale as a basis for a firm's MLSP, and selecting Ada Oil Company as the nearest comparable outlet, and (ii) ERA's production of all documents reflecting ERA's consideration of Apache's classes of purchaser and workpapers which support ERA's allegations in the PRO. The OHA granted Apache's Motion for Discovery in part. The Decision and Order stated that the ERA should make available its final audit workpapers showing (i) the manner in which Ada's records were used by the ERA to impute base prices and costs for Apache and (ii) the manner in which the ERA calculated increased costs, including "allowable non-product" and "banked" product costs, in

determining the amount of overcharges alleged in the PRO.

Houston Oil and Refining, Inc., Joseph A. Imparato, 10/2/86, HRD-0263, HRH-0263, KRZ-0044

Houston Oil and Refining, Inc. (HOR) filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to it by the Economic Regulatory Administration (ERA). HOR sought (1) administrative record discovery regarding various DOE rulemakings applicable to crude oil resellers; (2) contemporaneous construction discovery regarding the DOE's interpretation and implementation of its crude oil reseller price regulations; and (3) discovery related to the basis for ERA's contention of regulatory violations in the Proposed Remedial Order. The DOE found that HOR failed to show that the applicable regulations—10 CFR 205.202, 210.62(c), 212.183 and 212.186—were significantly ambiguous to warrant contemporaneous construction discovery or that administrative record discovery other than the publicly available official record should be granted. The Motion for Discovery was accordingly denied.

In its Motion for Evidentiary Hearing, HOR sought to establish that a genuine dispute of material fact existed with respect to the types of services that may be considered "historically and traditionally associated with the resale of crude oil" for the purposes of 10 CFR 212.186. The DOE found no genuine dispute of fact under the facts of this case as presented by the firm. However, the firm was given the opportunity to present documentary evidence in support of its claim of genuine factual dispute. Accordingly, the Motion for Evidentiary Hearing was denied without prejudice to the filing of a new motion based on additional documentary materials.

In his Motion to Dismiss, Joseph A. Imparato (Imparato), president and chairman of the board of HOR, requested that he be dismissed from the proceeding. Because one set of facts alleged by the ERA, if true, would be sufficient to establish a *prima facie* case holding Imparato liable for the firm's alleged violations, the DOE denied this motion as well.

Interlocutory Order

Highway Oil Company, Inc., 10/3/86, KRZ-0035

On June 1, 1985, Highway Oil Company, Inc. filed a Motion to File Supplemental Information in which the firm requested that the DOE accept into the record of the underlying enforcement proceeding a supplement to the firm's Statement of Objections and new factual documents. In denying the firm's request, the DOE stressed that despite numerous opportunities to present this material, Highway delayed submitting this evidence until eight years after the commencement of this proceeding. In light of the firm's inexcusable dilatory conduct and in the absence of any countervailing public interest, the DOE denied the request to supplement the record.

Implementation of Special Refund Procedures

Cloyce K. Box, 10/1/86, HEF-0041

The DOE issued a Decision and Order which established procedures to be used in evaluating claims for refunds from the $500,000 settlement fund obtained through a consent order entered into by Cloyce K. Box and the DOE. The settlement fund was provided by Box to settle alleged pricing violations which occurred in motor gasoline sales made on Box's behalf by certain brokers in specific transactions. The transactions covered by the Box consent order were motor gasoline sales made by Adams Oil Co. of Guymon, Oklahoma between April 2, 1974 and July 30, 1974, and by Ritco, Inc. of Waco, Texas during the period from March 21, 1974 through June 13, 1974. Refunds will be made to applicants who can demonstrate that they were injured as a result of either firm's pricing practices during the relevant time period. However, a reseller applicant whose claim is for $5,000 or less and end-users of the gasoline need only document their purchase claims in order to receive a refund. Spot purchasers will have to rebut the presumption of non-injury in order to receive a refund regardless of the size of their claimed refund.

Ferrell Companies, Inc., Lakes Gas Company, Inc., 9/30/86, HEF-0587, HEF-0112

The DOE issued a Decision and Order implementing a plan to distribute $106,500 received as a result of DOE consent orders with Ferrell Companies, Inc. (Ferrell) and Lakes Gas Company, Inc. (Lakes). The DOE decided to distribute the Ferrell and Lakes settlement funds to both identified and as yet unidentified customers who purchased propane from Ferrell between October 1, 1973, and January 27, 1981, or from Lakes between November 1, 1973, and February 29, 1980. The Decision describes the specific information required in refund applications.

UPG, Inc., 10/1/86 KEF-0026

The Department of Energy issued a Decision and Order implementing a plan to distribute $450,000 (plus accrued interest) received from UPG, Inc. (formerly known as P&O Falco, Inc.). Although the UPG/Falco Consent Order was global on its face, the DOE determined that the entire consent order amount was attributable solely to Falco's non-crude oil activities. Therefore, only persons who base their claim on alleged refined product overcharges may receive a refund from the UPG/Falco consent order fund.

The DOE determined that the UPG/Falco monies should be distributed using a two-stage refund proceeding. During the first stage, the DOE will refund monies to customers who purchased Falco refined products during the settlement period. If funds remain after this first stage is completed, a second stage may become necessary. First stage applications for refund must be submitted by February 1, 1987.

Refund Applications

Conoco Inc./Harold Dickey Oil et al., 9/30/86, RF220-308 et al.

The DOE issued a Decision and Order concerning 50 Applications for Refund. Each of the applicants had purchased refined petroleum products from Conoco Inc., and each sought a portion of the settlement fund obtained by the DOE through a consent order with Conoco. All of the 50 firms applied for refunds based upon the procedures for filing small claims outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1985). After examining the applications, the DOE concluded that all of the applicants should receive a refund, based on the volumetric per gallon refund amount established in the *Conoco* Decision. The total amount of refunds granted was $67,151.

Conoco Inc./ Kidds Oil Co. Inc et al., 9/29/86, RF220-184 et al.

The DOE issued a Decision and Order concerning 26 Applications for Refund. Each of the applicants had purchased refined petroleum products from Conoco Inc., and thus sought a portion of the settlement fund obtained by the DOE through a consent order with Conoco. All of the 26 firms applied for refunds based upon the procedures for filing small claims outlined in *Conoco Inc.*, 13 DOE ¶ 85,316 (1986). After examining the applications, the DOE concluded that all of the applicants should receive a refund, based on the volumetric per gallon refund amount established in the *Conoco* Decision. The total amount of refunds granted was $33,592.

Crystal Oil Co./ Kerr-McGee Corp., Dynamic Industries, Chevron U.S.A. Inc., 10/1/86, RF233-27, RF233-34, RF233-37

The DOE issued a Decision and Order concerning Applications for Refund filed by Kerr-McGee Corp., Chevron U.S.A. Inc., and Dynamic Industries, who resold petroleum products purchased from Crystal Oil Company. All three applicants purchased petroleum products only on a sporadic basis from Crystal, and were therefore considered spot purchasers. In *Crystal Oil Company*, 13 DOE ¶ 85,381 (1986), the DOE established the rebuttable presumption that spot purchasers were generally not injured by the alleged Crystal overcharges. Since none of the applicants rebutted this presumption, their Applications for Refund were denied.

Marathon Petroleum Company/A.&C. Carriers, Inc. et al., 9/2/86, RF250-818 et al.

The DOE issued a Decision and Order concerning 31 Applications for Refund filed by end-users of products covered by a consent order that the agency entered into with Marathon Petroleum Company. The Applications were evaluated in accordance with the procedures set forth in *Marathon Petroleum Co.*, 14 DOE ¶ 85,269 (1986). The sum of the refunds approved in this Decision is $40,534, representing $38,694 in principal and $1,840 in interest.

Marathon Petroleum Company/Agee's Marathon et al., 9/29/86, RF250-1109 et al.

The DOE issued a Decision and Order concerning 65 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $57,079 in principal and $2,719 in interest.

Marathon Petroleum Company/Black Hills Oil Marketers, Inc., 9/30/86, RF250-1316

The DOE issued a Decision and Order concerning an Application for Refund, filed by Eighty Eight Oil Company on behalf of Black Hills Oil Marketers, Inc., in connection with a consent order fund made available by Marathon Petroleum Company. The applicant demonstrated the volume of Black Hills' Marathon purchases, and was granted a refund under the small claims presumption of injury. The sum of the refund granted in this decision is $413 in principal and $20 in interest.

Marathon Petroleum Company/Jefferson Ice Company, 10/2/86, RF250-1233, RF250-1234

The DOE issued a Decision and Order concerning an Application for Refund filed by the Jefferson Ice Company in connection with a consent order fund made available by Marathon Petroleum Company. Jefferson demonstrated that it purchased 22,084,182 gallons of covered product from Marathon, but did not make a detailed showing of injury. Accordingly, Jefferson was granted a refund under the small claims presumption of injury. The sum of the refund granted in this Decision is $5,000 in principal and $250 in interest.

Marathon Petroleum Company/Naser Oil Company, 9/29/86, RF250-1283

The DOE issued a Decision and Order concerning the Application for Refund filed by Naser Oil Company, a purchaser of middle distillates covered by a consent order into which the agency entered with Marathon Petroleum Company. Naser demonstrated that it purchased 809,106 gallons of covered product from Marathon during the consent order period. Although Naser's original claim totaled 837,106 gallons, 28,000 gallons purchased in January and February 1973, before petroleum product prices were controlled, were not covered and therefore were not accepted as part of the Naser's claim. Under the small claims presumption, the refund approved in this Decision is $340 in principal and $16 in interest.

Mobil Oil Corporation/Albe Service Stations Inc. et al., 9/29/86, RF225-5332 et al.

The DOE issued a Decision granting 51 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $28,458 ($23,878 principal plus $4,580 interest).

Mobil Oil Corporation/Alburg Town School District et al., 10/2/86, RF225-5032 et al.

The DOE granted 24 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the presumptions established in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $2,959; $2,484 in principal plus $475 in interest.

Mobil Oil Corporation/Allen Vander Molen et al., 10/2/86, RF225-5933 et al.

The DOE issued a Decision granting 85 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $23,668 ($19,824 principal plus $3,844 interest).

Mobil Oil Corporation/Anderson Oil Company et al., 10/3/86, RF225-307 et al.

The DOE issued a Decision granting 48 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $39,122 ($32,773 principal plus $6,349 interest).

Mobil Oil Corporation/Andy's Service Station et al., 10/1/86, RF225-2893 et al.

The DOE issued a Decision granting 73 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $20,754.

Mobil Oil Corporation/Forestville Central School et al., 9/29/86, RF225-2446 et al.

The DOE granted Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable shares based on the presumptions established in *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The total amount of the refunds granted was $9,992; $8,400 in principal plus $1,592 in interest.

Mobil Oil Corporation/Spring Brook Ice and Fuel, 9/29/86, RF225-10270

The DOE issued a Decision concerning an inadvertent overpayment of $1,375 to Spring Brook Ice and Fuel. A computer check revealed that the firm had received two refunds for its purchases of heating oil from Mobil. Accordingly, the firm was ordered to remit $1,375, plus $2 accrued interest, to the DOE.

National Helium Corp./New Jersey, 10/3/86, RQ3-287

The DOE issued a Decision and Order denying a proposed second-stage refund plan submitted by the State of New Jersey pursuant to a Decision and Order establishing procedures for the disbursement of funds obtained under a consent order with National Helium Corporation. New Jersey requested $175,000 for a traffic light synchronization project in Atlantic City. The DOE determined that New Jersey's proposed plan would disproportionately benefit injured consumers in a small area of the state.

Petrolane-Lomita Gasoline Co./Shawgo Gas Service, 10/1/86, RF208-4

Shawgo Gas Service filed a refund application in the Petrolane-Lomita Gasoline Company refund proceeding pursuant to special refund procedures established in *Thompson Oil Co.*, 12 DOE ¶ 85,126 (1985). Shawgo claimed a refund based on purchases of 5,771,171 gallons of propane from Petrolane. Since the firm's claim did not exceed the threshold level of $5,000, the DOE granted a refund to Shawgo on the volumetric allocation basis without requiring a detailed showing of injury. Shawgo was granted $2,657.50 in principal and $883.50 in accrued interest.

Sid Richardson Carbon and Gasoline Company/Drews Oil Co., Inc., Shawgo Gas Service, 9/29/86, RF26-38, RF26-33

Drews Oil Co., Inc. and Shawgo Gas Service each filed a refund application in the Sid Richardson Carbon and Gasoline Company refund proceeding. *Office of Enforcement*, 10 DOE ¶ 85,056 (1983). Drews claimed that it purchased 2,175,740 gallons of natural gas liquid products from Sid Richardson during the consent order period. Shawgo claimed a purchase of 477,985 gallons. Since in none of the months during the consent order period did the purchase volume of either firm exceed the threshold level of 60,000 gallons, the DOE granted a refund to those firms on the volumetric allocation basis without requiring a detailed showing of injury. Drews was granted $13,687.58 in principal and $14,803.42 in accrued interest. Shawgo was granted $3,055.07 in principal and $3,303.93 in accrued interest.

Stinnes Interoil, Inc./Tesoro Petroleum Corporation, 9/30/86, RF125-5

The DOE issued a Decision and Order concerning an Application for Refund filed by Tesoro Petroleum Corporation (Tesoro), a purchaser of motor gasoline covered by a consent order the DOE entered into with Stinnes Interoil, Inc. (Stinnes). Based on the principles established for evaluating similar refund applications in previous Decisions, the DOE concluded that the applicant was injured. Therefore, the DOE granted Tesoro a refund of $68,535.20. However, the DOE also determined that it would not be appropriate to issue the refund directly to Tesoro at the present time since the firm is a respondent in two enforcement proceedings currently before the Office of Hearings and Appeals. Pending the outcome of these enforcement proceedings, the DOE concluded that the refund of $68,535.20 should be deposited into a separate interest-bearing escrow account on behalf of Tesoro.

Union Texas Petroleum Corporation/Graf Petroleum, Inc. et al., 9/30/86, RF140-31 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by four resellers of Union Texas Petroleum Corporation (UTP) petroleum products. The applications were filed in a special refund proceeding (Case No. HEF-0009) established

by the Office of Hearings and Appeals pursuant to 10 CFR Part 205, Subpart V, to distribute funds remitted to the DOE by UTP under a 1982 consent order.

Three of the applicants in this proceeding elected to apply under both the volumetric and small claims presumptions set forth in the Decision establishing the UTP special refund procedures. *Union Texas Petroleum Corp.*, 12 DOE ¶ 85,166 (1985). In considering those applications, the DOE concluded that the applicants should receive refunds based upon the total volume of their eligible UTP purchases. The fourth applicant applied for a refund in excess of the $5,000 threshold (principal amount) established for the UTP proceeding. In evaluating this application, the DOE concluded that the data provided by the applicant showing "banks" of unrecouped costs and competitive disadvantage constituted sufficient evidence of injury to warrant the approval of a refund for all of its eligible purchase volumes. The refunds granted in this proceeding total $18,160.

Vickers Energy Corp./Minnesota, Belridge Oil Co./Washington, Standard Oil Co. (Indiana)/Washington, Coline Gasoline Corp./Rhode Island, National Helium Corp./Rhode Island, Standard Oil Co. (Indiana)/ North Carolina, Belridge Oil Co./North Carolina, 9/30/86, RQl–293, RM8–32, RM21–33, RQ2–317, RQ3–318, RM21–34, RM8–35

The DOE issued a Decision approving the second-stage refund plans submitted by the States of Minnesota, Washington, Rhode Island, and North Carolina. Minnesota will use $27,430, plus accrued interest, from Vickers Energy Corp. for the Community Energy Council Program, which provides grants for energy conservation activities. The Vickers funds cannot be disbursed at this time because of pending litigation. Washington will add $6,000 of previously-approved Belridge Oil Co. and Amoco Oil Co. funds to its Alternative Fuels Program. Rhode Island will use $142,282 from Coline Gasoline Corp. and National Helium Corp. to print, distribute, and promote a state-wide bus system map. North Carolina will use $79,000 of previously-approved Amoco and Belridge funds to purchase Trawl Efficiency Devices and to promote the use of bus service within cities.

Dismissals

The following submissions were dismissed:

Name and Case No.

Barnes Energy Service, RF26–49
Benton Airport, Inc., RF225–1129
Butler Hill Texaco, RF148–8
Central Oregon Oil Co., RF167–8
Dept. of Interior (Lunday-Thagard), Hee–0096, HEZ–0216, HEZ–0217, HED–0231
Dept. of Interior (Howell), HEE–0159, HEZ–0269, HES–0049
Dept. of Interior (Tipperary), HEE–0092, HED–0219, HEZ–0206, HEZ–0207, HEZ–0225
Dept. of Interior (Western), HEE–0116
Haney Oil Company, RF225–9885, RF225–9886
Harold C. Grenier, RF225–2778, RF225–2779
Hirschburg, Peter L., KEF–0063
Home Petroleum Corporation, RF7–139, RF26–51, RF220–395, RF220–400, RF83–151, RF44–5, RF55–2
Home Petroleum Corporation, RF64–2, RF108–18, RFI16–8, RF123–2, RF208–6,, RF253–3
J.C. Bangerter & Son's, Inc., RF125–2, RF152–1
Magnum Corporation, RF233–31
Mellon Enterprises, Inc., RF26–50, RF40–3280, RF108–19
National Helium/NV, RQ3–294
Triangle Gasoline Co., RF250–1301
United El Segundo Inc., RF225–363
Walter R. Benjamin, RF225–7352, RF225–7353, RF225–7354

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 10, 1986.

[FR Doc. 86–23570 Filed 10–17–86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 15 through September 19, 1986

During the week of September 15 through September 19, 1986, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Gregg R. Potvin, 9/19/86, KFA–0051

Gregg R. Potvin filed an Appeal from a denial by the Director of Office Management and Information Systems of the Economic Regulatory Administration (ERA) of the Request for Information which he had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that release of the names of reseller-retailer firms under audit by the ERA which were withheld under Exemption 7A would not interfere with ERA enforcement proceedings. Accordingly, the DOE determined that the Appeal should be granted and the requested information released.

Multinational Monitor, 9/18/86, KFA–0050

Multinational Monitor, a nonprofit monthly news magazine, and Marcy Burnstiner, a reporter for Multinational Monitor, filed an Appeal from a refusal by the Chief of Freedom of the FOI and Privacy Acts Branch, Office of Administrative Services, to issue a decision concerning a Request for Information which they had submitted under the Freedom of Information Act (the FOIA). Specifically, the Chief declined to make a determination concerning the requester's petition for a fee waiver until the records sought by the associated FOIA request had been located and reviewed, and until the requesters had agreed to pay any fees assessable for such a search. In considering the Appeal, the DOE found that the DOE criteria for determining fee waivers, 10 CFR 1004.9(a)(1), do not support the Chief's refusal to issue a determination in this case. Accordingly, the Appeal was remanded for a determination of the requesters' fee waiver petition.

Nourse & Associates, 9/18/86, KFA–0049

Nourse & Associates filed an Appeal from a partial denial by the Western Area Power Authority (WAPA) of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that WAPA was generally correct in withholding information under Exemptions 4 and 5. Some documents, however, that were withheld under Exemption 5 were not deliberative and should have been disclosed. In addition, the record was insufficient to determine the releasability of a number of other documents. Accordingly, the Appeal was granted in part, and several documents were remanded for further findings.

Remedial Order

RFB Petroleum, Inc., 9/16/86, HRO–0135

RFB Petroleum, Inc., and related parties, objected to a Proposed Remedial Order which was issued to them by the Economic Regulatory Administration. The PRO alleged that RFB's crude oil reselling activities had violated the layering rule, 10 CFR 212.186. The PRO also alleged that these activities violated the normal business practices and anti-circumvention rules, 10 CFR 205.202, 210.62(c).

The DOE found no merit to RFB's argument that the layering regulation was not validly promulgated. The DOE held that the layering rule required crude oil resellers to provide some tangible service which facilitated the movement of crude oil from the producer to the refiner or which provided some other function of economic benefit to the crude oil market, and that RFB had not provided such a service or function. The DOE found that these activities also violated the normal business practices and anti-circumvention rules. These rules were found to have been violated by RFB for transactions occurring both before and after the effective date of layering rule.

The DOE further found that RFB and RFB Trading Company, Inc., a sister corporation, should each be held liable for those transactions in which they participated. Robert F. Brown, the principal owner and officer of these two corporations, was found to be jointly and severally liable for the entire overcharge amount on the following two independent bases: (i) Because he disregarded the corporate forms and (ii)

because he benefited from and was the animating force behind the corporations' illegal activities. CMC Oil Company, an unrelated corporation, was found to have been a joint venturer with the Brown firms in some of the transactions at issue and was on this basis held jointly liable for the overcharges resulting from the transactions in which it participated. The DOE reduced the overcharge amount to the total revenue received by the respondents less their total crude oil cost. As so modified, the PRO was issued as a final Order.

Request for Exception

Park Corner Oil Co., 9/17/86, KEE-0047

Park Corner Oil Co. filed an Application for Exception from the requirement to submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report," and Form EIA-863, entitled "Petroleum Product Sales Identification Survey." In considering the request, the DOE found that the firm had not shown that it was more adversely affected by the reporting requirements than over reporting firms. Accordingly, exception relief was denied.

Implementation of Special Refund Procedures

Cranston Oil Service Company, Inc., 9/19/86, KEF-0029

The DOE issued a Decision and Order implementing a plan for the distribution of $60,382.82 plus interest, received as a result of a 1977 Consent Order entered into by the DOE and Cranston Oil Service Company, Inc. (Cranston) and its successor-in-interest, Galego Oil Company. The Decision sets forth refund application procedures for customers who purchased No. 2 hearing oil from Cranston during the period covered by the Consent Order—November 1, 1973 through May 29, 1976. Specific information regarding the data to be included in refund applications is discussed in the Decision.

Refund Applications

Crystal Oil Company, Blevons Country Store, et al., 9/16/86, RF233-2 et al.

The DOE issued a Decision and Order concerning 12 Applications for Refund from the Crystal Oil Company consent order fund. The Applicants were resellers, end-users, and two firms with both end-user and reseller operations. Each applicant presented evidence that it purchased refined petroleum products from Crystal during the consent order period. The resellers' claims were at or below the $5,000 threshold amount. According to the methodology set forth in *Crystal Oil Company*, 13 DOE ¶ 85,381 (1986), each applicant was found to be eligible for a refund from the Crystal consent order fund based on the volume of its eligible purchases times the volumetric refund amount. The refunds approved in the Decision total $25,475.

Eastern of New Jersey, Inc./Alberta Poskanzer, Mediterranean Towers, 9/16/86, RF232-419, RF232-420

The DOE issued a Decision and Order concerning two Applications for Refund filed in the Eastern of New Jersey, Inc. special refund proceeding. The applicants were end-users who purchased No. 4 residual fuel oil from Eastern. In its Decision, the DOE granted the two applications under the standards specified in *Eastern of New Jersey, Inc.*, 13 DOE ¶ 85,364 (1986). The refunds granted total $6,032, representing $3,721 in principal and $2,311 in interest.

Eastern of New Jersey, Inc./Town Fuel Company et al., 9/16/86, RF232-328 et al.

The DOE issued a Decision and Order concerning 25 Applications for Refund filed in the Eastern of New Jersey, Inc. special refund proceeding. The applicants were either end-users or resellers whose purchases of No. 4 residual fuel oil from Eastern rendered them eligible for a refund below the $5,000 small claims threshold. In its Decision, the DOE granted the two applications under the standards specified in *Eastern of New Jersey, Inc.*, 13 DOE ¶ 85,364 (1986). The refunds granted total $11,185, representing $6,897 in principal and $4,288 in interest.

Everette Truck Line, Inc. 9/18/86, RF270-2

The DOE issued a Decision and Order in connection with its administration of the $10,750,000 escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the gallonage to be used as a basis for the refund which will ultimately be issued to a trucking firm applicant, Everette Truck Line. The DOE found that Everette purchased 4,632,304 gallons of diesel fuel during the August 4, 1973 through January 27, 1981 settlement period. The DOE stated that since the size of an individual surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved for refund, the actual amount of Everette's refund would be determined at a later date.

Gulf Oil Corporation/Chuck Johns Gulf Service et al., 9/18/86, RF40-150 et al.

The DOE issued a Decision and Order concerning 26 Applications for Refund filed by retailers and resellers of Gulf Oil Corporation petroleum products. Each firm applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, each applicant demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the amount of the refund claimed. After examining the applications and supporting documentation submitted by the applicants, the DOE concluded that they should receive a total refund of $31,239, representing $25,751 in principal and $5,488 in accrued interest.

Gulf Oil Corporation/Druid Hills Gulf et al., 9/17/86, RF40-2394 et al.

The DOE issued a Decision granting 23 Applications for Refund from the Gulf Oil Corporation consent order fund filed by retailers of Gulf refined products. In considering the applications, the DOE found that each of the claimants had demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed. Accordingly, the firms were granted refunds which total $25,538, representing $20,908 in principal plus $4,630 in interest.

Gulf Oil Corporation/Fletcher Oil Co., Tesoro Petroleum Corp., 9/18/86, RF40-1482, RF40-1452

Fletcher Oil Company and Tesoro Petroleum Corporation each filed a refund application in the Gulf Oil Corporation refund proceeding. *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). Fletcher purchased Gulf gasoline from Tesoro. The DOE found that in its resales for Gulf gasoline to Fletcher, Tesoro received a markup on a per gallon basis, and effectively passed on the alleged overcharges to Fletcher. Thus, based on its purchase volume, the DOE granted Fletcher a refund of $33,040.80 ($27,053.56 in principal and $5,987.26 in accrued interest). Except for its resales to Fletcher, Tesoro demonstrated that it absorbed the alleged overcharges in its purchase and resale of Gulf products. Tesoro therefore was granted a refund of $16,249.79, representing $13,305.20 in principal and $2,944.59 in accrued interest.

Marathon Petroleum Company/Baioni's Service Station, et al., 9/15/86, RF250-745 et al.

The DOE issued a Decision and Order concerning 36 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $33,415 in principal and $1,511 in interest.

Marathon Petroleum Company/Bennett's Colonial Marathon, et al., 9/17/86, RF250-785 et al.

The DOE issued a Decision and Order concerning 36 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $28,430 in principal and $1,286 in interest.

Marathon Petroleum Company/Carsten McDougall Wingett, Inc., 9/15/86, RF250-1181, RF250-1182

The DOE issued a Decision and Order concerning two Applications for Refund filed by Carsten McDougall Wingett, Inc. (Carsten), in connection with a consent order fund made available by Marathon Petroleum Company (Marathon). Carsten sought a refund of $8,358, its volumetric share of the Marathon consent order funds. As Carsten declined to made a demonstration of injury, the DOE considered it appropriate to limit its refund to the $5,000 small claims threshold. Accordingly, Carsten was granted a refund of $5,000 in principal and $214 in interest from the Marathon consent order fund.

Mobil Oil Corporation/Al's Mobil Service Center et al., 9/17/86, RF225-2970 et al.

The DOE issued a Decision and Order granting 48 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, and end-users of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $28,006 ($23,554 in principal plus $4,452 in interest).

Mobil Oil Corporation/Al's Service Station, Inc. et al., 9/17/86, *RF225-3946 et al.*

The DOE issued a Decision and Order granting 47 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $22,809 ($19,267 in principal plus $3,452 in interest).

Mobil Oil Corporation/Ben Lei et al., 9/17/86, RF225-7731 et al.

The DOE issued a Decision and Order granting 74 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers and resellers of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $24,818 ($20,870 in interest).

Mobil Oil Corporation/Big John's et al., 9/17/86, RF225-1516 et al.

The DOE issued a Decision and Order granting 33 Applications for Refund from the Mobil Oil Corporation escrow account filed by retailers, resellers, of Mobil refined petroleum products. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* decision. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $15,134 ($12,781 in principal plus $2,353 in interest).

Mobil Oil Corporation/City of Memphis et al., 9/16/86, *RF225-2446 et al.*

The DOE issued a Decision and Order granting 17 Applications for Refund from a fund obtained through a Consent Order that the DOE entered into with Mobil Oil Corporation. All of the applicants were end-users who purchased directly from Mobil and therefore were eligible for refunds equivalent to their full allocable volumetric shares pursuant to the provisions of *Mobil Oil Corp.*, 13 DOE ¶ 85.339 (1985). The total amount of the refunds granted was $1,863 ($1,569 in principal plus $294 in interest).

Northeast Petroleum Industries/New Hampshire, et al., 9/16/86, *RQ25-299 et al.*

The State of New Hampshire filed second-stage refund plans for funds remitted to the DOE under consent orders with Northeast Petroleum Industries, National Helium Corp., Coline Gasoline Corp. and Standard Oil Co. (Indiana). The DOE approved in part the proposed refund plans to use $75,000 allotted to the State from the escrow accounts established pursuant to those consent orders. Approved portions of those plans proposed to use the funds to produce or reprint six publications on conservation and renewable energy; to conduct a series of workshops and a correspondence course on energy efficient construction; and to finance an advertisement campaign, the production of a videotape and demonstration projects on energy conservation. The DOE rejected the State's proposal to use part of the funds to publish a pamphlet on used motor oil recycling in New Hampshire, since such an environmentally-oriented program did not provide proper indirect restitution to injured motor gasoline consumers. The total funds including interest approved for distribution in these proceedings are $74,258.

Dismissals

The following submissions were dismissed:

Name and Case No.

Hood Goldsberry & Goldsberry Operinting Co., Inc., HRO-0287, HRD-0287, HRD-0289
NGL Supply Inc., RF7-143, RF26-52, RF37-18, RF40-3384, RF64-3, RF108-20, RF192-21, RF204-11, RF208-7, RF220-399, RF225-10238, RF235-20, RF252-8
Rocket Oil Co., KEE-0067
Southern Bell Telephone & Telegraph Co., RF21-12625
Standard Oil Co. (IN)/AMOCO, HEG-0009
Tampa Electric Co., RF209-2

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 10, 1986.

[FR Doc. 86-23618 Filed 10-17-86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 22 Through September 26, 1986

During the week of September 22 through September 26, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Supplemental Order

Beacon Oil Co., 9/26/86; KFX-0022

The DOE issued a Supplemental Order in which it revised a prior Decision and Order establishing procedures for the disbursement of funds obtained as a result of a Consent Order entered into by Beacon Oil Company and the DOE. Specifically, the DOE adjusted the volumes of Beacon product included in the computation of the volumetric factor for the Beacon refund proceeding. Accordingly, the volumetric factor in the Beacon Oil Company Special Refund Proceeding was raised to $0.015277 per gallon.

Implementation of Special Refund Procedures

La Gloria Oil and Gas Co., 9/22/86; HEF-0210

The DOE issued a Decision and Order implementing procedures for the distribution of $646,614 remitted by the La Gloria Oil and Gas Company pursuant to a consent order entered into with the DOE. The Decision stated that purchasers of La Gloria product during the period November 1, 1973 through May 30, 1979 who were injured by La Gloria's alleged overcharges may apply for refunds from the consent order fund. The Decision further provided that reseller claimants who limit their claims to $5,000 and end-users would not be required to prove that they absorbed the alleged overcharges.

Refund Applications

Gulf Oil Corp./A.N. Rusche Distributing Co., 9/22/86; RR40-2

The DOE issued a Decision and Order concerning a Request for Reconsideration of a Decision denying in part an Application for Refund filed by A.N. Rusche Distributing Company in the Gulf Oil Corporation special refund proceeding. Rusche had requested a refund of $46,692 plus interest. In order to receive such a refund, Rusche was obliged to show that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed. Upon reconsideration, the DOE concluded that for all but two months of the period November 1973 through January 1976, the firm had made the requisite showing. Accordingly, it received an additional refund of $39,657 in principal and $8,451 in interest.

Marathon Petroleum Co./Aker's Marathon, et al., 9/26/86; RF250-1245, et al.

The DOE issued a Decision and Order concerning 28 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refund approved in this Decision is $19,562 in principal and $932 in interest.

Marathon Petroleum Co./Alexanders Willow Knolls Marathon, et al., 9/25/86; RF250-1196, et al.

The DOE issued a Decision and Order concerning 37 Applications for Refund filed by purchasers of products covered by a consent order that the agency entered into with Marathon Petroleum Company. Each applicant demonstrated the volume of its Marathon purchases, and none requested a refund greater than the $5,000 small claims refund amount. The sum of the refunds approved in this Decision is $26,926 in principal and $1,281 in interest.

Marathon Petroleum Co./Pannell and Moore Oil Co., 9/23/86; RF250–1302.

The DOE issued a Decision and Order concerning an Application for Refund filed by Pannell & Moore Oil Co., in connection with a consent order fund made available by Marathon Petroleum Company. Pannell sought a refund of $9,008, its volumetric share of the Marathon consent order funds. As Pannell did not attempt to demonstrate injury, the DOE limited the refund to the $5,000 small claims threshold. Accordingly, Pannell was granted a refund of $5,000 in principal and $238 in interest from the Marathon consent order fund.

Mobil Oil Corp./A.P.J.C. Service Station Inc., et al., 9/22/86; RF225–4651, et al.

The DOE issued a Decision and Order concerning 51 Applications for Refund, filed by retailers and resellers of refined petroleum products, seeking a portion of the settlement fund made available by Mobil Oil Corporation. Each applicant elected to apply for a refund based upon the presumptions set forth in the *Mobil* implementation order. *Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985). The DOE granted refunds totalling $29,765 ($25,038 in principal plus $4,727 in interest).

National Helium Corp./Idaho, 9/22/86; RQ3–316.

The State of Idaho filed a second-stage refund plan for the use of funds obtained by the DOE under a consent order with National Helium Corporation. Idaho proposed to use the refund to fund traffic light synchronization in two Idaho cities. The DOE concluded that Idaho's restitutionary plan would benefit consumers injured by the alleged overcharges. Accordingly, a refund of $5,767 ($3,000 in principal plus $2,767 in interest) was approved.

Quaker State Oil Refining Corp./Bettis Corp., et al., 9/26/86; RF213–0167, et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by three resellers of Quaker State Oil Refining Corporation refined petroleum products. Each applicant presented evidence that it purchased refined petroleum products from Quaker State during the consent order period and claimed a refund at or below the $5,000 small claims threshold level. Each applicant was found to be eligible for a refund from the Quaker State consent order fund based on the entire volume of its claimed purchases. The refunds plus interest totaled $9,881.

Stinnes Interoil, Inc./Apex Oil Co., 9/23/86; RF125–4.

The DOE issued a Decision and Order concerning an Application for Refund filed by Apex Oil Company, a reseller of motor gasoline, from a consent order fund made available by Stinnes Interoil, Inc. The DOE found that Apex had banks of unrecouped product costs and that the prices it paid for Stinnes motor gasoline were higher than average market prices. Therefore, the DOE concluded that Apex was injured and granted the firm a refund of $27,465.37, representing its full volumetric share of $18,158.62 and $9,306.75 in accrued interest.

Vickers Energy Corp./Oklahoma, 9/22/86; RQ1–297.

The State of Oklahoma filed a second-stage refund plan for use of funds obtained by the DOE under a consent order with Vickers Energy Corp. Oklahoma proposed to use the moneys to fund three programs: (i) A pooled self-insurance program for the State's public transportation systems; (ii) the designing of a manual to assist its municipalities in recognizing and bidding on energy-efficient equipment; and (iii) Oklahoma's seventh annual Energy Awareness Conference. The self-insurance program was not approved because it was unrelated to the energy costs involved in providing public transportation. Funds for the manual were also not approved because the benefits to injured customers were too indirect. The DOE concluded, however, that funds for the Energy Awareness Conference should be granted because the conference would benefit injured consumers. Accordingly, a refund of $8,435 plus accrued interest was approved.

Dismissals

The following submissions were dismissed:

Name and Case No.

Astroline Corp., RF225–10138.
Black Clawson, Inc., RF225–9424, RF225–9425, RF225–9426.
Breem Oil Co., KEE–0070.
BTU Energy Corp., RF208–8.
Chinchilla Mobil, RF225–8521.
Ellsworth and Lassow, Inc., KEE–0045.
Lend Lease, RF225–1797.
MGPC, Inc., HRO–0226.
MGPC, Inc., KCX–0005.
Progas Inc., RF157–3.
Simmons Oil Co., KEE–0064.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
October 10, 1986.

[FR Doc. 86–23619 Filed 10–17–86; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

Federal Hydroelectric Power—Revised Proposed Power Allocation Policy

AGENCY: Southwestern Power Administration, DOE.

ACTION: Revised proposed policy for the allocation of power and energy from new Federal hydroelectric power projects constructed with non-Federal funds.

SUMMARY: In 1980, the Southwestern Power Administration (SWPA) adopted a Final Power Allocation which allocated existing and known future Federal hydroelectric peaking capacity and associated energy, hereinafter referred to as power, to preference customers in the SWPA marketing area. That power allocation was published in the **Federal Register** (45 FR 19032) dated March 24, 1980. The 1980 SWPA power allocation does not address the construction of new projects with funds advanced by non-Federal entities. By letter dated January 24, 1984, President Reagan set forth a policy which requires Federal agencies to negotiate reasonable non-Federal funding prior to the start of construction for new Federal hydroelectric power projects (new projects).

A notice of intent to develop additional power and energy allocation policy was published in the **Federal Register** (50 FR 7639) dated February 25, 1985. A proposed policy for the allocation of power and energy from new Federal hydroelectric power projects constructed with non-Federal funds was published in the **Federal Register** (50 FR 25316) dated June 18, 1985. That proposed policy indicated that new power and energy constructed with Federal funds or with non-Federal funds, where the sponsor did not want power and energy, would be allocated in accordance with the provisions of the 1980 Final Power Allocation. The proposed policy did not address allocation procedures to be used when the project impacted on system rates and/or required support from the Federally scheduled interconnected system. Interested parties were invited to comment on the proposed policy by July 18, 1985.

SWPA has carefully considered all of the comments and hereby announces a revised proposed policy for the allocation of power and energy to be generated from all new projects. The selection of non-Federal entities willing to provide funding, prior to the start of construction for new projects, will be a joint effort of SWPA and the U.S. Army Corps of Engineers (Corps). Selection procedures for project sponsor selection and criteria will be developed by SWPA and the Corps.

DATE: Comments must be submitted on or before November 19, 1986.

ADDRESS: Comments may be mailed to: Francis R. Gajan, Director of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: Francis R. Gajan, Director of Power Marketing, (918) 581–7529.

SUPPLEMENTARY INFORMATION:

The SWPA markets hydroelectric power and energy from 23 operating multipurpose projects constructed and operated by the Corps. The SWPA's marketing area includes the states of Arkansas, Kansas, Louisiana, Missouri, Oklahoma and a portion of Texas.

The Corps has identified the new projects shown in the following table as economically feasible and environmentally acceptable. SWPA supports the construction of those projects. Additional hydroelectric power projects are being studied by the Corps. All of the proposed projects will probably require advance non-Federal funding.

Proposed Corps of Engineers Projects Suppported by SWPA

Proposed project	River basin	State	Installed capacity (in MWs)	Average annual energy (in GWHs)
Mayo Lock & Dam	Arkansas	OK	44.0	171.4
Fort Gibson Units 5 & 6	Grand	OK	22.5	38.9
Denison Units 3 & 4	Red	TX	70.0	50.2
Lock & Dam No. 9	Arkansas	AR	37.5	194.0
Toad Suck Ferry Lock & Dam	Arkansas	AR	15.0	77.1
Lock & Dam No. 26	Mississippi	IL	156.0	708.0
Norfork Units 3 & 4	North Fork	AR	85.0	4.4
Lock & Dam No. 2	Arkansas	AR	107.64	384.5
Lock & Dam No. 3	Arkansas	AR	36.68	154.3
Lock & Dam No. 4	Arkansas	AR	26.84	123.0
Lock & Dam No. 5	Arkansas	AR	33.36	154.6
David Terry L&D	Arkansas	AR	33.36	154.6
Lock & Dam No. 1	Red	LA	25.0	56.0
Lock & Dam No. 2	Red	LA	35.0	114.5
Lock & Dam No. 3	Red	LA	57.0	197.0
Lock & Dam No. 4	Red	LA	33.9	122.0
Lock & Dam No. 5	Red	LA	43.1	151.0
Totals			861.88	2,855.5

SWPA subscribes to the following general principles regarding new projects: First, hydroelectric power projects which are economically feasible and environmentally acceptable should be developed. Second, new generation and/or transmission projects should represent the lowest cost, long term power and energy supply to customers consistent with sound business principles. Finally, public bodies and cooperatives should have preference in receiving the power from those Federal projects.

Copies of the following Revised Proposed Power Allocation Policy will be mailed to all SWPA customers, state agencies, other Federal and non-Federal agencies, and other known interested parties.

Comments on the Revised Proposed Power Allocation Policy are invited by November 19, 1986 and should be addressed to: Francis R. Gajan, Director of Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581-7529.

Issued in Tulsa, Oklahoma, September 5, 1986.

Walter M. Bowers,

Acting Administrator.

Southwestern Power Administration

(Revised Proposed Power Allocation Policy)

Introduction

In 1980, SWPA adopted a Final Power Allocation which allocated existing and known future Federal hydroelectric power to preference customers in the SWPA marketing area. That power allocation was published in the **Federal Register** (45 FR 19032) dated March 24, 1980. By letter, dated January 24, 1984, President Reagan set forth a policy which requires Federal agencies to negotiate reasonable non-Federal funding prior to the start of construction for new Federal hydroelectric power projects (new projects).

The SWPA supports the development of 17 hydroelectric power projects which have been proposed by the Corps. Additional projects are being studied by the Corps.

A proposed policy for the allocation of power and energy from new Federal hydroelectric power projects constructed with non-Federal funds was published in the **Federal Register** (50 FR 25316) dated June 18, 1985. Interested parties were invited to comment on the proposed policy by July 18, 1985. Ten letters containing comments and numberous letters in support of new hydroelectric power constructions were received. Information meetings were conducted in Tulsa, Oklahoma; Little Rock, Arkansas; Columbia, Missouri; Dallas, Texas; Baton Rouge, Louisiana; and Topeka, Kansas, to discuss new Federal hydroelectric power projects, financing of projects, and the revised power allocation policy.

Public Participation

Summaries of the comments on the proposed power allocation policy and SWPA's responses follow:

1. *Comment*—The term "allocation" as used by SWPA's applies to the distribution and marketing of hydropower and not to the distribution of costs. Therefore, it is suggested the following parenthetical term, "(market and distribute)" be inserted on page 6 after the word "allocate" in the first sentence of the policy statement.

SWPA Response—"Allocate" is a familiar and established term with customers of SWPA and is understood to mean power. The entire power allocation policy has been rewritten and we do not believe power allocation will be confused with cost allocation. The term "allocation" as used in these proceedings refers only to power and energy.

2. *Comment*—The policy should explicitly state that the power subject to allocation is the increment gained by the investment being made. Power from pre-existing power facilities at the same site should not be subject to redistribution.

SWPA Response—The policy applies to new hydroelectric power projects. Power from existing projects may be reallocated when existing contracts expire or are cancelled in accordance with contract provisions. The government cannot guarantee the disposition of its resources beyond present contract commitments.

3. *Comment*—Subparagraph b, page 6, of the policy statement should be clarified. If a non-Federal entity provides funds for a Federal hydroelectric power project and does not want Federal hydrolectric power or energy, SWPA should allocate all the marketable power and energy in accordance with the final power allocation. However, some consideration and payment must flow to the contributing non-Federal financing entity if they are to provide financing. The policy statement should address how such compensation could be accomplished.

SWPA Response—This policy concerns only power allocations and does not address repayment

considerations. Repayment considerations will be addressed in the sponsor selection process with full public participation.

4. *Comment*—The SWPA proposed policy for the allocation of power and energy from new Federal projects with non-Federal financial participation addresses only capital contribution. It would seem appropriate to address the responsibility for operation, maintenance, and rehabilitation expenditures (OM&R) over the productive life of the project and the contract period.

SWPA Response—The capital contribution will be a consideration in the allocation process; OM&R charges would be recovered from the power user and would be required in any marketing contract.

5. *Comment*—A profit should not be made on the sale of power from a Federal project.

SWPA Response—Current law requires that power and energy delivered from projects under control of the Department of the Army be sold at the lowest possible cost, consistent with sound business principles. However, the principle of non-Federal financing of Federal projects presupposes that the sponsoring non-Federal entity will receive conisideration in exchange for project financiing. The consideration may, in the case of preference customers, be an allocation of power from the project or it may be a return-on-investment. The consideration that results in the lowest cost would normally be selected.

6. *Comment*—A reasonable return-on-investment power and energy received during the term of the financing contract between the government and the sponsoring non-Federal entity is absolutely necessary if an investor-owned utility provides project financing

SWPA Response—Concur. However, preference will be given to public bodies and cooperatives in the allocation of power and energy from Federal projects sponsored by entities not entitled to preference.

7. *Comment*—Those entities which provide advance funding of new projects should receive power allocations for the useful life of the projects of 50 years.

SWPA Response—The duration of power allocations from new projects will be negotiated. SWPA does not anticipate that any such allocation would exceed a period of fifty years.

8. *Comment*—An entity which provides advance funding of a new project should receive a power allocation for the useful life of the project. The entity takes the financial risk that the project's useful life will result in a reasonable return-on-investment through its power allocation. The entity's power allocation should continue for the project's useful life, should it be more than 50 years.

SWPA Response—SWPA has adopted the 50 year period as the upper limit for power allocations because 50 years has been recognized as the repayment period for Federal hydropower debt recovery and that period of time also coincides with the term of Federal Energy Regulatory Commission licenses.

9. *Comment*—A fixed percentage of power produced at Federal projects should be allocated to preference customers in the state where the power and energy is generated.

SWPA Response—This method of allocation was considered and rejected when the 1980 allocation criteria was adopted. As stated in the 1980 Final Power Allocation, we believe that adoption of this proposal would be inconsistent with Section 5 of the Flood Control Act of 1944 which requires "widespread use" of Federally marketed power.

10. *Comment*—The power and energy of the hydroelectric power projects that we developed in Arkansas and are financed by Arkansas entities should be allocated to wholesale requirement customers in Arkansas.

SWPA Response—Concur with basic idea. The revised policy takes the basic idea and expands on how the allocation would be accomplished under project development by different financing sponsors.

11. *Comment*—In response to comment c. in the June 18, 1985, Federal Register Notice, SWPA stated that it agreed "in principle" with the suggestion that project sponsors be allocated power and energy in proportion to the amount of funds provided. However, in the proposed policy, Southwestern states that the allocation would be in an amount "not to exceed" the percentage of construction funds provided by the entity. Thus, it is not clear whether the power would be allocated in "proportion" to the funds provided or whether some lesser amount of power would be supplied. It would be helpful if Southwestern would clarify this matter in its final statement of policy, and we urge Southwestern to change the words in the proposed policy from "not to exceed the percentage" to "proportionate to the amount."

SWPA Response—The purpose of the phrase "not to exceed" is to establish an upper limit on the amount of capacity and energy to which a sponsor is entitled. Amounts of capacity and energy equivalent to less than a proportionate share may be appropriate and acceptable to the sponsor. For example, a non-Federal preference entity who sponsors a Federal project where the dependable capacity of that project varies significantly may wish to accept an allocation less than its proportionate share of that project's output for a dependable amount of capacity from SWPA's interconnected system.

12. *Comment*—Southwestern's position on the interrelationship between a preference entity's role as a project sponsor and its role as a customer of other power marketed by Southwestern is not entirely clear. In response to comment k., Southwestern stated that it would "consider the amount of SWPA power and energy previously allocated to applicants for non-Federal power allocations as part of the sponsor selection process." However, Southwestern does not state how the preference customer's existing allocation would affect its eligibility as a project sponsor, nor does Southwestern indicate whether the role as a project sponsor would affect a customer's rights to future allocations of power from Southwestern. We would appreciate clarification of Southwestern's views on this subject and once again urge that Southwestern consider adopting a policy of isolating the role as a project sponsor from the role as an SWPA customer.

SWPA Response—Previously allocated power and energy will not impact the sponsor selection process. We agree that the role of the project sponsor should be isolated from the role of a SWPA customer. The revised allocation policy addresses project sponsor, existing customer, and new customer allocations in detail.

13. *Comment*—Southwestern has indicated in response to comment i. that it is not willing to adopt a policy requiring a provision in its contracts with investor-owned utilities that provide funding that would allow a preference customer to "buy out" the private utility's interest. We believe that this suggestion merits further consideration by Southwestern. Since, without such a provision in the government/utility contract, it is unlikely that a preference customer would have much bargaining power with the utility.

SWPA Response—Investor owned utilities (IOU) may sponsor Federal hydropower projects if their proposal would result in the lowest price of power to the ultimate consumer. However, preference in the allocation of power and energy from any Federal hydropower development will be given to public bodies and cooperatives. If no

preference customer is ready, willing, and able to receive the power and energy from such a project, then the IOU could receive the allocation for a 5 year limited time. After the term of such a contract, SWPA would then again offer the project outputs to preference customers.

14. *Comment*—On the same subject, SWPA stated in response to commend d. that it concurs with the suggestion that projects funded by non-preference entities be allocated in accordance with Southwestern's existing power marketing policy. However, Southwestern limited its concurrence to instances in which non-preference entities providing funding did not want an allocation of power in return, which is unlikely to ever occur. We would agree that it is not feasible to expect non-preference entities to be willing to participate as project sponsors, if they were not to receive any power in return. However, in earlier comments to Southwestern it was suggested that where a non-preference entity provides funding, a portion of the power should be reserved for allocation to preference customers. We believe that this is a reasonable suggestion, since then the non-preference entity as well as the regional preference customers would benefit from its sponsorship of new resources. We urge Southwestern to reconsider that suggestion in developing its final policy.

SWPA Response—We believe that to be in compliance with Section 5 of the 1944 Flood Control Act, all of the power is reserved for allocation to preference customers. Non-preference sponsors would not be given Federal power and energy as a part of repayment if preference customers are ready, willing, and able to receive the allocation.

15. *Comment*—It appears from the policy (and particularly from SWPA's response to comments "d" and "i") that the policy is intended to apply equally to preference and non-preference entities. Under the proposed policy, a non-preference entity providing a proportionate share of the funding, seemingly, would be just as entitled to a share of the resulting output as would a preference entity providing funding. We believe that this aspect of the policy is inconsistent with the requirement in Section 5 of the Flood Control Act of 1944, that preference in the sale of the power and energy produced at projects under the control of the Department of the Army be given to public bodies and cooperatives. The fact, that under current administration policy a non-preference entity may provide part of the project funding does not legally justify an exception to the preference requirement in the disposition of the resulting power, and we believe any such exception created by the policy to be illegal. It is possible, given the far greater resources of many investor-owned utilities, that such non-preference entities will be the only potential funders of certain sites, or will be able to fund a greater share of a given project than any competing preference entity. If non-preference entities then receive a proportionate share of the resulting output at all such sites, they, ultimately, may hold the right to much of the power from the newly constructed projects. For this reason and because of the legal requirements of the Flood Control Act, all of the power generated at the newly constructed sites, regardless of funding provided by a non-preference entity, should be made available to preference entities.

SWPA Response—All of the power generated at the newly constructed sites, regardless of funding provided by a non-preference entity, will be allocated to preference entities in accordance with the revised proposed policy.

16. *Comment*—In response to comment "h", SWPA states that the duration of power allocations from new projects will be negotiated but probably will not exceed a period of fifty years. The fifty-year term should formally be made part of the policy. Additionally, the fifty-year period should not represent just a maximum, but should be the generally prevailing period of entitlement, absent special circumstances which might justify a shorter period in a limited number of instances. We believe that a guaranteed fifty-year entitlement is essential to encourage the funding of new projects.

SWPA Response—SWPA believes that the power allocation duration should be negotiable but should not exceed a 50 year term, since that term coincides with the repayment period for Federal projects and the term of Federal Energy Regulatory Commission licenses.

17. *Comment*—Some preference customers of SWPA have contracts which entitle the customers to the full production of a specific project. If that project were enlarged by the construction of additional units, the preference customers with the existing contracts should have a priority right in the selection of a project sponsor to fund the proposed additional units and should be entitled to the full production of the total project production.

SWPA Response—Existing contracts will be honored through the term of the contract. Where two or more potential project sponsors are in competition for a project, the potential project sponsor whose proposal provides power and energy to the ultimate consumer at the lowest price will be selected. Allocation of power and energy would then be based on the revised policy.

18. *Comment*—In the absence of Federal funding, preference entities—public power utilities and rural electric cooperatives—must be granted a first right to contribute development funds, and should receive power proportionate to their financial contribution. In addition, the following criteria must be followed: (1) Consistency with existing preference laws; (2) Federal control over development of Federal water and power resources; (3) Federal marketing of power from Federal projects; (4) cost-based pricing of federally developed water and power.

SWPA Response—In response to comments received on the proposed policy, the revised proposed policy has been changed so that non-preference financial sponsors will not be given the option of receiving power and energy in lieu of financial repayment unless no preference customer is ready, willing and able to receive such allocation. Financial sponsor, preference or non-preference, will normally be the entity that provides the project at the least cost. SWPA concurs with the criteria outlined above in all other respects.

19. *Comment*—We strongly object to several provisions of SWPA's proposal for allocating power from new Federal hydroelectric power projects for the following reasons: (1) Preference entities are not given the first right of refusal to contribute funds, and (2) if non-preference entity contributes funds to a Federal project and wants Federal hydropower, SWPA will allocate power and energy according to the amount of the contribution.

SWPA Response—The policy has been changed to require that preference be granted in the allocation of power and energy; however, public law does not provide that preference be given in project sponsor selection.

20. *Comment*—The proposed hydro allocation policy is deficient in one key area. While the proposed policy conforms to the preference laws in marketing power from projects financed by preference entities, it deviates from the requirements of section 5 of the Flood Control Act of 1944 in proposed sub-paragraph "a." which would allocate power based on who funded a project. Preference entities would be deprived of their statutory rights if this policy is implemented. The law requires that any Federal project marketed by

SWPA be sold on a preference basis. Source of funding is not a legally justifiable reason to ignore the preference principle and would establish a giant loophole in the law by administrative fiat. Sub-paragraph "a." should be modified to state that all power from Federal projects—regardless of source of funding—will be allocated and marketed to preference customers in accordance with existing law.

SWPA Response—The allocation policy has been changed to require that preference be granted in the allocation of power and energy.

21. *Comment*—Sub-paragraph "b." raises some question as to its application in the event that a customer-owned hydro financing entity is created. The contracts for power from projects financed by such an entity may not conform to the 1980 allocation formula. Projects could not be financed with non-Federal funds with a requirement that the 1980 formula be followed without regard to project participants. The sub-paragraph "b" should be revised to address this possibility.

SWPA Response—The members of a customer-owned hydroelectric financing entity, which is a sponsor of a Federal project, would be entitled to a power allocation provided they were entitled to preference. The amount of the power allocation to each member would be in proportion to that members contribution to the project. That amount could be adjusted depending on the operation and marketing of the project (see Section II of the Revised Proposed Policy).

22. *Comment*—We also must reject the notion that certain non-Federal developers are entitled to a profit from use of the public's water resources. Preference customers will not support rates based on a "return on investment" to private developers. The laws and the water policies established by the Congress have consistently rejected "for profit" water and power development. SWPA rates based on any other than non-profit recovery of costs would be contrary to the requirements of law, and deviation from this policy by SWPA would be opposed by preference customers.

SWPA Response—Section 5 of the 1944 Flood Control Act requires power and energy to be sold at the lowest possible rates to recover costs within a reasonable time period. Since a return on investment may be required to construct the project at the lowest possible cost, SWPA would establish the lowest possible rates necessary to recover that cost in a reasonable time period using sound business principles.

23. *Comment*—All preference customers support—insist—that the requirements of section 5 of the Flood Control Act of 1944 be met in any final allocation policy. We will oppose any policy which attempts to deviate from the preference principle embodied in the law.

SWPA Response—Preference shall be given to public bodies and cooperatives in the allocation policy.

24. *Comment*—If SWPA elects to proceed with the adoption of a new allocation policy, I would offer the following comments. A non-Federal entity which provides funding for a new hydroelectric project should be allocated a percentage of the power and energy not less than the percentage of construction funds provided by that entity for the life of the project. Equity demands that the provider of funds for a project reap the benefits of the project for the life of the project. Sound public policy will not support taking a project away from an entity which provides the funding, be they a preference entity or not.

SWPA Response—The Revised Proposed Power Allocation Policy does allocate power and energy to a non-Federal sponsor; if they are a preference entity by law; by the percentage of construction funds provided adjusted to reflect other impacts on the existing hydroelectric power system and or SWPA rates. SWPA believes that the duration of the power allocation should be negotiable; but should not exceed a 50 year term since 50 years coincides with the repayment period for Federal projects and licenses issued by the FERC. Federal law requires hydroelectric power and energy produced at a Federal facility, without regard as to how that facility was financed, be offered to a preference entity first and then to non-preference entities if the preference entities are not ready, willing, or able to except the power and energy. SWPA believes the revised policy will be equitable to both existing and new customers.

25. *Comment*—If a non-Federal entity provides the *Total* funding for a hydroelectric project at a Federal site, I question the advisability of SWPA being involved in the project at all. The provider of funds should receive the output of the project; in this case, a Federal marketing agency serves no useful purpose.

SWPA Response—When a hydropower facility is developed pursuant to a FERC license, SWPA would be involved only at the request of the sponsoring entity. FERC's regulations will not allow non-Federal development of hydropower at Federally owned reservoirs where hydropower facilities already exist or hydropower is authorized by Congress to be developed by the Federal government. In this case the Flood Control Act of 1944 requires a Federal marketing agency to market the power increases of project needs.

26. *Comment*—We support SWPA's concurrence with the comment that the ERCOT area of Texas has not received a fair share of SWPA marketed power. We also agree with SWPA's further statement that additional power could be allocated from new projects outside of the non-interconnected portion of Texas provided that delivery into that area were economically feasible and institutionally acceptable. Nevertheless, an ERCOT preference utility, which may be able to develop the ability to utilize hydroelectric power and energy from projects outside of the non-interconnected portion of Texas, should be given an opportunity to invest in and purchase power from new resources in the interconnected SWPA system.

SWPA Response—Concur, provided the entity could demonstrate the ability to utilize hydroelectric power and energy from projects outside of the non-interconnected portion of Texas.

27. *Comment*—Under the "Settlement Agreement" between the SWPA and the State of Arkansas, in the settlement of Civil Action No. LR–C–82–807, which stated in Paragraph 5 that SWPA acknowledged that:

"The 1980–1988 SWPA power allocations are not binding on future hydroelectic developments in the SWPA marketing area, or on additional increments of power produced at existing developments in the SWPA marketing area. Specifically, acknowledge that the "total preference load fair shares' set out at 45 FR 19037 (March 24, 1980) will not necessarily be binding on SWPA in any future power allocations."

SWPA Response—SWPA intends to comply with all terms in the referenced "Settlement Agreement".

28. *Comment*—New development should not place a burden on existing customers financially or cause the SWPA system to be operated in a manner which would provide less than the current levels of service. Revenue received by SWPA from the operation of new capacity developed should be adequate to meet the debt service and OM&R of the project.

SWPA Response—New hydroelectric power development may increase rates and/or reduce current levels of service to existing customers. However, this result has not discouraged past development and today's customers

benefit from previous development by sharing in hydropower resources at uniform system wide rates. Revenues received from a new project marketed at system rates will probably not be adequate to pay the new project's costs. However, it is the intent of the Revised Proposed Power Allocation Policy to partially compensate existing customers for increased rates and service reduction by providing each customer a share in the new project, if that project affects rates and/or service.

29. *Comment*—SWPA seems determined to justify new projects regardless of the high costs even to the point of suggesting that highest cost alternatives be developed first. In no way can this be considered a sound business principle nor does it represent the lowest cost, long-term power and energy supply to customers.

SWPA Response—SWPA is developing a formal procedure to determine the financial feasibility of propsed new hydroelectric power facilities. Prior to adopting that procedure, SWPA will provide an opportunity for public participation.

Proposed Policy for the Allocation of Power and Energy From New Federal Hydroelectric Power Projects

Section I: Allocation When Financing in Whole or in Part is with Federal Funds

The Administrator (Administrator) of the Southwestern Power Administration (SWPA) shall allocate all Federal hydroelectric power (in whole kilowatts) from new Federal hydroelectric power projects in proportion to the Federal project expenditures in accordance with the preference provisions of Section 5 of the Flood Control Act of 1944 and the following:

1. Each state in SWPA's marketing area shall receive an allocation of power from each new hydroelectric power project in a ratio of the existing SWPA customer's load in that state to the existing SWPA customers' total load. Except that each state which has not received a fair share of Federal hydroelectric power as determined in the Final Power Allocation of March 24, 1980 (45 FR 19032) shall receive an increase in its allocation up to 10% of its allocation until such time as that state receives its fair share. The allocation to states already having a fair share shall be reduced by an amount equal to the total adjustment to states that have not received their fair share divided proportionately among the states that have received a fair share.

2. Ninety percent of the power allocated to each state shall be allocated to the existing SWPA customers in the ratio that each existing SWPA customer's load bears to the sum of the existing SWPA customer's total load in that state.

3. Ten percent of the power allocated to each state shall be allocated to new customers in that state. New customers shall be selected on a first requested—first served basis. The amount of power to be allocated to a new customer shall be determined on the ratio that each new customer's load bears to the sum of the existing SEPA customers' total load (including the new customer's load) in that state multiplied by the adjusted allocation in that state. If the amount of power to be allocated exceeds the new customer's allocation, the remaining power shall be allocated to the next new customer in line and so forth. Once a new customer received its allocation, it shall be treated as an existing customer. If the amount to be allocated is less than the new customer's allocation, then that new customer shall be treated as a new customer until such time that it has received its total allocation.

4. Customers with a total allocation greater than 1,000 kWs shall receive scheduled energy at a rate rounded to the nearest 1,000 kWs. Customers with a total allocation equal to or greater than 500 kW but less than 1,000 kW shall receive energy at a rate of 1,000 kW on demand. Customers with a total allocation less than 500 kW shall receive energy at a rate of 1000 kW at SWPA's discretion and not necessarily on the customer's demand. The customer shall receive an average amount of energy equal to the customer's allocated capacity times 1,200 hours per year and an opportunity to share in SWPA's supplemental peaking and excess energy when available.

5. Existing and new customers shall have one year from the date of notice of an allocation to make arrangements to receive on their respective systems the allocation and negotiate a contract with SWPA. If arrangements are not made and/or contracts not negotiated, the allocation shall be considered withdrawn and reallocated to new customers within that state in accordance with Section I, paragraph 3, above.

Section II: Allocation When Financing is with Non-Federal Funds

Part A: Funds Provided by Public Bodies or Cooperatives

If a non-Federal sponsor entitled to preference under Section 5 of the Flood Control Act of 1944 provides funds for a new Federl hydroelectric power project and wants Federal hydroelectric power and energy, the Administrator shall allocate to the sponsor power and energy not to exceed the percentage of the construction funds provided by the sponsor. The allocation shall be determined based on the following factors:

1. If the project is operated and marketed in such a way that it does not impact on, nor is supported by other Federal hydroelectric power projects (positive or negative effects on existing system capacity and energy) or does not increase the SWPA system rates, the Administrator shall allocate to the sponsor power and energy from the project equal to the percentage of construction funds provided by the sponsor. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section I, above.

2. If the project is operated in such a way that it impacts on, or is supported by other Federal hydroelectric power projects and will be marketed in such a way that it does not increase system rates, the Administrator shall allocate to the sponsor power and energy from the project equal to the percentage of construction funds provided by the sponsor adjusted to account for the impacts on or support furnished by other Federal hydroelectric power projects. The adjustment shall be determined on a project by project basis. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section I, above.

3. If the project is operated in such a way that it does not impact on nor is supported by other Federal hydroelectric power projects but is marketed in such a way that it does increase system rates, the Administrator shall allocate to the sponsor power and energy from the project equal to the percentage of construction funds provided by the sponsor multiplied by 50%. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section I, above.

4. If the project is operated and marketed in such a way that it impacts on or is supported by other Federal hydroelectric power projects and increases system rates, the Administrator shall allocate to the sponsor power and energy from the project in the same manner as Section II Part A.2 multiplied by 50%. The power and energy not allocated to the sponsor pursuant to Section II shall be allocated in accordance with Section I, above.

Part B: Funds Provided by Other Than Public Bodies and Cooperatives

If a non-Federal sponsor not entitled to preference under Section 5 of the Flood Control Act of 1944 provides funds for a new Federal hydroelectric power project and wants Federal hydroelectric power and energy, the Administrator shall allocate all of the marketable power and energy from the project in accordance with the preference provisions of section 5 of the 1944 Flood Control Act and the state distribution procedures set forth in Section I, above. However, if preference utilities are not ready, willing and able to accept a portion or all of the new allocation, then the Administrator will allocate the power and energy to the sponsor in accordance with Section II, Part A, above limited to a 5 year term.

Part C: Allocation When Non-Federal Sponsor Does Not Desire Power and Energy

If a non-Federal sponsor provides funds for a new Federal hydroelectric power project and does not want Federal hydroelectric power and energy, the Administrator shall allocate the marketable power and energy in accordance with the factors set forth in Section I, above.

A theoretical example of a new allocation using the policy in Section I (assuming 100% Federal funding) is shown in the following table. Existing customer's loads were based on present data in SWPA files.

ALLOCATION OF NEW RESOURCES TO EXISTING CUSTOMERS

[Project: Allocation Demonstration; Marketable Capacity (KW) = 100,000; Percent set aside for new customers = 10; Equalization Adjustment (percent) = 10]

State	Current load (KW)	Percent of system total load	State's share of project (KW)	Customer	Current load (KW)	Percent of State load	Customer's share of project (KW)	Adjustment allocation (KW)
Arkansas	1,150,220	13.012	13,012					
Equalization adjustment			−1,415	New Customers	0	10.000	1,301	1,160
Adjusted State share			11,597	Agusta	3,700	0.290	38	34
				Bentonville	30,200	2.363	307	274
				Clarksville	22,449	1.757	229	204
				Jonesboro	109,200	8.544	1,112	991
				Paragould	52,900	4.139	539	480
				Paris	9,771	0.765	99	88
				Piggott	8,000	0.626	81	72
				AECC	914,000	7,.517	9,306	8,294
Sub-Total						100.00	13,012	11,597
Kansas	1,052,896	11.911	11,911					
Equalization adjustment			1,191	New Customers	0	10.000	1,191	1,310
Adjusted State share			13,102	Anthony	8,300	0.709	85	93
				Coffeyville	35,000	2.992	356	392
				Kansas City	403,000	34.448	4,103	4,513
				KMEA:				
				Augusta	15,961	1.364	163	179
				Baldwin City	3,921	0.335	40	44
				Chanute	24,600	2.103	250	275
				Clay Center	10,950	0.936	111	122
				Colby	11,070	0.946	113	124
				Garnett	6,300	0.539	64	70
				Herington	5,050	0.432	51	56
				Holton	7,250	0.620	74	81
				Horton	2,968	0.254	30	33
				Iola	17,634	1.507	180	198
				LaCrosse	3,659	0.313	37	41
				Lindsborg	5,766	0.493	59	65
				Mulvane	7,500	0.641	76	84
				Neodesha	8,100	0.692	82	90
				Norton	7,550	0.645	77	85
				Oakley	5,540	0.474	56	62
				Oberlin	5,600	0.479	57	63
				Osawatomie	6,578	0.562	67	74
				Ottawa	20,400	1.744	208	229
				St. Francis	2,950	0.252	30	33
				Sharon Springs	1,580	0.135	16	18
				Wamego	8,001	0.684	81	89
				Wellington	21,600	1.846	220	242
				Winfield	40,200	3.436	409	450
				KEPCo	328,500	28.080	3,345	3,679
				Kaw Valley	18,349	1.568	187	206
				Namaha-Marshall	9,019	0.771	92	101
Sub-Total						100.000	11,910	13,101
Louisiana	1,839,300	20.807	20,807					
Equalization adjustment			2,081	New Customers	0	10.000	2,081	2,289
Adjusted State share			22,888	Lafayette	268,000	13.114	2,729	3,002
				Natchitoches	34,000	1.664	346	381
				LEPA:				
				Alexandria	137,000	6.704	1,395	1,535
				Houma	56,000	2.740	570	627
				Jonesville	6,000	0.294	61	67
				Minden	30,000	1.468	305	336
				Morgan City	42,000	2.055	428	471
				Plaquemine	20,000	0.979	204	224
				Rayne	16,000	0.783	163	179
				Ruston	45,000	2.202	456	504
				Vidalia	11,300	0.553	115	127
				Winnfield	14,000	0.685	143	157

ALLOCATION OF NEW RESOURCES TO EXISTING CUSTOMERS—Continued

[Project: Allocation Demonstration; Marketable Capacity (KW) = 100,000; Percent set aside for new customers = 10; Equalization Adjustment (percent) = 10]

State	Current load (KW)	Percent of system total load	State's share of project (KW)	Customer	Current load (KW)	Percent of State load	Customer's share of project (KW)	Adjustment allocation (KW)
				CAJUN	1,160,000	56.761	11,810	12,991
Sub-Total						100.000	20,808	22,890
Missouri	2,326,009	26.313	26,313					
Equalization adjustment			−2,862	New Customers	0	10.000	2,631	2,345
Adjusted State share			23,451	Carthage	30,900	1.196	315	281
				Fulton	19,760	0.765	201	179
				Hermann	7,500	0.290	76	68
				Higginsville	9,400	0.364	96	86
				Kennett	25,389	0.982	258	230
				Lamar	12,560	0.486	128	114
				Malden	13,500	0.522	137	122
				New Madrid	6,900	0.267	70	62
				Nixa	5,800	0.224	59	53
				Poplar Bluff	45,600	1.764	464	414
				Sikeston	46,000	1.780	468	417
				Springfield	424,000	16.406	4,317	3,847
				Thayer	1,800	0.070	18	16
				West Plains	23,900	0.925	243	217
				AECI	1,653,000	63.959	16,830	14,999
Sub-Total						100.000	26,311	23,450
Oklahoma	758,166	8.577	8,577					
Equalization adjustment			−933	New Customers	0	10.000	858	765
Adjusted State share			7,644	Comanche	3,911	0.464	40	36
				Copan	1,472	0.175	15	13
				Duncan	36,840	4.373	375	334
				Eldorado	1,079	0.128	11	10
				Goltry	691	0.082	7	6
				Granite	1,941	0.230	20	18
				Hominy	6,371	0.756	65	58
				Lexington	2,741	0.325	28	25
				Manitou	336	0.040	3	3
				Olustee	928	0.110	9	8
				Purcell	11,508	1.366	117	104
				Ryan	1,785	0.212	18	16
				Skiatook	9,784	1.161	100	89
				Spiro	3,216	0.382	33	29
				Walters	5,149	0.611	52	46
				Wetumka	3,016	0.358	31	28
				Yale	2,594	0.308	26	23
				Fort Sill	33,508	3.978	341	304
				Vance AFB	6,286	0.746	64	57
				McAlester Army	3,010	0.357	31	28
				WFEC	622,000	73.836	6,333	5,644
Sub-Total						100.000	8,577	7,644
Texas	1,713,340	19.382	19,382					
Equalization adjustment			1,938	New Customers	0	10.000	1,938	2,132
Adjusted State share			21,320	Rayburn County	299,000	15.706	3,044	3,348
				Tex-La of Tx	181,000	9.508	1,843	2,027
				NETEX	383,500	20.145	3,904	4,294
				Brazos	849,840	44.641	8,652	9,517
Sub-Total						100.000	19,381	21,318
Total Customer load (KW)	8,839,931	100.000					99,999	100,000

[FR Doc. 86–23303 Filed 10–17–86 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Fryingpan-Arkansas Project Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of an extension of the comment period for the proposed power rate adjustment for the Fryingpan-Arkansas Project.

SUMMARY: The Loveland Area Office (LAO) of the Western Area Power Administration (Western) published the "Proposed Power Rate Adjustment for the Fryingpan-Arkansas Project" in the **Federal Register** (51 FR 21614) on June 13, 1986. Interested parties were invited to submit comments concerning the proposed power rate adjustment to the LAO of Western on or before September 11, 1986.

In response to a September 5, 1986, request by the Fryingpan-Arkansas Ratepayers Group, Western notified all customers and other interested parties by letter dated September 18, 1986, of a 60-day extension of the comment period for the proposed power rate adjustment.

DATE: All comments concerning the proposed power rate adjustment should now be submitted on or before November 10, 1986, to be assured of consideration.

ADDRESS: All written comments concerning the proposed power rate adjustment should be sent to: Mr. Mark N. Silverman, Area Manager, Loveland Area Office, Western Area Power Administration, P.O. Box 3700, Loveland, Colorado 80539.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Stears, Western Area Power Administration, Loveland Area Office, P.O. Box 3700, Loveland, CO 80539, (303) 224–7225.

Issued at Golden, Colorado, October 8, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86–23620 Filed 10–17–86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00232; FRL-3097-6]

State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Working Committee on Enforcement and Certification of the State FIFRA Issues research and Evaluation Group (SFIREG) and a 2-day meeting of the SFIREG Working Committee on Registration and Classification to discuss various aspects of pesticides. The meetings will be open to the public.

DATE: The Working Committee on Enforcement and Certification will meet on Tuesday and Wednesday, November 4 and 5, 1986. The Working Committee on Registration and Classification will meet on Thursday and Friday, November 6 and 7, 1986. The meetings of both committees will start at 8:30 a.m. each day.

ADDRESS: The meeting will be held at: Barclay Hotel, 237 South 18th Street, Philadelphia, PA 19103. (215–545–0300).

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS–766C), Environmental Protection Agency, 401 M St., Sw., Washington, DC 20460 Office location and telephone number: Rm. 1115, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–7096).

SUPPLEMENTARY INFORMATION: The meeting of the Working Committee on Enforcement and Certification will be concerned with the following topics:

1. California plant-back problem.
2. Arizona fumigation of fire ants problem.
3. Status of OPP endangered species policy initiative.
4. Issue of definition of non-cropland.
5. Reporting of State enforcement data.
6. Discussion of formula used to determine pesticide cooperative agreement funds.
7. Enforcement grant guidance.
8. Coordination problems with regard to OPTS regulatory actions.
9. Monitoring of experimental use permits: States' concerns/effectiveness.
10. States' position on civil penalties.
11. OPP proposed regulations: termiticides, and worker protection standards.
12. State oversight policy: discussion of sections 26 and 27 report, etc.
13. Unenforceable label language (to be coordinated with WC/Registration and Classification).
14. Label change communication problem, i.e., information regarding removal of uses by large registrant not being provided to other registrants.
15. Channeles of trade dates: status report.
16. Triple rinse policy.
17. Registration standards enforcement strategy: status report.
18. Status of regulation on sale of restricted use pesticides to non-certified applicators.
19. Other topies as appropriate.

The meeting of the Working Committee on Registration and Classification will be concerned with the following topies:

1. Section 24(c) review-update.
2. Update on accuracy of restricted use pesticide information.
3. Policy statement regarding unenforceable label language.
4. Termiticides.
5. Released for shipment/channels of trade dates.
6. EPA chemigation policy.
7. Risk assessment training.
8. Update on Labeling Utility Project.
9. Status of registration of "Command".
10. Aluminum phosphide registration standard.
11. Dinoseb update.
12. Endangered Specise—update on independent study conducted for EPA by contractor.
13. Food contact pesticides: label changes required by EPA.
14. Other topies as appropriate.

Dated: October 10, 1986.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 86–23635 Filed 10–17–86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/47A; FRL-3088-4]

Intent To Cancel Registrations of Pesticide Products Containing Diazinon; Denial of Applications for Registration of Pesticide Products Containing Diazinon; Conclusion of Special Review

Correction

In FR Doc. 86–22128, beginning on page 35034, in the issue of Wednesday, October 1, 1986, make the following corrections:

On page 35034, the heading should appear as set forth above.

On page 35036, in column one under the heading "*A Summary* * * *" in the first paragraph, in the eighth line, "($_{50}$)" should read "(LC$_{50}$)" and in the ninth line, "($_{50}$)" should read "(LD$_{50}$)".

On the same page, same column, second paragraph, fourth line, "$_{50}$" should read "LC$_{50}$", and in the tenth line, "$_{50}$," should read "LD$_{50}$".

BILLING CODE 1505-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice to 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.: 202–005200–050

Title: Pacific Coast European Conference

Parties: Blue Star Line, Ltd., Compagnie Generale-Maritime, A/S Det Ostasiastiske Kompagni, Hapag-Lloyd AG, Johnson Line AB, Sea-Land Service, Inc.

Synopsis: The proposed amendment would permit a member line to elect not to participate in any particular service contract entered into by the conference by so notifying the Chairman prior to execution of the contract by the conference.

Agreement No.: 224-010873-001
Title: Oakland Teminal Agreement
Parties: City of Oakland (Port), Gearbulk Container Services (Gearbulk)
Synopsis: The proposed amendment would alter the basic agreement between the parties to provide for Gearbulk's possible use of the Port's Bay Bridge Terminal for its Southeast Asia/Pacific Coast service.

Agreement No.: 224-011019
Title: Oakland Terminal Agreement
Parties: City of Oakland (Port), Associated Container Transportation (Australia) Ltd. (ACT)
Synopsis: The proposed agreement would permit the Port to provide ACT with the nonexclusive right to certain assigned premises at the Port's 7th Street Public Container Terminal. ACT would agree to designate the assigned premises as its published, regularly schedule Northern California port of call. The agreement would terminate September 30, 1991.

Dated: October 15, 1986.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-23591 Filed 10-17-86; 8:45 am]

BILLING CODE 6730-01-M

Agreement No. 201-000082

West Gulf Maritime Association Assessment Agreement; Erratum

The **Federal Register** Notice of October 8, 1986 (Vol. 51, No. 195, page 36065) designated the above named agreement as Agreement No. 201-000082-009. It should have been designated as Agreement No. 201-000082-010.

Dated: October 15, 1986.

By the Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 86-23590 Filed 10-17-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amity Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 6, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Amity Bancorp, Inc.*, New Haven, Connecticut; to become a bank holding company at acquiring 100 percent of the voting shares of Amity Bank, Woodbridge, Connecticut.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *First Valley Corporation*, Bethlehem, Pennsylvania; to acquire 100 percent of the voting shares of West Side Bancorp, Inc., West Pittston, Pennsylvania, and thereby indirectly acquire West Side Bank, West Pittston, Pennsylvania. Comments on this application must be received by November 7, 1986.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *FCNB Corp.*, Frederick, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Frederick County National Bank of Frederick, Frederick, Maryland.

D. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SafraCorp*, Miami, Florida; to acquire 100 percent of the voting shares of Colonial Savings Bank, Ocala, Florida, formerly known as Colonial Savings and Loan Association, Ocala, Florida.

E. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *River Associates Bancorp, Inc.*, River Grove, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of River Grove Bank and Trust Company, River Grove, Illinois. Comments on this application must be received by November 4, 1986.

2. *Wenona Bancorp, Inc.*, Wenona, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Wenona State Bank, Wenona, Illinois.

F. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Escrow Corporation of America, Inc.*, Pennock, Minnesota; to acquire 86.5 percent of the Class A voting stock and 100 percent of the Class B non-voting stock of Madelia Holding Corp., Madelia, Minnesota, and thereby indirectly acquire Citizens National Bank of Madelia, Madelia, Minnesota.

2. **Faith Bank Holding Company**, Pierre, South Dakota; to become a bank holding company by acquiring 95.5 percent of the voting shares of Farmers State Bank, Faith, South Dakota.

G. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Lincshares, Inc.*, Bellevue, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of South Ridge Bank, Lincoln, Nebraska.

2. *Front Range Capital Corporation*, Lafayette, Colorado; to become a bank holding company by acquiring 100 percent of the voting shares of the Bank VII, Lafayette, Colorado, the successor to the conversion of Lafayette First Industrial Bank, Lafayette, Colorado, into a commercial bank.

The Board of Governors of the Federal Reserve System, October 14, 1986.

James McAfee,

Association Secretary of the Board.

[FR Doc. 86-23518 Filed 10-17-86; 8:45 am]

BILLING CODE 6210-01-M

Trustcorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The

listed companies have also applied under §225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are 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 or the offices of the Board of Governors not later than November 4, 1986.

A. **Federal Reserve Bank of Cleveland** (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Trustcorp, Inc.*, Toledo, Ohio, to acquire through the successor by merger of St. Joseph Bancorporation, South Bend, Indiana with Trustcorp of Indiana, Inc., Toledo, Ohio, the following: St. Joseph Bank and Trust Company, South Bend, Indiana; First National Bank of Angola, Angola, Indiana; First Union Bank and Trust Company of Winimac, Winimac, Indiana; and Salem Bank and Trust Company, Goshen, Indiana.

Trustcorp, Inc., has also applied to acquire St. Joseph Mortgage Company, Inc., South Bend, Indiana and thereby engage in offering a full line of mortgage banking activities, including variable and conventional mortgage loans, fixed and adjustable rate mortgage loans, and long and short term mortgage loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Trustcorp, Inc., has also applied to acquire St. Joseph Insurance Agency, Inc., a subsidiary of St. Joseph Bank and Trust Company, pursuant to section 4(c)(8)(G) of the Bank Holding Company Act.

St. Joseph Bancorporation, South Bend, Indiana, to engage through Salem Financial Life Insurance Company, Goshen, Indiana, as reinsurer of credit life, accident, and health insurance to customers of Salem Bank and Trust Company in connection with extensions of credit pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

St. Joseph Bancororation, has also applied to engage in general insurance activities through Salem Insurance Agency, Inc., Goshen, Indiana, a subsidiary of Salem Bank and Trust Company.

Board of Governors of the Federal Reserve System, October 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23579 Filed 10-17-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 75N-0184; DESI 10837]

Oxyphencyclimine Hydrochloride With Hydroxyzine Hydrochloride; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document on drug products containing oxyphencyclimine hydrochloride with hydroxyzine hydrochloride that was published on September 26, 1986.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8041.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-21784, appearing at page 34253 in the **Federal Register** of Friday, September 26, 1986, the following correction is made:

On page 34253, second column, second line of the fourth complete paragraph, "NDA 11-043" should read "NDA 11-784."

Dated: October 8, 1986.

Paul Parkman,

Deputy Director, Center for Drugs and Biologics.

[FR Doc. 86-23581 Filed 10-17-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use and Distribution of the Pueblo of Taos Judgment Funds in Docket 357 Before the United States Claims Court

October 1, 1986.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

EFFECTIVE DATE: This Plan was effective as of June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Terry Lamb, Historian, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Code 440B, 31-SIB, 1951 Constitution Ave., NW., Washington, DC., 20245.

SUPPLEMENTARY INFORMATION: The Act of October 19, 1973, (Pub. L. 93-134, 87 Stat. 466) as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 19, 1985, in satisfaction of the award granted to the Pueblo of Taos before the United States Claims Court in Docket 357. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated March 12, 1986 and was received (as recorded in the Congressional Record) by the Senate on March 18, 1986, and by the House of Representatives on March 17, 1986. The plan became effective on June 11, 1986 as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

Plan

For the Use and Distribution of the Pueblo of Taos Judgment Funds in Docket 357 Before the United States Claims Court

The funds appropriated March 19, 1985 in satisfaction of an award granted to the Pueblo of Taos in Docket 357 before the United States Claims Court, less attorney fees and litigation expenses, including all interest and investment income accrued, shall be used and distributed as herein provided.

Per Capita Payment

Thirty-five (35) percent of the funds shall be distributed in the form of per capita payments by the Secretary of the Interior, in sums as equal as possible, to all duly enrolled Taos Pueblo tribal members. The Taos Pueblo tribal roll shall be made current pursuant to the provisions of the Taos Enrollment Ordinance approved December 13, 1977 to include all eligible members born on or prior to and living on the effective date of this plan.

Any remaining amount, after the per capita payment to the members, shall revert to the tribe for use in the permanent investment program aspect of this plan.

Programing

A. Permanent Investment Program

Thirty (30) percent of the funds shall be invested by the Secretary of the Interior in a permanent investment program.

A semi-annual report on the status of the investment made by the Secretary may be made to the Governor of the Pueblo. This report shall be available for inspection to any enrolled Taos tribal member.

Eighty-five (85) percent of the interest drawn on the principal shall be distributed in the form of dividend payments by the Secretary to all eligible tribal members born on or prior to and living on the dates such dividend payments are declared. Such dividend payments shall be made every three years on July 1st to eligible tribal members, and shall be coordinated with the Tribe's 1978 use and distribution plan under Docket 357–A, so as to have the three (3) year dividend distributions made concurrently. The balance, fifteen (15) percent of the interest shall be reinvested with the principal amount, along with any undistributed amount.

If in the future the Pueblo should desire to undertake the investment of the funds instead of having their investment made by the Secretary, the Tribal Council may present an investment plan to the Secretary for approval. Upon the Secretary's approval of the investment plan the investment funds, at a mutually agreed upon time, will be transferred to the Pueblo and thereafter the Secretary will have no responsibility for them.

Whether invested by the Secretary or by the Pueblo the funds invested under this aspect of the plan shall be subject to review by the Tribal Council prior to each distribution to determine whether continued investment and dividend payments are in the best interest of the Tribe. If the Tribal Council determines that the accrued funds of this investment would best serve the interest of the Tribe in community improvement through tribal programs these procedures will be followed:

1. A proposal for any such usage of the investment and interest for community improvement shall be drawn up by the Tribal Council or an authorized committee consisting of no less than five (5) enrolled tribal members.

2. Such a proposal must be presented to a duly called and publicized meeting of at least twenty-one (21) Tribal Council members and must be approved by two-thirds of those in attendance; furthermore, the proposal must be approved by the majority vote of eligible tribal members in attendance at a duly called and publicized meeting.

3. If the required two-thirds approval is obtained, the proposal will be submitted to the Secretary of the Interior for approval. If the Secretary no longer has investment authority for the funds, then the matter will not be submitted to him, as no Secretarial approval will be required in order for the Pueblo to take action with respect to the investment funds.

At no time shall the principal of the permanent investment funds be withdrawn and used as a per capita payment or for dividend purposes.

B. Community Tribal Development and Improvement Programs

Thirty-five (35) percent of the funds shall be invested by the Secretary on behalf of the Pueblo and the principal, interest, and investment income accrued shall be available for use by the Tribal Council through a council resolution, on a budgetary basis. Priorities will be determined by the tribal governing body in the following program areas: care for the elderly; education; general community improvement; economic development, including but not limited to land acquisitions; operation and administration of tribal government; social and human service programs, and care and protection of the tribal land base and its resources.

General Provisions

The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, 96 Stat. 2512. None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted program.

Ronald L. Esquerra,

Deputy to the Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 86–23603 Filed 10–17–86; 8:45 am]

BILLING CODE 4310-02-M

Bureau and Land Management

[(AK-080-07-4213-11; F-031873)]

Alaska Realty Action, Modification of Existing Classification; Sale of Public Lands for Recreation and Public Purposes

The following described public lands have been found suitable for sale for recreational or public purpose use. The lands will be classified for sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (44 Stat. 74; 43 U.S.C. 869 et seq.) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), at no less than fair market value:

Fairbanks Meridian,

T. 17 S., R. 12 E., Sec. 7, W½W½SW¼

Containing 5 acres more or less.

The Alaska Alpine Club of Fairbanks has been using these lands for recreational or public purposes under a long-term lease pursuant to the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et. seq.) and has expressed an interest in purchasing the land under said Act. These lands are valuable for public purposes as contemplated by 43 CFR

2430.4(a) and may be properly classified for disposal under the Recreation and Public Purposes Act as stated in 43 CFR 2430.4(c). This classification would be consistent with the criteria of 43 CFR 2410.1(a)-(d).

Sale of the lands will be subject to the following reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official land records at the time of patent issuance.

3. A right-of-way for ditches and canals constructed by the authority of the United States.

4. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

5. Any other reservations that the Authorized Officer determines appropriate to ensure public access to proper management of Federal lands and interests therein.

The above-described lands are currently segregated from the operation of the public land laws, including the mining laws by Initial classification Decision of June 1, 1965. Upon publication of this notice in the Federal Register, the lands will continue to be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for sale under the Recreation and Public Purposes Act or any amendments or revisions to this notice. For a period of 45 days from the date of publication of this notice interested persons may submit comments to the District Manager, Bureau of Land Management, Fairbanks District Office, 1541 Gaffney Road, Fairbanks, Alask 99703. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become a final determination of the Department of the Interior.

Michael T. Green,

Yukon Area Manager.

[FR Doc. 86-23672 Filed 10-17-86; 8:45 am]

BILLING CODE 4310-JA-M

National Park Service

Cape Cod National Seashore: Analysis of Management Alternatives: For Three Sisters Lighthouses Relocation With Environmental Assessment

AGENCY: National Park Service, Interior.

ACTION: Notice of Decisions to prepare a supplement to the analysis of management alternatives: for Three Sisters Lighthouses relocation with environmental assessment.

SUMMARY: The National Park Service will prepare a supplement to the Analysis of Management Alternatives for the Three Sisters Lighthouses relocation at Cape Cod National Seashore. Commentors on the environmental assessment suggest that additional sites north of Nauset Light be considered for possible relocation of the Three Sisters Lighthouses.

Additional alternative sites will therefore be evaluated which are accessible from existing roads in the Marconi area of South Wellfleet approximately three and one-half miles north of Nauset Light. A decision on the selection of an alternative site for relocation will be postponed until the supplemental material has been available for public comment.

DATES: Availability of the supplement for public review and comment will be announced at a later date.

ADDRESSES: Comments should be directed to: Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663.

Dated: October 10, 1986.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

[FR Doc. 86-23617 Filed 10-17-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30389 (Sub-3) et al.[1]]

Seaboard System Railroad Inc., Trackage Rights, Southern Railway Co.; Exemption

On September 23, 1986, Norfolk and Western Railway Company (NW), CSX Transportation Company (CSX) and Southern Railway Company (Southern) filed a notice of exemption under 49 CFR 1180.2(d)(7) and 1180.4(g)(1), as amended, for an extension of temporary trackage rights operations. These operations were previously exempted from Commission regulation in Finance Docket Nos. 30389, 30390, and 30391 [2] and extended for six months from January 1, 1986, to July 1, 1986, in Finance Docket Nos. 30389 (Sub-No. 1), 30390 (Sub-No. 1), and 30391 (Sub-No. 1),[3] and further extended for 90 days from July 1, 1986, to October 1, 1986, in Finance Docket Nos. 30389 (Sub-No. 2), 30390 (Sub-No. 2) and 30391 (Sub-No. 2).[4]

This transaction extends this exemption for an additional 90 days, from October 1, 1986, to January 1, 1987, unless subsequently extended, and exempts from regulation (1) NW and Southern's temporary trackage rights over CSX (successor to Seaboard System Railroad, Inc.) between St. Paul, VA (milepost 42.2) and Frisco, TN (milepost 89.24), a distance of approximately 47 miles; (2) CSX's temporary trackage rights over Southern between Appalachia, VA (milepost 0.74) and Frisco, TN (milepost 46.48T), a distance of approximately 46 miles; and (3) temporary overhead trackage rights for the joint operation by NW, Southern and Interstate Railroad Company, a subsidiary of Southern, of interroad trains between Norton (milepost N-465.8) and Carbo (milepost N-434.5) VA and Bulls Gap, TN (milepost 87.OTC).[5]

Since the transaction involves trackage rights and the renewal of trackage rights based upon a written agreement, and is not filed or sought as a responsive application in a rail consolidation proceeding, it falls within the class of transactions described in 49 CFR 1180.2(d)(7), which the Commission has found to be exempt under 49 U.S.C. 10505.

See Ex Parte No. 282 (Sub-No. 9), *Railraod Consolidation Procedures—Trackage Rights Exemption*, 1 I.C.C. 2d 270, served April 19, 1985.

As a condition to the use of this exemption, any employees affected by the trackage rights agreement shall be protected pursuant to *Norfolk and Western Ry. Co—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified by *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

[1] Embraces also Finance Docket No. 30390 (Sub-No. 3), *Norfolk and Western Railway Company and Southern Railway Company—Trackage Rights—Seaboard System Railroad, Inc.*, and Finance Docket No. 30391 (Sub-No. 3), *Norfolk and Western Railway Company, Southern Railway Company, and Interstate Railroad Company—Joint Use.*

[2] Decision served January 25, 1984 (not printed).

[3] Notice of Exemption served January 9, 1986 (not printed).

[4] Notice of Exemption served July 14, 1986 (not printed).

[5] By notice of exeption served February 25, 1985, in Finance Docket No. 30582 (Sub-No. 1), NW's operation of the properties of Interstate was exempted from regulation. The transaction was consummated in part on November 1, 1985.

Dated: October 14, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86-23665 Filed 10-17-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[OMB Circular A-76 Management Study]

Audio-Visual Activities

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of OMB Circular A-76 Management Study.

SUMMARY: The Division of Management Services has scheduled an OMB Circular A-76 management study of the Agency's audio-visual activities to begin November 1, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Austin, 703-235-8454.

Dated at Arlington, Virginia, this day of September 30, 1986.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-23631 Filed 10-17-86; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: 10 CFR 74.17, "SNM Physical Inventory Summary Reports."

3. The form number if applicable: NRC Form 327.

4. How often the collection is required: In accordance with the required frequency for physical inventories (i.e. from one to six times per year).

5. Who will be required or asked to report: NRC fuel facility licensees.

6. An estimate of the number of responses: 47 per year.

7. An estimate of the total number of hours needed to complete the requirement or request: 188 per year.

8. An indication of whether Section 350(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR 74.17, "SNM Physical Inventory Summary Reports," requires NRC fuel facility licensees to report the results of their physical inventories of special nuclear material on NRC Form 327. The information in these reports is used to assess the performance of licensees' material control and accounting programs and to provide inventory difference information to the public.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395-7340.

NCR Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this tenth day of October 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-23670 Filed 10-17-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Procedures for Meetings

Background

Procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Comittee Act by the Nuclear Regulatory Commission's Advisory Committee on Reactor Safeguards, which were published October 2, 1985 (50 FR 40248), are renewed by this notice. These procedures are set forth in order that they may be incorporated by reference in future individual meeting notices.

The Advisory Committee on Reactor Safeguards (ACRS) is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a nuclear power reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements from members of the public to be considered as a part of the Committee's information gathering procedure, they are not adjudicatory hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS reveiws do not normally encompass matters pertaining to environmental impacts other than those pertaining to radiological safety. ACRS full Committee and Subcommittee meetings are conducted in accordance with sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.).

General Rules Regarding ACRS Meetings

An agenda is published in the Federal Register for each full Committee meeting and for each Subcommittee meeting which is partially or fully open to public attendance. Practical considerations may dictate some alterations in the agenda. The Chairman of the Committee or Subcommittee which is meeting is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

With respect to public participation in ACRS meetings, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so providing a readily reproducible copy at the beginning of the meeting. When meetings are held at locations other than Washington, DC, reproduction facilities are usually not available. Accordingly, 15 additional copies should be provided for use at such meetings. Comments should be limited to safety-related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy addressed to the Designated Federal Official specified in the **Federal Register** notice for the individual meeting in care of the ACRS, NRC, Washington, DC 20555. Comments postmarked no later than one calendar week prior to a meeting will normally be received in time for reproduction, distribution, and consideration at the meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements on topics relevant to its purview at an aprpopriate time chosen by the Chairman.

(c) Further informaion regarding topics to be discussed, whether a meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call, on the working day prior to the meeting, to the Office of the Executive Director of the Committee (telephone: 202–634–3265, ATTN: the Designated Federal Official specfied in the **Federal Register** Notice for the meeting) between 8:15 a.m. and 5:00 p.m., Washington, DC time.

(d) Questions may be asked only by ACRS Members, Consultants, and Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc., being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the open portions of the meeting where factual information is presented will be available at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555, for inspection within one week following the meeting. A copy of the minutes of the meeting will be available at the same location on or before three months following the meeting. Copies may be obtained upon payment of appropriate charges.

Special Provisions When Proprietary Sessions are to be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of ACRS meetings where this material is being discussed upon confirmation that such argreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that it can be confirmed and a determination made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Official prior to the beginning of the meeting.

Dated: October 14, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–23668 Filed 10–17–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–389]

Florida Power and Light Co. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–16, issued to Florida Power and Light Company, Orlando Utilities Commission of the City of Orlando, Florida, and Florida Municipal Power Agency (the licensees), for operation of the St. Lucie Plant, Unit No. 2, located in St. Lucie County, Florida.

The amendment would permit the licensee to transfer Unit No. 1 spent fuel from the Unit No. 1 spent fuel pool to the Unit No. 2 spent fuel pool. This would physically be accomplished by (1) removing Unit No. 1 spent fuel from the Unit No. 1 spent fuel pool storage racks; (2) placing the spent fuel in a fuel shipping cask that meets the packaging and transportation requirements of 10 CFR 71; (3) removing the fuel shipping cask from the Unit No. 1 fuel handling building; (4) moving the fuel shipping cask on a transporter vehicle from fuel handling building No. 1 to fuel handling building No. 2 (a distance of approximately 300 feet); (5) moving the fuel shipment cask into the Unit No. 2 fuel handling building; (6) removing the spent fuel from the fuel shipping cask; and (7) placing the spent fuel in the Unit No. 2 spent fuel pool storage racks.

In order to effect the above, section 2.B.5 of Facility Operating License NPF–16 is proposed to be revised such that the word "facility" will be deleted and the words "St. Lucie Units 1 and 2" be inserted.

The licensee states that this proposal is being submitted to establish the option of transferring spent fuel from Unit No. 1 to Unit No. 2. The Unit No. 1 spent fuel pool will lose full core reserve capacity as a result of the 1987 refueling outage, and the planned rerack of the spent fuel pool cannot be accomplished prior to 1988. If, in the interim, full core off-load of Unit No. 1 should be necessary, available storage in the Unit No. 2 spent fuel pool will be required. The license also states that a separate license amendment is planned for 1987 to support the Unit No. 1 reracking effort.

This amendment was requested in the licensee's application dated July 2, 1986.

The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application.

In regard to the first standard, the licensee provided the following analysis:

> This amendment will not significantly increase the probability or consequences of an accident previously evaluated since the configuration and operation of the plant will remain essentially the same. The only thing that will change is that a certain number of Unit 1 spent fuel assemblies may be transferred from the Unit 1 spent fuel pool to the Unit 2 spent fuel pool. The designs of the two pools, and the associated operating and accident analysis assumptions, are not changed. The Unit 1 assemblies that may be transferred have essentially the same mechanical design (size), enrichments, and burnup histories as evaluated in the Unit 2 FSAR for Unit 2 fuel assemblies. As stated in Reference 4, the Unit 2 spent fuel racks are designed to accommodate storage of the Unit 1 fuel.

In connection with the second standard, the licensee states that:

> This amendment will not create the possibility of a new or different kind of accident from any previously evaluated, since this change does not modify the configuration or operation of the plant. A spent fuel shipping cask that meets the packaging and transportation requirements of 10 CFR 71 will be used to transfer spent fuel assemblies between the Unit 1 and Unit 2 fuel handling buildings. Potential fuel handling and cask drop accidents are evaluated in both FSARs, including the potential drop of a

cask outside the fuel handling building. The load handling and transport of the spent fuel are enveloped by previous analyses.

Regarding the third standard, the licensee stated that:

This amendment will not involve a significant reduction in the margin of safety. In all cases, the FSAR accident analyses results bound the evolutions contemplated by this amendment.

The staff has reviewed the licensee's no significant hazards consideration determination analysis. In addition, the staff has reviewed the safety evaluation and environmental impact appraisal associated with the Unit No. 1 rerack (Amendment No. 22 dated March 29, 1978), the safety evaluation and environmental assessment associated with the Unit No. 2 rerack (Amendment No. 7 dated October 16, 1984), the applicable technical specifications for both units, the original Safety Evaluation Report for Unit No. 1 dated November 1974, the original Safety Evaluation Report for Unit No. 2 dated October 1981 (NUREG-0834), and the licensee's Updated Safety Analysis Report for each unit.

In regard to Unit No. 1 and loading a spent fuel assembly in the cask and then removing the package of 25 tons or less out of the Unit No. 1 fuel handling building, loads in excess of 2,000 pounds are prohibited from travel over irradiated fuel assemblies in the storage pool per Technical Specification 3.9.7. A Unit No. 1 spent fuel assembly weighs less than 1,300 pounds. The maximum load which may be handled by the spent fuel cask crane will not exceed 25 tons per Technical Specification 3.9.13. The irradiated fuel assemblies in the fuel storage pool will have decayed for at least 1180 hours, unless more than one-third core is placed in the pool, in which case the irradiated fuel assemblies will have decayed for 1490 hours per Technical Specification 3.9.14. This last specification is applicable prior to movement of the spent fuel cask into the fuel cask compartment. Various accident analysis involving the spent fuel were also conducted for potential accidents in the Unit No. 1 fuel handling building and the Unit No. 1 spent fuel pool. The staff and the licensee evaluated the fuel handling accident. The staff's evaluation is contained in Section 15 of the original Safety Evaluation for Unit No. 1 issued on November 8, 1974. The staff again considered the fuel handling accident in the rerack amendment action of March 29, 1978. In both cases, the staff concluded that the doses were well within the 10 CFR Part 100 guideline values. Therefore, the loading of a single fuel element into a spent fuel cask and the movement of the entire package (25 tons or less) out of the Unit No. 1 fuel handling building has already been analyzed and found to be acceptable and technical specifications are in effect.

Based upon the above discussion, it does not appear that this part of the proposed amendment would involve a significant increase in the probability or consequences of an accident previously evaluated, would create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety because this part of the proposed action by the licensee has already been reviewed and approved in previous staff evaluations and technical specifications are in effect.

In regard to Unit No. 2 and transferring the entire package (25 tons or less) into the Unit No. 2 fuel handling building and removing a Unit No. 1 spent fuel assembly (less than 1300 pounds) from the cask and placing it in the Unit No. 2 spent fuel pool, loads in excess of 1600 pounds are prohibited from travel over fuel assemblies in the spent fuel storage pool per Technical Specification 3.9.7. The maximum load which may be handled by the spent fuel cask crane will not exceed 100 tons per Technical Specification 3.9.12. The spent fuel storage pool is designed and maintained with a storage capacity limited to no more than 1076 fuel assemblies per Technical Specification 5.6.3. The recent spent fuel storage pool rerack was reviewed and approved assuming Unit No. 1 fuel in storage (14 X 14 design fuel) and Unit No. 2 fuel in storage (16 X 16 design fuel) per the staff's safety evaluation dated October 16, 1984. Potential fuel handling accidents were included in the staff's evaluation and the doses were within the guidelines of 10 CFR Part 100. Therefore, the movement of the entire package (25 tons or less) into the Unit No. 2 fuel handling building, and placement of Unit No. 1 fuel into the Unit No. 2 spent fuel pool has already been analyzed and found to be acceptable and technical specifications are in effect.

Based upon the above discussion, it does not appear that this part of the proposed amendment would involve a significant increase in the probability or consequences of an accident previously evaluated, would create the possibility of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety because this part of the proposed action by the licensee has either been explicitly reviewed and approved in previous staff evaluations (e.g., placement of Unit No. 1 spent fuel into the Unit No. 2 spent fuel pool) or bounded by previous staff evaluations (the staff evaluation of a 100 ton cask with 10 irradiated assemblies versus the licensee proposed 25 ton cask with one irradiated assembly). In addition, technical specifications are in effect.

In regard to transfer of the spent fuel shipping cask that meets the packaging and transportation requirements of 10 CFR 71 on a transporter vehicle between the Unit No. 1 fuel handling building and the Unit No. 2 fuel handling building (a distance of approximately 30 feet), the licensee states that the load path was evaluated and found to provide a safe path for transport of the spent fuel. Two transporter vehicles were considered in the load path evaluation. The maximum wheel loads for each of these transporters were found by the licensee to be acceptable considering the effects on all surfaces including the roadway, missile protection slabs, and underground facilities (i.e., pipes, electric conduit, manholes, and catch basins). In connection with a postulated cask drop accident, the staff previously evaluated such an accident outside of the Unit No. 2 fuel handling building. This evaluation is contained in the Unit No. 2 Safety Evaluation Report (section 15.11.6) dated October 1981 (NUREG-0843). The evaluation considered a spent fuel cask containing 10 irradiated fuel assemblies with a total weight of the package being 100 tons. Instantaneous release of the associated radioactivity to the atmosphere from ground level was postulated.

The staff found in the October 1981 safety evaluation report that the doses were well within the 10 CFR Part 100 guideline values, and concluded that the fuel handling and storage design features are acceptable. This conclusion was again reiterated in the staff's safety evaluation associated with the Unit No. 2 spent fuel pool rerack dated October 16, 1984. This staff evaluation for Unit No. 2 bounds the licensee's proposal because the licensee is utilizing a 25-ton cask with one irradiated fuel assembly in it. The licensee also evaluated a single assembly cask failure outside the Unit No. 1 fuel handling building in section 9.1.4.3 of the Unit No. 1 Final Safety Analysis Report. The doses were well within the 10 CFR Part 100 guideline values.

Based upon the above discussion, it does not appear that this part of the proposed amendment would involve a significant increase in the probability or consequences of an accident previously evaluated, would create the possibility

of a new or different kind of accident from any accident previously evaluated, or involve a significant reduction in a margin of safety because the previous evaluations performed by the staff and the licensee either directly address the proposed action or the proposed action is within the bounds of previous evaluations.

Based upon the above considerations, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Records Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By November 19, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject 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 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 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, is authorized to use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules in implementing section 134 of the NWPA are found in 10 CFR Part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Nuclear Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 (October 15, 1985) 10 CFR 2.1101 *et seq.* Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. (As outlined above, the Commission's rules in 10 CFR Part 2, Subpart G, and § 2.714 in particular, continue to govern the filing of requests for a hearing or petitions to intervene, as well as the admission of contentions.) The presiding officer shall grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application shall be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests oral argument, or if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

Subject to the above requirements and any limitations in the order granting leave to intervene, those permitted to intervene become parties to the proceeding and have the opportunity to participate fully in the conduct of any hearing which is held, including the opportunity to present evidence and cross-examine witnesses at such hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the

expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Ashok C. Thadani: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel-Bethesda, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Harold F. Reis, Esq., Newman & Holtzinger, 1615 L Street NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the 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 amendment dated July 2, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 33450.

Dated at Bethesda, Maryland, this 10th day of October, 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate No. 8, Division of PWR Licensing-B.

[FR Doc. 86-23671 Filed 10-17-86; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Change in Telephone Numbers

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of change in telephone numbers.

SUMMARY: This notice advises the public that the telephone numbers of the Pension Benefit Guaranty Corporation have been changed, effective October 13, 1986. This notice is needed to enable the public to obtain information about published regulations, notices, the PBGC's semiannual agenda of regulations under development, and other subjects of public interest. This notice will enable interested parties to reach the appropriate PBGC persons with questions, comments, or inquiries.

EFFECTIVE DATE: The new telephone numbers were effective October 13, 1986.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Effective October 13, 1986, the telephones of the Pension Benefit Guaranty Corporation (PBGC) were shifted from the Washington, DC, telephone exchange of "956-50xx" to the "778-88xx" exchange. The last two digits of most PBGC telephone numbers are the same as those in the previous numbers; and the area code remains unchanged. Thus, the new telephone number to be called in order to obtain information about published regulations, notices, and the PBGC's semiannual agenda of regulations under development is 202-778-8850. The new number for Coverage and Inquiries is 202-778-8800; and the new number for Communications and Public Affairs is 202-778-8840. Hearing impaired persons may telephone 202-778-8859. These are not toll-free numbers.

Issued at Washington, DC, this 14th day of October, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-23604 Filed 10-17-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings; Agreements Filed During the Week Ending October 10, 1986

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44402 R-1-R-3

Parties: Members of International Air Transport Association.

Date Filed: October 1, 1986.

Subject: TC3 Passenger Fares.

Proposed Effective Date: November 1, 1986.

Docket No. 44403

Parties: Members of International Air Transport Association.

Date Filed: October 1, 1986.

Subject: TC1 Specific Commodity Rates.

Proposed Effective Date: October 1, 1986.

Docket No. 44404

Parties: Members of International Air Transport Association.

Date Filed: October 1, 1986.

Subject: Atlantic Specific Commodity Rates.

Proposed Effective Date: October 1, 1986.

Docket No. 44405 R-1-R-8

Parties: Members of International Air Transport Association.

Date Filed: October 6, 1986.

Subject: TC1—Within So. America Fares.

Proposed Effective Date: November 15, 1986.

Docket No. 44406

Parties: Members of International Air Transport Association.

Date Filed: October 6, 1986.

Subject: Maximum Permitted Mileage—Tashkent.

Proposed Effective Date: November 1, 1986.

Docket No. 44407

Parties: Members of International Air Transport Association.

Date Filed: October 7, 1986.

Subject: TC3 General Cargo Rate Amendment.

Proposed Effective Date: October 15, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-23621 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Week Ended October 10, 1986

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 44411

Date Filed: October 8, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 5, 1986.

Description: Application of (U.T.A.) Union De Transports Aeriens pursuant to section 402 of the Act and Subpart Q of the Regulations requests amendment of its foreign air carrier permit issued by Order 74-5-29 such that in lieu of the present language UTA is authorized to engage in foreign air transportation as follows:

1. Between a point or points in the islands of New Caledonia, Tahiti, and Bora-Bora; the intermediate points Nandi, Fiji; Pago Pago, American Samoa; and Honolulu, Hawaii; and the coterminal points Los Angeles and San Francisco, California.

2. Between a terminal point or points in France, and the terminal point San Francisco to a terminal point or points in the islands of Tahiti and Bora-Bora.

The holder shall also be authorized to engage in scheduled air transportation between a point or points on Segment 1 and a point or points in France on Segment 2 via the common junction point, San Francisco, California.

Docket No. 44416

Date Filed: October 10, 1986.

Due Date for Answers, Conforming Application or Motions to Modify Scope: November 7, 1986.

Description: Application of Air Specialties Corporation d/b/a Air America, pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate to authorize air transportation of persons, property and mail between the terminal point Baltimore, Maryland, and the foreign points London, United Kingdom, and Frankfurt, Federal Republic of Germany.

Docket No. 44400

Date Filed: October 6, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 3, 1986.

Description: Application of Pan American World Airways, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests authority to provide scheduled combination service between the U.S. coterminal points on Segment 4 of its Route 132 and Saudi Arabia (both via intermediate points and on a nonstop routing) and beyond to other points in Europe and Asia on Pan Am's Route 132.

Docket No. 44415

Date Filed: October 10, 1986.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: October 24, 1986.

Description: Conforming Application of Northwest Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for an amendment of its certificate of public convenience and necessity for route 179 so as to remove condition 12 from that certificate. Removal of the condition would permit Northwest to carry local traffic on its London-Frankfurt flights on a year-round basis.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-23622 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-62-M

[Order 86-10-25; Docket 40993]

Proposed Suspension of the Section 401 Certificate of Ellis Air Taxi, Inc.; Order To Show Cause

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of order to show cause (Order 86-10-25) Docket 40993.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order suspending the certificate of Ellis Air Taxi, Inc., issued under section 401 of the Federal Aviation Act.

DATE: Persons wishing to file objections should do so no later than November 4, 1986.

ADDRESSES: Responses should be filed in Docket 40993 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: Janet A. Davis, Special Authorities Division, P-47, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590, (202) 366-2340.

Dated: October 14, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-23623 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 86-063]

Houston/Galveston Navigation Safety Advisory Committee; Renewal of Charter

SUMMARY: USCG announces the renewal of the charter for the Houston/Galveston Navigation Safety Advisory Committee.

The purpose of the Committee is to provide local expertise on such mattes as communications, surveillance, traffic control, anchorages, and other related topics dealings with navigation safety in the Houston/Galveston area as required by the Coast Guard.

FOR FURTHER INFORMATION CONTACT: Commander D.F. Withee, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130-3396, telephone number (504) 589-6901.

Dated: October 15, 1986.

W.P. Hewel,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 86-23643 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-14-M

[CGD-86-06]

National Boating Safety Advisory Council Subcommittee on Consumer Education; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub.

L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Consumer Education to be held on Monday, November 10, 1986, at the Stouffer Madison Hotel, 515 Madison Street, Seattle, Washington, beginning at 4:00 p.m. and ending at 6:00 p.m. The agenda for the meeting will be as follows:

1. Information updates on:

ABYC 5% Grant for Boating Safety Bibliography
MRAA 5% Grant for Marine Dealers Boating Education Kit
Boating Safety Hotline

2. Discuss ways to help publicize and distribute the ABYC Boating Safety Bibliography.

3. Discuss ways in which marine dealers and manufacturers may be able to educate boat operators regarding the dangers of operating a vessel while intoxicated, and otherwise participate in initiatives to deal with the growing problem of drunk boat operators.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain M.B. Stenger, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–BBS), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington DC, October 14, 1986.

W.P. Hewel,

Captain, U.S. Coast Guard Acting Chief, Office of Boating, Public, and Consumer Affairs.

October 14, 1986.

[FR Doc. 86–23644 Filed 10–17–86; 8:45 am]

BILLING CODE 4910–14–M

[CGD–86–062]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Tuesday and Wednesday, November 11 & 12, 1986, at the Stouffer Madison Hotel, 515 Madison Street, Seattle, Washington, beginning at 9:00 a.m. and ending at 4:00 p.m. on both days. The agenda for the meeting will be as follows:

1. Introduction of new Council Member.
2. Review of action taken at the 37th meeting of the Council.
3. Members' items.
4. Executive Director's report.
5. Follow-up report on previous meeting's Regulatory review.
6. Consumer Education Subcommittee report.
7. Update on Alcohol (fuel) and Fuel Hose Standards.
8. Discussion on Sportboats.
9. Presentation on recently adopted International Association of Lighthouse Authorities (IALA) Buoyage Guidelines.
10. Presentation on rescue balloon.
11. Update on Hybrid Life Preserver project and PFD pamphlet review.
12. Update on Regulatory Project, Operating a Vessel While Intoxicated.
13. Reply to members' items.
14. Remarks by Chief, Office of Boating, Public, and Consumer Affairs.
15. Chairman's session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain M.B. Stenger, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–BBS), Washington, DC, 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC, October 14, 1986.

W.P. Hewel,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

October 14, 1986.

[FR Doc. 86–23645 Filed 10–17–86; 8:45 am]

BILLING CODE 4910–14–M

[CGD 86–007]

Voluntary Uninspected U.S. Commercial Fishing Vessel Safety Program

AGENCY: Coast Guard, DOT.

ACTION: Notice of availability of publications.

SUMMARY: The U.S. Coast Guard's Fishing Vessel Safety Task Force has completed its work in developing a voluntary vessel standards program and a safety awareness and education program. The vessel standards have been consolidated in navigation and vessel inspection circular (NVIC) 5–86. The safety awareness and education program has been included in the U.S. Coast Guard/North Pacific Fishing Vessel Owners' Association (NPFVOA) "Vessel Safety Manual." This notice provides information on how these publications may be purchased.

FOR FURTHER INFORMATION CONTACT: LCDR William J. Morani Jr., Fishing Vessel Safety Task Force, (G–MTH–F/V), Room 1400, U.S. Coast Guard Headquarters, 2100 Second St., SW Washington, DC 20593; (202) 267–1053.

SUPPLEMENTARY INFORMATION: It is generally acknowledged that commercial fishermen are engaged in one of the most hazardous of all occupations. It has the poorest safety record of all U.S. industries. In response to this poor safety record the Commandant of the Coast Guard recommended a fishing vessel safety initiative to the Secretary of Transportation to reduce the number of casualties. The Coast Guard formed a full time Fishing Vessel Safety Task Force under the direction of the Chief, Office of Marine Safety, Security, and Environmental Protection to develop the initiative. With the Secretary's support and approval the initiative has developed into a total voluntary program.

The U.S. Coast Guard Fishing Vessel Safety Task Force has completed its work in developing a voluntary vessel standards program and safety awareness and education program. The vessel standards, which originally consisted of a series of five navigation and vessel inspection circulars (NVICs 5–85 thru 9–85) covering several areas, have been consolidated and published in NVIC 5–86, "Voluntary Standards For U.S. Uninspected Commercial Fishing Vessels" after persons in the fishing industry were given the opportunity to review, evaluate, and comment on our initial recommended standards. NVIC 5–86 includes recommended voluntary standards intended to be used as guidelines for increased safety on board U.S. uninspected commercial fishing, fish processing, and fish tender vessels. Boat builders, marine surveyors, insurance underwriters fishing vessel owners, operators, industry associations, and other interested parties are encouraged to adopt and implement these voluntary standards. NVIC 5–86 "Voluntary Standards For U.S. Uninspected Commercial Fishing Vessels", stock number 850–001–000–22–7 can be obtained through the Government Printing Office. Include this information along with your check, in

the amount of $11.00 payable to the "Superintendent of Documents", to Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; (202) 783-3238.

NVIC 5-86 is one component of an overall safety program aimed at improving the safety record of commercial fishing vessels. The other components are the USCG/NPFVOA "Vessel Safety Manual" and industry sponsored training courses. The "Vessel Safety Manual", which was developed in a joint effort between the Coast Guard and the NPFVOA, is targeted for use on board fishing vessels by fishermen and will serve as the basis for safety courses to be developed and given locally by fishing industry organizations, universities, community colleges, or similar training institutions. This will provide the framework for the fishing industry to reduce their vessel and human losses without federal regulation. Copies of the "Vessel Safety Manual" are available at a cost of $30.00 from Vessel Safety Program, Room 207, C-3 Building, Fishermen's Terminal, Seattle, WA 98119; (206) 283-083-0861

October 8, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 86-23646 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-14-M

Maritime Administration

[Docket No. S-792]

Farrell Lines Inc.; Application to Provide a TR 14/10 Dual Service

Farrell Lines Incorporated (Farrell) by application dated October 2, 1986, has requested an amendment to Appendix A of Operating-Differential Subsidy Agreements (ODSA), Contract Nos. MA/MSB-352 and MA/MSB-482, to provide a Trade Route (TR) 14/10 (U.S. Atlantic-Gulf/West Africa and U.S. Atlantic/Mediterranean) dual service.

Farrell currently provides service on its TR 14 service (U.S. Atlantic-Gulf/West Africa) with two C3-S-46b container vessels. On its TR 10 service (U.S. Atlantic/Mediterranean), Farrell provides service with four C5-S-73b container vessels.

Under ODSA Contract MA/MSB-352 and MA/MSB-482, Farrell is authorized to make a minimum/maximum of 20/38 sailings per year on TR 14 and a minimum/maximum of 44/66 sailings per year on TR 10, respectively.

Farrell's application stresses several benefits it expects will be gained by the combined services. The combination will provide Farrell with more operating flexibility and efficiency. It will not involve an increase in the number of ships, geographical area or authorized number of sailings. It will help maintain regular U.S.-flag berth service in the two service areas and possibly increase U.S.-flag participation.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 P.M. on November 5, 1986. This notice is published as a matter of discretion and publication should in no way be considered a favorable or unfavorable decision on the application, as filed or as may be amended. The Maritime Subsidy Board will consider any comments submitted and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies (ODS))

Dated: October 15, 1986.

By Order of the Maritime Subsidy Board.

James E. Saari,

Secretary.

[FR Doc. 86-23593 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-81-M

[Docket No. S-791]

Lykes Bros. Steamship Co., Inc.; Application for Nonsubsidized Service South of Jacksonville

Notice is hereby given that Lykes Bros. Steamship Co., Inc. (Lykes) by application dated October 2, 1986, has applied for written permission to operate nonsubsidized service between U.S. Atlantic ports south of Jacksonville and the North Coast of Colombia, Venezuela and the Atlantic Coast of Panama, subject to the condition that if Lykes conducts such non-subsidized voyage on its TR 2 service, the subsidy payment for the entire voyage shall be reduced by an amount which bears the same ratio for the subsidy otherwise payable as the gross revenue earned from the non-subsidized operations bears to the gross revenue derived from the entire voyage.

Any person, firm, or corporation having interest in the application and desiring to submit comments concerning the application must file written comments in triplicate, to the Secretary, Maritime Administration, Room 7300, Nssif Building, 400 Seventh Street SW., Washington, DC 20590, by 5:00 P.M. on October 29, 1986.

The Maritime Subsidy Board/Maritime Administrator as a matter of discretion will consider any comments submitted and take such actions with respect thereto as may be deemed to be appropriate.

(Catalog of Federal Domestic Assistance Program Nos. 20.804 Operating-Differential Subsidies (ODS))

Dated: October 15, 1986.

By Order of the Maritime Subsidy Board/Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 86-23594 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-81-M

Approval of Applicant as Trustee; AmSouth Bank, N.A.

Notice is hereby given that AmSouth, N.A., with offices at 31 North Royal Street, Mobile, Alabama, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21 through 221.30.

Dated: October 14, 1986.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 86-23595 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

[Docket No. IRA-37]

Citizens Against Nuclear Trucking; Application for Inconsistency Ruling

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Citizens Against Nuclear Trucking (CANT) has applied for an administrative ruling whether §§ 1074.3 and 1075.19 of the regulations of the Triborough Bridge and Tunnel Authority (TBTA) are inconsistent with the Hazardous Materials Transportation Act (HMTA) and the Hazardous Materials Regulations (HMR) issued thereunder, and, therefore, preempted under section 112(a) of the HMTA. Those TBTA regulations govern the

transportation of certain radioactive materials and explosives on or through seven bridges and two tunnels regulated by TBTA.

DATES: Comments received on or before December 19, 1986, and rebuttal comments received on or before February 3, 1987, will be considered before an administrative ruling is issued by the Director of the Office of Hazardous Materials Transportation. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: The application and any comment received may be reviewed in the Dockets Branch, Research and Special Programs Administration, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC 20590. Comments and rebuttal comments on the application may be submitted to the Dockets Branch at the above address, and should include the Docket Number, IRA-37. Three copies are requested. A copy of each comment and rebuttal comment must also be sent to Mr. Lindsay Audin, Technical Director, Citizens Against Nuclear Trucking, 21547 47th Ave., Bayside, NY 11591, and to TBTA's counsel, Kevin Healy, Esq., Stadtmauer, Bailkin, Kessler & Ratner, 110 E. 59th St., 25th Floor, New York, NY 10022, and that fact certified to at the time comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Messrs. Audin and Healy at the addresses specified in the **Federal Register**.")

FOR FURTHER INFORMATION CONTACT: Edward H. Bonekemper, III, Office of the Chief Counsel, Research and Special Programs Administration, 400 7th Street, SW., Washington, DC 20590, telephone 202-366-4401.

SUPPLEMENTARY INFORMATION:

1. Background

The HMTA (49 U.S.C. app. 1801 *et seq.*) at section 112(a) (49 U.S.C. app. 1811(a)) expressly preempts "any requirement of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or the HMR issued thereunder.

Procedural regulations implementing section 112 of the HMTA are codified at 49 CFR 107.201-107.225. These regulations provide for the issuance of inconsistency rulings and nonpreemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a state or political subdivision requirement and a requirement of the HMTA or HMR. Section 107.209(c) sets forth the following factors which are considered in determining whether a State or political subdivision requirement is inconsistent:

(1) Whether compliance with both the state or political subdivision requirement and the HMTA or HMR is possible; and

(2) The extent to which the state or political subdivision requirement is an obstacle to the accomplishment and execution of the HMTA and the HMR.

2. The Application for Inconsistency Ruling

Citizens Against Nuclear Trucking (CANT) has filed an application for an administrative ruling seeking a determination that §§ 1074.3 and 1075.19 of the regulations of TBTA regulating the transport of certain radioactive materials and explosives are inconsistent with the HMTA or the HMR. These TBTA rules regulate carriage of certain radioactive materials and explosives over the Triborough Bridge, Bronx-Whitestone Bridge, Throgs Neck Bridge, Henry Hudson Bridge, Marine Parkway Gil Hodges Memorial Bridge, Cross Bay Veterans Memorial Bridge, and the Verrazano-Narrows Bridge and through the Queens Midtown Tunnel and the Brooklyn-Battery Tunnel. They prohibit certain transport unless U.S. Department of Transportation (DOT) requirements have been met and prior permission has been obtained from TBTA. These regulations (together with cross-referenced § 1074.6) are reprinted as Appendix A to this Notice.

CANT contends that its members live and work near a highway affected by the cited provisions, and thus are affected by those provisions. They contend that TBTA's "ban" on radioactive shipments across its bridges caused a truck carrying low level nuclear waste to be diverted into their neighborhood, where it collided with a rail bridge over a city street.

CANT specifically requests that the TBTA regulations be tested for inconsistency with Appendix A to 49 CFR Part 177 and with 49 CFR 177.825(a). Comparison with Appendix A will not be undertaken because Appendix A is not a law or regulation, but merely a statement of DOT policy. Thus, comparison of the TBTA regulations will be made only with 49 CFR 177.825 (and any necessarily-related HMTA or HMR provisions).

CANT asserts that the TBTA regulations are inconsistent for two general reasons:

(1) They place routing restrictions on shipments of materials that are exempted from such requirements under Federal rules, and

(2) They force use of a highly circuitous route that passes through more densely populated areas on local streets when safer interstate highways are available.

The applicant contends that these regulations are inconsistent with the Federal regulation because they significantly restrict movement by public highway and apply because of the hazardous nature of the cargo. Thus, it asserts, they constitute a prohibited local routing rule.

Also, CANT states that these regulations are inconsistent with 49 CFR 177.825(a) because they block use of a route that minimizes radiological risk:

> To avoid the bridge controlled by TBTA, the driver must use New York City bridges that pass through the most densely populated and active areas of the City along local roads not designed to interstate highway standards.

Finally, CANT contends that these regulations fail both the "obstacle" and "dual compliance" tests. They assert that these regulations are an obstacle to choosing a route that minimizes risk and that simultaneous compliance with them and with 49 CFR 177.825(a) is impossible.

3. Public Comment

Comments should be restricted to the issue of whether the challenged TBTA regulations are inconsistent with the HMTA or the HMR issued thereunder.

Persons intending to comment on the application should examine the complete application in the RSPA Dockets Branch, the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.201 through 107.211), and the cited TBTA regulations in Appendix A to this notice.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

Issued in Washington, DC on October 10, 1986.

Appendix A—Triborough Bridge and Tunnel Authority Regulations at Issue in Application IRA-37 and Cross-Referenced § 1074.6

§ 1074.3 Explosives—radioactive materials.

Except as otherwise set forth in section 1074.6 of this Part, no vehicle shall enter upon the Triborough Bridge, Bronx-Whitestone Bridge, Throgs Neck Bridge, Henry Hudson Bridge, Marine Parkway Gil Hodges Memorial Bridge, Cross Bay Veterans Memorial Bridge or the Verrazano-Narrows Bridge Upper Level, if its load includes:

(a) Any class A or B explosives, as defined by U.S.D.O.T. regulations, except special fireworks—including railway or track torpedoes—in quantities not in excess of 10 pounds gross weight per vehicle; or

(b) Any radioactive materials, including but not limited to radionuclides, nuclear fissionable material, reactor fuel rods, irradiated fuel rods, and radioactive ores, residues and wastes, except:

(1) When the type and quantity of radioactive material is such that it is exempt from all U.S.D.O.T. prescribed packaging, marking, labeling and placarding;

(2) When radioactive materials are a component part of manufactured articles other than liquids, such as instrument or clock dials or electronic tubes or apparatus, which are exempt from all U.S.D.O.T. specification packaging, marking, labeling and placarding; and

(3) With respect to the Verrazano-Narrows Bridge, upper level only, the Bronx-Whitestone Bridge and the Triborough Bridge, when radioactive pharmaceuticals are shipped in compliance with the packaging, marking, labeling, placarding and all other regulations issued by the United States Department of Transportation, and when prior permission has been granted by the facility supervisor or his authorized representative at least two hours before intended travel over the bridge.

§ 1075.19 Radioactive materials.

No vehicle shall enter the Queens Midtown Tunnel, the Brooklyn-Battery Tunnel or the Verrazano-Narrows Bridge Lower Level if its load includes any radioactive material, including but not limited to radionuclides, nuclear or fissionable materials, radioactive ore, residue or waste or any radioactive material, except:

(a) When the load includes specifically packaged and labeled magnesium-thorium alloys in formed shapes (not powdered, and which shall contain not more than four percent nominal thorium 232); or

(b) When the radioactive material is such that it is exempt from all U.S.D.O.T. specification packaging, marking, and labeling because of type and quantity, but not exempt by reason of Nuclear Regulatory Commission shipment and escort, military convoy or other special authorization; but

(c) Vehicles transporting radioactive materials which are not exempt from these rules by reason of subdivision (a) or (b) of this section are allowed passage when all of the following conditions are fulfilled:

(1) The radioactive materials consist solely of manufactured articles other than liquids, namely, instrument or clock dials or electronic tubes of which radioactive materials are a component part;

(2) The radioactive material is being shipped in conformity with all U.S.D.O.T. regulations, including but not limited to all packaging, marking and labeling requirements;

(3) The gross weight of the radioactive material and its container does not exceed 500 pounds per vehicle; and

(4) Prior permission has been granted by the facility supervisor or his authorized representative at least two hours before intended travel across the facility.

§ 1074.6 Transportation of explosives over the Throgs Neck Bridge.

No vehicle shall enter upon the Throgs Neck Bridge if its load shall include any class A or B explosives as defined by U.S.D.O.T. regulations, except special fireworks—including railway or track torpedoes—in quantities not in excess of 10 pounds gross weight per vehicle, except under the following conditions:

(a) Prior permission must be granted by the facility supervisor of the bridge, or his authorized representative, at least two hours before intended travel over the bridge.

(b) If permission to use the facility is granted by the facility supervisor or his representative, passage may be made during the following hours:

Monday through Friday—10 a.m. to 3 p.m., 7 p.m. to 6 a.m.

Saturdays, Sundays and holidays—traffic permitting.

(c) Vehicles transporting class A or B explosives, their contents and shipping documents, shall be subject to inspection by bridge personnel prior to entering the facility.

(d) Operators of vehicles transporting class A or B explosives must comply with all lawful orders, instructions and directives of authorized bridge personnel.

(e) Vehicles transporting class A or B explosives, whether halted or in motion, must remain at least 300 feet behind any vehicle traveling in the same direction while crossing the bridge.

[FR Doc. 86-23624 Filed 10-17-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: October 14, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7313, 1201 Constitution Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: New
Form Number: ATF REC 5210/2
Type of Review: New
Title: Tobacco Products Manufacturers—Notice for Tobacco Products
Clearance Officer: Robert G. Masarsky (202) 566-7077 Bureau of Alcohol, Tobacco and Firearms Room 7202, Federal Building 1200 Pennsylvania Avenue, NW. Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880 Office of Management and Budget Room 3208, New Executive Office Building Washington, DC 20503

Douglas J. Colley,
Departmental Reports, Management Office.

[FR Doc 86-23661 Filed 10-17-86; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 86-191]

Approval of William A. Finn to Gauge Imported Petroleum and Petroleum Products

AGENCY: Customs Service, Treasury.

ACTION: Notice of approval.

SUMMARY: Pursuant to § 151.43(b), Customs Regulations (19 CFR 151.43(b)), Mr. William A. Finn, 1908 Naomi Street, Glassport, Pennsylvania 15045, has applied to Customs for approval to gauge imported petroleum and petroleum products. It has been determined that Mr. Finn meets all of the requirements to be a Customs approved public gauger.

Accordingly, the application of William A. Finn to gauge imported petroleum and petroleum products in all Customs districts is approved.

EFFECTIVE DATE: October 14, 1986.

FOR FURTHER INFORMATION CONTACT: Roger J. Crain, Technical Services Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2446).

Dated: October 14, 1986.

Roger J. Crain,
Chief, Technical Section, Technical Services Division.

[FR Doc. 86-23615 Filed 10-17-86; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Availability of Report of 38 U.S.C. 219 Program Evaluation

Notice is hereby given that the program evaluation of the veterans Administration's Alcohol and Drug Dependence Treatment (A&DDT) Program has been completed.

Single copies of the A&DDT Program Evaluation are available free. Reproduction of multiple copies can be arranged at the user's expense.

Direct inquiries, specifying the name of the program evaluation desired, to Mrs. Lynn H. Covington, Director,

Program Evaluation Service, Veterans Administration (074), 810 Vermont Avenue NW., Washington, DC 20420.

Dated: October 10, 1986.

By direction of the Administrator.

Raymond S. Blunt,

Director, Office of Program Analysis and Evaluation.

[FR Doc. 86-23653 Filed 10-17-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 202
Monday, October 20, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 36631, dated October 14, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (easter time), Monday, October 20, 1986.

CHANGE IN THE MEETING: The following matters have been postponed from the meeting and will be rescheduled at a later date.

"Proposed Contracts for Experts Services in Connection with Court Cases"

CONTACT PERSON FOR FURTHER INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, at (202) 634–6748.

Dated and issued: October 15, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86–23690 Filed 16–86; 11:47 am]

BILLING CODE 6750–06–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time) Monday, October 27, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed Compliance Manual, Volume I, Section II, Intake of Charges and Compliance
4. Proposed Compliance Manual, Volume I, Section III, Respondent Notification Procedures
5. Proposed Compliance Manual, Volume I, Section VI, Notice of Right To Sue

Closed

Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated and issued: October 15, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 86–23691 Filed 10–16–86; 11:47 am]

BILLING CODE 6750–06–M

3

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 22, 1986, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Auberger, Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 (703–883–4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This special meeting of the Board, being called to discuss examination and enforcement matters, will be closed to the public pursuant to exemptions prescribed in 5 U.S.C. 552b(c)(4), (8), and (9).

Dated: October 15, 1986.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration.

[FR Doc. 86–23673 Filed 10–15–86; 5:07 pm]

BILLING CODE 6705–01–M

4

FEDERAL COMMUNICATIONS COMMISSION

October 9, 1986.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 16, 1986, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Private Radio—1—Title: Amendment of Parts 90 Subparts M and S of the Commission's Rules. Summary: The Commission will consider whether to adopt a Notice of Proposed Rule Making concerning Subpart M and the modification of Subpart S as it applies to trunked specialized Mobile Radio Systems.

Private Radio—2—Title: Declaratory Ruling on Norlight Fiber Optic Network. Summary: The Commission will consider whether to adopt a Declaratory Ruling concerning Norlight's interstate fiber optic network and its request to be a private carrier system, preemted from state rate and entry regulation.

Common Carrier—1—Title: Amendment of the Commission's Rules for Rural Cellular Service Areas (RSAs). Summary: The Commission will consider adopting a Further Notice of Proposed Rulemaking concerning partial wireline settlements, and ownership in multiple applications in the same RSA, restrictions on the sale, barter, transfer or alienation of any interest in a RSA permit or license.

Common Carrier—2—Title: In the Matter of Petitions of MCI Telecommunications and GTE Sprint Communications Regarding the Validity of Connecticut Statute and Decisions of the Connecticut Department of Public Utility Control (CDPUC) Relating to Unauthorized Intrastate Traffic. Summary: The FCC will consider whether certain advertising and compensation requirements imposed on unauthorized intrastate traffic by certain portions of a Connecticut statute and the CDPUC's implementing regulations are void and unenforceable as they relate to the FCC's rules and policies and jurisdiction over interstate communications.

Mass Media—1—Title: Application for authority to construct an experimental broadcast facility on Channel 7, Ponce, Puerto Rico, filed by Ponce Television Corporation (WLUZ-TV). Summary: The

Commission will consider Ponce Television Corporation's Application to construct an experimental facility to conduct research on the effects of extreme terrain conditions on television signal reception, along with petitions and objections filed by interested parties.

Mass Media—2—Title: Frequency Coordination Procedures for the Broadcast Auxiliary Services: Part 74, Subparts D, E, F, and H. Summary: The Commission will consider action on a petition requesting amendment of Broadcast Auxiliary Rules to require that applicants certify they have coordinated intended frequency usage.

Mass Media—3—Title: Flexible Operational and Licensing Procedures for the Broadcast Auxiliary Services: Part 74, Subparts D, E, F, and H; and the Cable Television Relay Service, Part 78. Summary: The Commission will consider adoption of a Notice of Inquiry concerning flexible BAS licensing procedures.

Mass Media—4—Title: Notice of Proposed Rule Making to Amend §§73.1125 and 73.1130 of the Commission's Rules, the Main Studio and Program Origination Rules for Radio and Television Broadcast Stations. Summary: The Commission will consider potential modifications of these rules in response to a petition for rule making filed by the Arizona Justice Committee.

Mass Media—5—Title: Policy Regarding Character Qualifications in Broadcast Licensing (Gen. Docket No. 81-500), and Amendment of Rules of Broadcast Practice and Procedure Relating to Written Responses to Commission Inquiries and the Making of Misrepresentations to the Commission by Permittees and Licensees (BC Docket No. 78-108. Summary: The Commission will consider various petitions for reconsideration or clarification of the *Report, Order, and Policy Statement* which revised policies on the character qualifications of broadcast applicants.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Issued: October 9, 1986.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-23711 Filed 10-16-86; 2:40 pm]

BILLING CODE 6712-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:03 p.m. on Tuesday, October 14, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider a recommendation regarding the Corporation's assistance agreement with an insured bank.

At that same meeting, the Board also considered: (a) The application of Columbus Bank and Trust Company, Columbus, Georgia, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in the Warm Springs Office of First American Bank, Warm Springs, Georgia, and for consent to establish that office as a branch of Columbus Bank and Trust Company; and (b) the application of Bank of Coweta, Newnan, Georgia, an insured State nonmember bank, for consent to merge, under its charter and title, with the First American Bank, Warm Springs, Georgia, and for consent to establish the Luthersville Office of First American Bank as a branch of the resultant bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (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)(4), (c)(6), (c)(8), (c)(9)(A)(i), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: October 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-23694 Filed 10-16-86; 12:14 pm]

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federal register

Monday
October 20, 1986

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71
Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket Nos. 85-AWA-1 and 85-AWA-6]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at Theodore Francis Green State Airport, Providence, RI, and Standiford Field Airport, Louisville, KY. The locations designated are public airports at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of the ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATES: 0901 UTC, November 20, 1986, for ASD 85-AWA-6; 0901 UTC, December 18, 1986, for ASD 85-AWA-1.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 64 ARSA's in the implementation of this NAR recommendation.

On July 3, 1985, the FAA proposed to establish an ARSA at Theodore Francis Green State Airport, Providence, RI, under ASD 85-AWA-1 (50 FR 27528), and, on September 30, 1985, proposed to designate an ARSA at Standiford Field Airport, Louisville, KY, under Airspace Docket No. 85-AWA-6 (50 FR 39822). This rule designates ARSA's at these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held an informal airspace meeting for each proposed airport.

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designations. Additionally, several of the comments on individual designations are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposals at Providence and Louisville.

ARSA Program Comments

Comments received from the Aircraft Owners and Pilots Association (AOPA) and several others claimed that the notification for some of the informal airspace meetings held for some of the candidate airports was inadequate. The schedule of the meetings was published in the Notices of Proposed Rulemaking (NPRM) on July 3, 1985 (50 FR 27528) and on September 30, 1985 (50 FR 39822). Additionally, the FAA sent announcements to individuals, fixed-base operators, aviation user organizations, and to the news media organizations in each airport's area. The ARSA program has received considerable coverage in newsletters and official publications of aviation organizations and the schedule of the meetings mailed to members. Furthermore, a 91-day comment period was provided for Providence (ASD 85-AWA-1) and a 277-day comment period for Louisville (ASD 85-AWA-6) in which the public could make comment to the public dockets on the proposals. An extension of comment period and notice of an informal airspace meeting was published on April 28, 1986 (51 FR 15788) for Standiford Field Airport, Louisville, KY, which readvertised the informal airspace meeting and extended the comment period. For the above reasons the FAA believes the opportunity was sufficient to permit full public comment on the proposals.

AOPA and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notices, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA, disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additonal manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part

due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its intitial evaluation of the ARSA program.

AOPA claimed the staffing at one facility more than doubled in the year prior to implementation of this ARSA. The facility's authorized staffing of 28 controllers did not change. In the facility in question, on January 1, 1985, there were 27 controllers on board but in January 1986, there were the authorized 28 on board. The FAA finds the AOPA claim to be without merit.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

The SSA claims the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a level III, IV, or V Radar Approach Control Facility.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in visual flight rule (VFR) conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designate locations.

Numerous commenters also objected to the proposals based upon their belief that the volume of air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

AOPA discounted the FAA delay estimates claiming that they were based upon a standard ARSA. The FAA does not agree. FAA's preliminary delay estimates were based upon the ARSA proposed for the individual locations, whether standard or modified.

Several commenters questioned the validity of FAA's estimates of the time savings expected to be realized as a result of the greater flexibility allowed air traffic controllers in handling traffic within an ARSA. FAA wants to reemphasize that its estimates of expected savings in time and money which will result from the greater flexibility allowed air traffic controllers in handling traffic within an ARSA are quite preliminary. These estimated savings may or may not offset the delay anticipated at some sites after initial establishment of an ARSA, but are expected to provide overall time savings to all traffic, IFR as well as VFR, which will exceed delay as controllers gain experience with ARSA operating procedures.

Other commenters questioned the operating cost and passenger time values used to calculate delay costs and time savings. The values used are weighted averages of overall activity within an aircraft category for various aircraft types, and represent a typical mix of air passengers. FAA recognizes that for some specific operations actual operating cost and passenger time values will exceed the average values used, while in other cases, the actual values will be less. However, weighted averages represent the most appropriate and equitable measure to use when assessing *overall* impacts. Further, because the delay resulting from implementing ARSA procedures is expected to be transitory and efficiency improvements in the movement of traffic are ultimately expected to result, those operators whose variable cost and passenger time values exceed the averages used in the regulatory evaluation may in fact realize above average benefits.

Several commenters claimed that some aircraft would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. The FAA does not agree. Each primary airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

SSA claimed that some FAA field personnel had indicated that a transponder would be needed to enter an ARSA, and thus, the cost to implement the program was grossly underestimated. An operable two-way radio is the only avionics required for flight in an ARSA. A transponder is not required and the costing estimates are correct.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collison, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, SSA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

SSA claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

SSA, and other commenters, claimed that designation of these ARSA's may negatively impact cross-country glider flights operating out of airports 20 miles, or more, from these ARSA's While some deviations may be required, the FAA does not agree that the minor deviations that may be required will result in negatively impacting cross-country glider operations.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, the Experimental Aircraft Association (EAA), and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1-2.2 (50 FR

9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, SSA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this group of candidates was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

AOPA, EAA, and others commented that the existence of a TRSA in the above mentioned category should not be considered as justification for an ARSA. After a review of all comments received to the above referenced proposal, the FAA adopted that NAR recommendation (50 FR 9252, March 6, 1985). Therefore, absent a finding that designation would be inappropriate, the existence of a TRSA within that criteria is deemed sufficient for designation.

AOPA, EAA, and others indicated that several of the proposed locations do not meet the criteria that the FAA is considering for future ARSA candidates. The FAA has circulated proposed criteria for future application. However, whatever the nature of any criteria eventually adopted, this group of locations which qualify as ARSA candidates under the adopted NAR criteria would not be affected.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadlock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, SSA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

AOPA commented that FAA understimated the one-time cost of distributing Letters to Airmen and the Advisory Circular, and neglected costs related to the informal public meetings. Both of these issues were discussed in the detailed regulatory evaluation of the NPRM, which has been available in the regulatory docket since publication of the NPRM. The availability of this detailed evaluation was indicated in the introductory paragraph of the regulatory evaluation summary included in the **Federal Register,** NPRM (50 FR 39822, 39824, September 30, 1985). AOPA's comments assumed that every active pilot would be notified at least once. However, FAA intends to mail individual Letters to Airmen only to those pilots living in the vicinity of ARSA sites, and consequently its cost estimate is less than that of AOPA. The total one-time cost of distributing Letters to Airmen and the Advisory Circular was also prorated to reflect only those sites included in the notice, and both total and prorated cost estimates were provided in the notice. Further, as FAA indicated in the detailed regulatory evaluation, the expenses associated with public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, and consequently these expenses are more appropriately considered sunken costs attributable to the rulemaking process rather than implementation costs of the ARSA program. Similarly, information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being

conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

SSA, and other commenters questioned whether the FAA considered the impact of the proposed ARSA's on individuals in making its Regulatory Flexibility Determination, and whether the threshold for determining if a significant economic impact on a substantial number of small entities had been exceeded because some small entities might be impacted. The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. Individual citizens, as such, are not considered small entities under the terms of the RFA; however, an individual whose business is a sole proprietorship would be considered a small entity under the RFA. Some of the small entities which could be potentially affected by implementaton of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding almost every satellite airport located within the 5-mile ring to avoid adversely impacting their operations, and in some cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, a substantial number of small entities, defined in FAA Order 2100.14, "Regulatory Flexibility Criteria and Guidance," as more than one-third (but not less than eleven) of the small entities subject to a proposed rule, clearly will not be impacted by this rulemaking. Therefore, adoption of this final rule will not result in a significant economic impact on a substantial number of small entities.

SSA commented that the FAA should take into consideraton the unique operating characteristics of gliders in defining the ARSA airspace at some locations. The FAA has modified the configurations of the ARSA at locations where glider operations would be adversely affected by a standard configuration.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association (ALPA) concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association (ATA) endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Theodore Francis Green State Airport, Providence, RI

One commenter claimed that Quonset Approach Control would be unable to handle the additional ARSA workloaded due to facility staffing since he is told during present TRSA peak traffic conditions to "Stand-by." The FAA postponed implementation of an ARSA at the airport due to a high proportion of personnel changes at Quonset Approach Control. Since the personnel problem has been resolved, the FAA believes there will be no undue workload which cannot be efficiently handled by the present controller work force.

Numerous commenters objected to the ARSA citing reasons covered above in general comments.

One commenter claimed the ARSA as proposed was a good thing for all pilots and would provide a safer flying environment. The FAA agrees.

The Air Transport Association responded in support of the ARSA at Theodore Francis Green State Airport stating that the positive communications environment would enhance safety for all pilots.

Comments on Standiford Field Airport, Louisville, KY

The Falls Cities Pilots Association presented an issue paper in opposition to the ARSA at Standiford Field. The majority of the claims in this issue paper were national in scope and are covered under "ARSA PROGRAM COMMENTS" above. They stated the controllers at Standiford Field are doing an excellent job with the TRSA so there should be no change. The FAA believes the controllers at Standiford Field will continue to do an excellent job with the ARSA.

Several commenters claimed that the ARSA would unduly restrict aircraft operating to and from Bowman Field and suggested a cutout for this airport. The FAA agrees and will make modifications to the inner core of the ARSA to allow pilots at Bowman Field to continue operations much as they operated previously.

AOPA and other commenters claimed that an ARSA at Standiford Field would increase workload, would not enhance safety, and would force pilots to fly lower under the outer core than at present. These comments have been addressed above.

The ATA responded in support of the ARSA at Standiford Field citing an improvement in safety for all pilots.

Other comments were received which were general in nature and were

discussed under "ARSA PROGRAM COMMENTS."

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments which addressed information presented in the Regulatory Evaluation of the notices for these dockets included in this final rule have been discussed above. A detailed Regulatory Evaluation of this final rule has been placed in the regulatory dockets.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM's, and those comments which addressed it have been discussed above. For the reasons presented in the NPRM's and clarified in the Discussion of Comments, FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates an Airport Radar Service Area (ARSA) at Theodore Francis Green State Airport, Providence, RI, and at Standiford Field Airport, Louisville, KY. Each location designated is a public airport at which a nonregulatory Terminal Radar Service Area is currently in effect. Establishment of these ARSA's will require that pilots maintain two-way radio communication with ATC while in the ARSA's. Implementation of ARSA procedures at the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

2. Section 71.501 is amended as follows:

ASD 85–AWA–1

Providence Theodore Francis Green State Airport, RI [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Theodore Francis Green State Airport (lat. 41°43′31″ N., long. 71°25′41″ W.) and that airspace extending upward from 1,300 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport from the 015° bearing from the airport clockwise to the 195° bearing from the airport, and that airspace extending upward from 1,700 feet MSL to and including 4,100 feet MSL within a 10-mile radius of the airport from the 195° bearing from the airport clockwise to the 015° bearing from the airport.

ASD 85–AWA–6

Louisville Standiford Field Airport, KY [New]

That airspace extending upward from the surface to and including 4,500 feet MSL within a 5-mile radius of the Standiford Field Airport (lat. 38°10′29″ N., long. 85°44′11″ W.) excluding that airspace east and north of a line drawn from the point where the 030° bearing intersects the 5-mile radius direct to lat. 38°11′28″ N., long. 85°42′01″ W., then direct to the point where the 081° bearing from the airport intersects the 5-mile radius; and that airspace extending upward from 2,200 feet MSL to and including 4,500 feet MSL within a 10-mile radius of the airport from the 269° bearing from the airport clockwise to the 081° bearing from the airport, and that airspace extending upward from 1,700 feet MSL to and including 4,500 feet MSL within a 10-mile radius of the airport from the 081° bearing from the airport clockwise to the 269° bearing from the airport.

Issued in Washington, DC, on October 14, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–23606 Filed 10–17–86; 8:45 am]

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H.R. 5548/Pub. L. 99-472

Export-Import Bank Act Amendments of 1986. (Oct. 15, 1986; 100 Stat. 1200; 12 pages) Price: $1.00

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

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[4] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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